



Substitute Senate Bill No. 380

Public Act No. 06-18

AN ACT CONCERNING SPECIAL EDUCATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subdivision (1) of subsection (a) of section 10-76d of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) (1) In accordance with the regulations and procedures established by the Commissioner of Education and approved by the State Board of Education, each local or regional board of education shall provide the professional services requisite to identification of children requiring special education, identify each such child within its jurisdiction, determine the eligibility of such children for special education pursuant to sections 10-76a to 10-76h, inclusive, as amended by this act, prescribe [suitable] appropriate educational programs for eligible children, maintain a record thereof and make such reports as the commissioner may require. No child may be required to obtain a prescription for a substance covered by the Controlled Substances Act, 21 USC 801 et seq., as amended from time to time, as a condition of attending school, receiving an evaluation under section 10-76ff, as amended by this act, or receiving services pursuant to sections 10-76a to 10-76h, inclusive, as amended by this act, or the Individuals with Disabilities Education Act, 20 USC 1400 et seq., as amended from time

Substitute Senate Bill No. 380

to time.

Sec. 2. Subsection (d) of section 10-76d of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(d) To meet its obligations under sections 10-76a to 10-76g, inclusive, as amended, any local or regional board of education may make agreements with another such board or subject to the consent of the parent or guardian of any child affected thereby, make agreements with any private school or with any public or private agency or institution, including a group home to provide the necessary programs or services, but no expenditures made pursuant to a contract with a private school, agency or institution for such special education shall be paid under the provisions of section 10-76g, as amended, unless (1) such contract includes a description of the educational program and other treatment the child is to receive, a statement of minimal goals and objectives which it is anticipated such child will achieve and an estimated time schedule for returning the child to the community or transferring such child to another appropriate facility, (2) subject to the provisions of this subsection, the educational needs of the child for whom such special education is being provided cannot be met by public school arrangements in the opinion of the commissioner who, before granting approval of such contract for purposes of payment, shall consider such factors as the particular needs of the child, the [suitability] appropriateness and efficacy of the program offered by such private school, agency or institution, and the economic feasibility of comparable alternatives, and (3) commencing with the 1987-1988 school year and for each school year thereafter, each such private school, agency or institution has been approved for special education by the Commissioner of Education or by the appropriate agency for facilities located out of state, except as provided in subsection (b) of this section. Notwithstanding the provisions of subdivision (2) of this

Substitute Senate Bill No. 380

subsection or any regulations adopted by the State Board of Education setting placement priorities, placements pursuant to this section and payments under section 10-76g, as amended, may be made pursuant to such a contract if the public arrangements are more costly than the private school, institution or agency, provided the private school, institution or agency meets the educational needs of the child and its program is [suitable] appropriate and efficacious. Notwithstanding the provisions of this subsection to the contrary, nothing in this subsection shall (A) require the removal of a child from a nonapproved facility if the child was placed there prior to July 7, 1987, pursuant to the determination of a planning and placement team that such a placement was appropriate and such placement was approved by the Commissioner of Education, or (B) prohibit the placement of a child at a nonapproved facility if a planning and placement team determines prior to July 7, 1987, that the child be placed in a nonapproved facility for the 1987-1988 school year. Each child placed in a nonapproved facility as described in subparagraphs (A) and (B) of subdivision (3) of this subsection may continue at the facility provided the planning and placement team or hearing officer appointed pursuant to section 10-76h, as amended by this act, determines that the placement is appropriate. Expenditures incurred by any local or regional board of education to maintain children in nonapproved facilities as described in said subparagraphs (A) and (B) shall be paid pursuant to the provisions of section 10-76g, as amended. Any local or regional board of education may enter into a contract with the owners or operators of any sheltered workshop or rehabilitation center for provision of an education occupational training program for children requiring special education who are at least sixteen years of age, provided such workshop or institution shall have been approved by the appropriate state agency. Whenever any child is identified by a local or regional board of education as a child requiring special education and said board of education determines that the requirements for special education could be met by a program provided within the district or

Substitute Senate Bill No. 380

by agreement with another board of education except for the child's need for services other than educational services such as medical, psychiatric or institutional care or services, said board may meet its obligation to furnish special education for such child by paying the reasonable cost of special education instruction in a private school, hospital or other institution provided said board or the commissioner concurs that placement in such institution is necessary and proper and no state institution is available to meet such child's needs.

