



Rep. Robyn Gabel

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1 AMENDMENT TO HOUSE BILL 2618

2 AMENDMENT NO. _____. Amend House Bill 2618 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Sections
5 14-8.02 and 14-8.02a as follows:

6 (105 ILCS 5/14-8.02) (from Ch. 122, par. 14-8.02)

7 Sec. 14-8.02. Identification, evaluation and placement of
8 children.

9 (a) The State Board of Education shall make rules under
10 which local school boards shall determine the eligibility of
11 children to receive special education. Such rules shall ensure
12 that a free appropriate public education be available to all
13 children with disabilities as defined in Section 14-1.02. The
14 State Board of Education shall require local school districts
15 to administer non-discriminatory procedures or tests to
16 English learners coming from homes in which a language other

1 than English is used to determine their eligibility to receive
2 special education. The placement of low English proficiency
3 students in special education programs and facilities shall be
4 made in accordance with the test results reflecting the
5 student's linguistic, cultural and special education needs.
6 For purposes of determining the eligibility of children the
7 State Board of Education shall include in the rules definitions
8 of "case study", "staff conference", "individualized
9 educational program", and "qualified specialist" appropriate
10 to each category of children with disabilities as defined in
11 this Article. For purposes of determining the eligibility of
12 children from homes in which a language other than English is
13 used, the State Board of Education shall include in the rules
14 definitions for "qualified bilingual specialists" and
15 "linguistically and culturally appropriate individualized
16 educational programs". For purposes of this Section, as well as
17 Sections 14-8.02a, 14-8.02b, and 14-8.02c of this Code,
18 "parent" means a parent as defined in the federal Individuals
19 with Disabilities Education Act (20 U.S.C. 1401(23)).

20 (b) No child shall be eligible for special education
21 facilities except with a carefully completed case study fully
22 reviewed by professional personnel in a multidisciplinary
23 staff conference and only upon the recommendation of qualified
24 specialists or a qualified bilingual specialist, if available.
25 At the conclusion of the multidisciplinary staff conference,
26 the parent of the child shall be given a copy of the

1 multidisciplinary conference summary report and
2 recommendations, which includes options considered, and be
3 informed of their right to obtain an independent educational
4 evaluation if they disagree with the evaluation findings
5 conducted or obtained by the school district. If the school
6 district's evaluation is shown to be inappropriate, the school
7 district shall reimburse the parent for the cost of the
8 independent evaluation. The State Board of Education shall,
9 with advice from the State Advisory Council on Education of
10 Children with Disabilities on the inclusion of specific
11 independent educational evaluators, prepare a list of
12 suggested independent educational evaluators. The State Board
13 of Education shall include on the list clinical psychologists
14 licensed pursuant to the Clinical Psychologist Licensing Act.
15 Such psychologists shall not be paid fees in excess of the
16 amount that would be received by a school psychologist for
17 performing the same services. The State Board of Education
18 shall supply school districts with such list and make the list
19 available to parents at their request. School districts shall
20 make the list available to parents at the time they are
21 informed of their right to obtain an independent educational
22 evaluation. However, the school district may initiate an
23 impartial due process hearing under this Section within 5 days
24 of any written parent request for an independent educational
25 evaluation to show that its evaluation is appropriate. If the
26 final decision is that the evaluation is appropriate, the

1 parent still has a right to an independent educational
2 evaluation, but not at public expense. An independent
3 educational evaluation at public expense must be completed
4 within 30 days of a parent written request unless the school
5 district initiates an impartial due process hearing or the
6 parent or school district offers reasonable grounds to show
7 that such 30 day time period should be extended. If the due
8 process hearing decision indicates that the parent is entitled
9 to an independent educational evaluation, it must be completed
10 within 30 days of the decision unless the parent or the school
11 district offers reasonable grounds to show that such 30 day
12 period should be extended. If a parent disagrees with the
13 summary report or recommendations of the multidisciplinary
14 conference or the findings of any educational evaluation which
15 results therefrom, the school district shall not proceed with a
16 placement based upon such evaluation and the child shall remain
17 in his or her regular classroom setting. No child shall be
18 eligible for admission to a special class for children with a
19 mental disability who are educable or for children with a
20 mental disability who are trainable except with a psychological
21 evaluation and recommendation by a school psychologist.
22 Consent shall be obtained from the parent of a child before any
23 evaluation is conducted. If consent is not given by the parent
24 or if the parent disagrees with the findings of the evaluation,
25 then the school district may initiate an impartial due process
26 hearing under this Section. The school district may evaluate

1 the child if that is the decision resulting from the impartial
2 due process hearing and the decision is not appealed or if the
3 decision is affirmed on appeal. The determination of
4 eligibility shall be made and the IEP meeting shall be
5 completed within 60 school days from the date of written
6 parental consent. In those instances when written parental
7 consent is obtained with fewer than 60 pupil attendance days
8 left in the school year, the eligibility determination shall be
9 made and the IEP meeting shall be completed prior to the first
10 day of the following school year. Special education and related
11 services must be provided in accordance with the student's IEP
12 no later than 10 school attendance days after notice is
13 provided to the parents pursuant to Section 300.503 of Title 34
14 of the Code of Federal Regulations and implementing rules
15 adopted by the State Board of Education. The appropriate
16 program pursuant to the individualized educational program of
17 students whose native tongue is a language other than English
18 shall reflect the special education, cultural and linguistic
19 needs. No later than September 1, 1993, the State Board of
20 Education shall establish standards for the development,
21 implementation and monitoring of appropriate bilingual special
22 individualized educational programs. The State Board of
23 Education shall further incorporate appropriate monitoring
24 procedures to verify implementation of these standards. The
25 district shall indicate to the parent and the State Board of
26 Education the nature of the services the child will receive for

1 the regular school term while waiting placement in the
2 appropriate special education class.

3 If the child is deaf, hard of hearing, blind, or visually
4 impaired and he or she might be eligible to receive services
5 from the Illinois School for the Deaf or the Illinois School
6 for the Visually Impaired, the school district shall notify the
7 parents, in writing, of the existence of these schools and the
8 services they provide and shall make a reasonable effort to
9 inform the parents of the existence of other, local schools
10 that provide similar services and the services that these other
11 schools provide. This notification shall include without
12 limitation information on school services, school admissions
13 criteria, and school contact information.

14 In the development of the individualized education program
15 for a student who has a disability on the autism spectrum
16 (which includes autistic disorder, Asperger's disorder,