Sec. 3. Subsection (f) of section 10-76d of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(f) No children placed out primarily for special education services shall be placed in a private school, agency or institution outside of the state, except when in the opinion of the Commissioner of Education it is determined that: (1) No public or approved private facility which can reasonably provide [suitable] appropriate special education programs for such children is available in the state; (2) no public or approved private facility which can reasonably provide [suitable] appropriate special education programs for such children is available in the state and the out-of-state placement is required for a period of time not to exceed two years, during which time the local or regional board of education responsible for providing such children with a special education shall develop [a suitable] an appropriate special education program or cause such program to be developed within the state; or (3) an out-of-state placement is more economically feasible than an existing special education program in the state or any such program that could be developed within the state within a reasonable period of time. No placement in an out-of-state private special education school, agency or facility shall be approved unless such school, agency or facility first agrees in writing to submit to the state Department of Education any such financial program and student

Substitute Senate Bill No. 380

progress reports as the commissioner may require for the purpose of making an annual determination as to the economic feasibility and program adequacy of the special education program provided. The provisions of this subsection shall not apply to children placed out primarily for services other than educational services as described in subsection (d) of this section.

Sec. 4. Section 10-76h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) (1) A parent or guardian of a child requiring special education and related services pursuant to sections 10-76a to 10-76g, inclusive, as amended, a pupil if such pupil is an emancipated minor or eighteen years of age or older requiring such services, a surrogate parent appointed pursuant to section 10-94g, as amended by this act, or the Commissioner of Children and Families, or a designee of said commissioner, on behalf of any such child in the custody of said commissioner, may request [, in writing,] a hearing of the local or regional board of education or the unified school district responsible for providing such services whenever such board or district proposes or refuses to initiate or change the identification, evaluation or educational placement of or the provision of a free appropriate public education to such child or pupil. [The local or regional board of education or the unified school district shall, not later than seven calendar days after receipt of a request for a hearing, notify the Department of Education of such request.] Such request shall be made by sending a written request to such board or district with a copy to the Department of Education.

(2) The local or regional board of education or the unified school district responsible for providing special education and related services for a child or pupil requiring such services under sections 10-76a to 10-76g, inclusive, as amended, may request, upon written notice to the parent or guardian of such child, the pupil if such pupil is an

Substitute Senate Bill No. 380

emancipated minor or is eighteen years of age or older, the surrogate parent appointed pursuant to section 10-94g, as amended by this act, or the Commissioner of Children and Families, or a designee of said commissioner, on behalf of any such child or pupil in the custody of said commissioner, a hearing concerning the decision of the planning and placement team established pursuant to section 10-76d, as amended by this act, whenever such board or district proposes or refuses to initiate or change the identification, evaluation or educational placement of or the provision of a free appropriate public education placement to such child or pupil, including, but not limited to, refusal of the parent or guardian, pupil if such pupil is an emancipated minor or is eighteen years of age or older or the surrogate parent appointed pursuant to section 10-94g, as amended by this act, to give consent for initial evaluation or reevaluation or the withdrawal of such consent. The local or regional board of education or unified school district shall provide a copy of the request to the Department of Education. In the event a planning and placement team proposes private placement for a child or pupil who requires or may require special education and related services and the parent, guardian, pupil if such pupil is an emancipated minor or is eighteen years of age or older or surrogate parent appointed pursuant to section 10-94g, as amended by this act, withholds or revokes consent for such placement, the local or regional board of education shall request a hearing in accordance with this section and may request mediation pursuant to subsection (f) of this section, provided such action may be taken only in the event such parent, guardian, pupil or surrogate parent has consented to the initial receipt of special education and related services and subsequent to the initial placement of the child, the local or regional board of education seeks a private placement. For purposes of this section, a "local or regional board of education or unified school district" includes any public agency which is responsible for the provision of special education and related services to children requiring special education and related services.

Substitute Senate Bill No. 380

[(2)] (3) The request for a hearing shall contain a statement of the specific issues in dispute.

[(3)] (4) A party shall have two years to request a hearing from the time the board of education proposed or refused to initiate or change the identification, evaluation or educational placement or the provision of a free appropriate public education placement to such child or pupil provided, if [such] the parent, guardian, pupil or surrogate parent is not given notice of the procedural safeguards, in accordance with regulations adopted by the State Board of Education, including notice of the limitations contained in this section, such two-year limitation shall be calculated from the time notice of the safeguards is properly given.

(b) Upon receipt of a written request for a special education hearing made in accordance with subsection (a) of this section, the Department of Education shall appoint an impartial hearing officer who shall schedule a hearing which shall be held and the decision written and mailed [within] not later than forty-five days [of] after the [receipt of the request for the hearing] commencement of the hearing pursuant to the Individuals with Disabilities Education Act, 20 USC 1400 et seq., as amended from time to time. An extension of the forty-five-day time limit may be granted by the hearing officer at the request of either party to the hearing.

(c) (1) [The Department of Education shall, upon receipt of a request for a special education hearing made in accordance with subsection (a) of this section, appoint an impartial hearing officer or hearing board.] The Department of Education shall provide training to hearing officers in administrative hearing procedures, including due process, and in the special educational needs of children. Hearing officers and members of hearing boards shall not be employees of the Department of Education or any local or regional board of education, unified school district or public agency involved in the education or care of the

Substitute Senate Bill No. 380

child. A person who is paid to serve as a hearing officer is not deemed to be an employee of the Department of Education. No person who participated in the previous identification, evaluation or educational placement of or the provision of a free appropriate public education to the child or pupil nor any member of the board of education of the school district under review, shall be a hearing officer or a member of a hearing board.

(2) Both parties shall participate in a prehearing conference to resolve the issues in dispute, if possible and narrow the scope of the issues. Each party to the hearing shall disclose, not later than five business days prior to the date the hearing commences, (A) documentary evidence such party plans to present at the hearing and a list of witnesses such party plans to call at the hearing, and (B) all completed evaluations and recommendations based on the offering party's evaluations that the party intends to use at the hearing. Except for good cause shown, the hearing officer shall limit each party to such documentary evidence and witnesses as were properly disclosed and are relevant to the issues in dispute. A hearing officer may bar any party who fails to comply with the requirements concerning disclosure of evaluations and recommendations from introducing any undisclosed evaluation or recommendation at the hearing without the consent of the other party.

(3) The hearing officer or board shall hear testimony relevant to the issues in dispute offered by the party requesting the hearing and any other party directly involved, and may hear any additional testimony the hearing officer or board deems relevant. The hearing officer or board may require a complete and independent evaluation or prescription of educational programs by qualified persons, the cost of which shall be paid by the board of education or the unified school district. The hearing officer or board shall cause all formal sessions of the hearing and review to be recorded in order to provide a verbatim

Substitute Senate Bill No. 380

record.

(d) (1) The hearing officer or board shall have the authority (A) to confirm, modify, or reject the identification, evaluation or educational placement of or the provision of a free appropriate public education to the child or pupil, (B) to determine the appropriateness of an educational placement where the parent or guardian of a child requiring special education or the pupil if such pupil is an emancipated minor or eighteen years of age or older, has placed the child or pupil in a program other than that prescribed by the planning and placement team, or (C) to prescribe alternate special educational programs for the child or pupil. If the parent or guardian of such a child who previously received special education and related services from the district enrolls the child, or the pupil who previously received special education and related services from the district enrolls in a private elementary or secondary school without the consent of or referral by the district, a hearing officer may, in accordance with the Individuals with Disabilities Education Act, 20 USC 1400 et seq., as amended from time to time, require the district to reimburse the parents or the pupil for the cost of that enrollment if the hearing officer finds that the district had not made a free appropriate public education available to the child or pupil in a timely manner prior to that enrollment. In the case where a parent or guardian, or pupil if such pupil is an emancipated minor or is eighteen years of age or older, or a surrogate parent appointed pursuant to section 10-94g, as amended by this act, has refused consent for initial evaluation or reevaluation, the hearing officer or board may order an initial evaluation or reevaluation without the consent of such parent, guardian, pupil or surrogate parent except that if the parent, guardian, pupil or surrogate parent appeals such decision pursuant to subdivision (4) of this subsection, the child or pupil may not be evaluated or placed pending the disposition of the appeal. The hearing officer or board shall inform the parent or guardian, or the emancipated minor or pupil eighteen years

Substitute Senate Bill No. 380

of age or older, or the surrogate parent appointed pursuant to section 10-94g, as amended by this act, or the Commissioner of Children and Families, as the case may be, and the board of education of the school district or the unified school district of the decision in writing and mail such decision [within] not later than forty-five days after [receipt by the board of the request for a hearing made in accordance with the provisions of subsection (a) of this section] the commencement of the hearing pursuant to the Individuals with Disabilities Education Act, 20 USC 1400 et seq., as amended from time to time, except that a hearing officer or board may grant specific extensions of such forty-five-day period in order to comply with the provisions of subsection (b) of this section. The hearing officer may include in [his] the decision a comment on the conduct of the proceedings. The findings of fact, conclusions of law and decision shall be written without personally identifiable information concerning such child or pupil, so that such decisions may be available for public inspections pursuant to sections 4-167 and 4-180a.

(2) If the local or regional board of education or the unified school district responsible for providing special education for such child or pupil requiring special education does not take action on the findings or prescription of the hearing officer or board within fifteen days after receipt thereof, the State Board of Education shall take appropriate action to enforce the findings or prescriptions of the hearing officer or board. Such action may include application to the Superior Court for injunctive relief to compel such local or regional board or school district to implement the findings or prescription of the hearing officer or board without the necessity of establishing irreparable harm or inadequate remedy at law.

(3) If the hearing officer or board upholds the local or regional board of education or the unified school district responsible for providing special education and related services for such child or pupil who

Substitute Senate Bill No. 380

requires or may require special education on the issue of evaluation, reevaluation or placement in a private school or facility, such board or district may evaluate or provide such services to the child or pupil without the consent of the parent or guardian, pupil if such pupil is an emancipated minor or is eighteen years of age or older, or the surrogate parent appointed pursuant to section 10-94g, as amended by this act, subject to an appeal pursuant to subdivision (4) of this subsection.

(4) Appeals from the decision of the hearing officer or board shall be taken in the manner set forth in section 4-183, except the court shall hear additional evidence at the request of a party. Notwithstanding the provisions of section 4-183, such appeal shall be taken to the judicial district wherein the child or pupil resides. In the event of an appeal, upon request and at the expense of the State Board of Education, said board shall supply a copy of the transcript of the formal sessions of the hearing officer or board to the parent or guardian or the emancipated minor or pupil eighteen years of age or older or surrogate parent or said commissioner and to the board of education of the school district or the unified school district.

(e) Hearing officers and members of the hearing board shall be paid reasonable fees and expenses as established by the State Board of Education.

(f) (1) In lieu of proceeding directly to a hearing, pursuant to subsection (a) of this section, the parties may agree in writing to request the Commissioner of Education to appoint a state mediator. Upon the receipt of a written request for mediation, signed by both parties, the commissioner shall appoint a mediator knowledgeable in the fields and areas significant to the review of the special educational needs of the child or pupil. The mediator shall attempt to resolve the issues in a manner which is acceptable to the parties. [within thirty days from the request for mediation.] The mediator shall certify in

Substitute Senate Bill No. 380

writing to the Department of Education and to the parties [, within the thirty-day period,] whether the mediation was successful or unsuccessful.

(2) If the dispute is not resolved through mediation, either party may proceed to a hearing.

Sec. 5. Subsection (a) of section 10-76q of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) The State Board of Education, in accordance with regulations adopted by said board, shall: (1) Provide the professional services necessary to identify, in accordance with section 10-76a, children requiring special education who are enrolled at state regional vocational-technical schools, in accordance with section 10-95; (2) identify each such child; (3) determine the appropriateness of the state regional vocational-technical school for the educational needs of each such child; (4) provide [a suitable] an appropriate educational program for each such child; [where appropriate;] (5) maintain a record thereof; and (6) annually evaluate the progress and accomplishments of special education programs at the state regional vocational-technical schools.

Sec. 6. Section 10-76ff of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) Each local and regional board of education shall follow the procedures outlined in this section in determining if a child requires special education and related services, as defined in section 10-76a. (1) In conducting an evaluation of the child, the local or regional board of education shall: (A) Use a variety of assessment tools and strategies to gather relevant functional, [and] developmental and academic information, including information provided by the child's parent or guardian, that may assist in determining (i) whether the child is a

Substitute Senate Bill No. 380

child, (I) who requires special education and related services pursuant to subparagraphs (A) and (C) of subdivision (5) of section 10-76a, (II) whose disability has an adverse effect on his educational performance, and (III) who, by reason of such adverse effect requires special education and related services, and (ii) the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities; (B) not use any single [procedure] measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and (C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. (2) Each local and regional board of education shall ensure that: (A) [Tests] Assessments and other evaluation materials used to assess the child are (i) selected and administered so as not to be discriminatory on a racial or cultural basis, and (ii) provided and administered in the [child's native language or other mode of communication, unless it is clearly not feasible to do so; (B) any standardized tests that are given to the child (i) were validated for the specific purpose for which they are used] language and form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, unless it is not feasible to so provide or administer; (B) assessments and other evaluation materials used to assess a child (i) are used for purposes for which the assessments or measures are valid and reliable, (ii) are administered by trained and knowledgeable personnel, and (iii) are administered in accordance with any instructions provided by the producer of such tests; (C) the child is assessed in all areas of suspected disability; [and] (D) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided; and (E) assessments of children with disabilities who

Substitute Senate Bill No. 380

transfer from one school district to another school district in the same academic year are coordinated with such children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations. (3) In accordance with section 10-76d, as amended by this act, and applicable federal law and regulations, upon completion of administration of [tests] assessments and other evaluation [materials] measures, the determination of whether the child is a child requiring special education and related services shall be made by a team consisting of qualified professionals and the parent or guardian of the child and a copy of the evaluation report and the documentation for such determination shall be given to the parent or guardian of the child. (4) The local or regional board of education shall not determine that a child requires special education and related services [based solely on] if the dominant factor for determining eligibility is (A) a lack of instruction in reading, including the essential components of reading instruction, as defined in Section 1208(3) of the Elementary and Secondary Education Act of 1965, or [math] mathematics or limited English proficiency, or (B) evidence that the child's behavior violates the school's disciplinary policies or evidence that is derived from the contents of discipline records.

(b) (1) The planning and placement team, as part of an initial evaluation, if appropriate, and as part of any reevaluations, shall review existing evaluation data on the child, including evaluations and information provided by the parent or guardian or the child, classroom-based assessments and observations and teacher and related services provider observations. On the basis of such review, and input from the child's parent or guardian, the planning and placement team shall identify what additional data, if any, is needed to determine: (A) Whether the child has a particular category of disability, or in the case of a reevaluation, whether the child continues to have such a disability; (B) the present levels of performance and educational needs of the child; (C) whether the child needs special education and related

Substitute Senate Bill No. 380

services, or in the case of a reevaluation, whether the child continues to need special education and related services or whether the child is able to be served within the regular education program with existing supplemental services, available in the school district; and (D) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general curriculum. (2) The local or regional board of education shall administer such tests and other evaluation materials as may be needed to produce the data identified by the planning and placement team pursuant to subdivision (1) of this subsection. (3) If the planning and placement team decides that no additional data is needed to determine that the child continues to be a child requiring special education and related services, the local or regional board of education shall notify the parent or guardian of the child of (A) the decision and the reasons for it, and (B) the right of the parent or guardian to request an assessment to determine whether the child continues to be a child requiring special education and related services. The local or regional board of education shall not be required to conduct such an assessment unless requested to do so by the parent or guardian of the child. (4) A local or regional board of education shall evaluate a child identified as requiring special education and related services, in accordance with this section, prior to determining that such child no longer requires such special education or related services, except that such evaluation shall not be required before the termination of a child's eligibility for special education due to graduation from high school with a regular education diploma, or due to exceeding the age eligibility for a free appropriate public education pursuant to state regulations. For a child whose eligibility for special education terminates due to graduation from high school with a regular high school diploma or such child exceeds the age of eligibility for a free appropriate public education, the local or regional board of education shall provide the child with a summary of the child's

Substitute Senate Bill No. 380

academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

(c) The use of the word disability pursuant to this section shall not be the basis for limiting the services or programs, including regular education, available to such child.

Sec. 7. Subsection (a) of section 10-76i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) There shall be an Advisory Council for Special Education which shall advise the General Assembly, State Board of Education and the Commissioner of Education, and which shall engage in such other activities as described in this section. Said advisory council shall consist of the following members: (1) Two appointed by the Commissioner of Education, one of whom shall be an official of the Department of Education and one of whom shall be a representative of an institution of higher education in the state that prepares teacher and related services personnel; (2) two appointed by the Commissioner of Mental Retardation, one of whom shall be an official of the department and one of whom shall be a person with disabilities or a parent of such a person; (3) two appointed by the Commissioner of Children and Families, one of whom shall be an official of the department and one of whom shall be a person with disabilities or a parent or foster parent of such a person; (4) one appointed by the Commissioner of Correction; (5) four who are members of the General Assembly, one appointed by the majority leader of the House of Representatives, one appointed by the minority leader of the House of Representatives, one appointed by the president pro tempore of the Senate and one appointed by the minority leader of the Senate; (6) three appointed by the president pro tempore of the Senate, one of whom shall be a member of the Connecticut Association of Boards of Education, one of whom shall be

Substitute Senate Bill No. 380

a member of the Connecticut Speech-Language-Hearing Association and one of whom shall be a person with disabilities or the parent of such a person; (7) two appointed by the majority leader of the Senate one of whom shall be a person with disabilities or the parent of such a person and one of whom shall be a regular education teacher; (8) four appointed by the minority leader of the Senate, one of whom shall be a representative of a vocational, community or business organization concerned with the provision of transitional services to children with disabilities, one of whom shall be a member of the Connecticut Association of Private Special Education Facilities and two of whom shall be persons with disabilities or the parents of such persons; (9) three appointed by the speaker of the House of Representatives, one of whom shall be a member of the Connecticut Association of School Administrators and a local education official, one of whom shall be a person with disabilities or the parent of such a person and one of whom shall be a member of the literacy coalition and a person with disabilities or the parent of such a person; (10) two appointed by the majority leader of the House of Representatives, one of whom shall be a person working in the field of special-education-related services and one of whom shall be a person with disabilities or the parent of such a person; (11) four appointed by the minority leader of the House of Representatives, two of whom shall be persons with disabilities or the parents of such persons, one of whom shall be a member of the Connecticut Association of Pupil Personnel Administrators and an administrator of a program for children who require special education, and one of whom shall be a special education teacher; [and] (12) eight appointed by the Governor, all of whom shall be persons with disabilities or parents of such persons and one of whom shall also be associated with a charter school; and (13) such other members as required by the Individuals with Disabilities Education Act, 20 USC 1400 et seq., as amended from time to time, appointed by the Commissioner of Education. The terms of the present members shall expire on June 30, 1998. Appointments shall be made to the council by

Substitute Senate Bill No. 380

July 1, 1998. Members shall serve two-year terms, except that members appointed pursuant to subdivisions (1) to (4), inclusive, and (12) of this subsection whose terms commenced July 1, 1998, shall serve three-year terms and the successors to such members appointed pursuant to said subdivisions shall serve two-year terms.

Sec. 8. Subsection (a) of section 10-94g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) (1) When in the opinion of the Commissioner of Education or a designee of said commissioner, (A) a child may require special education, or a child who required special education no longer requires such education but requires or may require services under Section 504 of the Rehabilitation Act of 1973, as amended from time to time, and (B) the parent or guardian of such child cannot be identified, the whereabouts of the parent cannot be discovered after reasonable efforts to locate the parent have been made, [or] such child is a ward of the state or such child is an unaccompanied and homeless youth, both as defined in 42 USC 11434a, as amended from time to time, the commissioner or a designee of said commissioner shall appoint a surrogate parent who shall represent such child in the educational decision-making process. (2) A surrogate parent may also be appointed for a child who is under the supervision of the Department of Children and Families and receiving education services from Unified School District #2, provided the parent or guardian: (A) Is notified by certified mail that the child is or may be eligible to receive special education and related services; (B) agrees or fails to object to the appointment of a surrogate parent; (C) receives identical notices as the surrogate parent; and (D) may revoke the appointment of a surrogate parent at any time.

Approved May 2, 2006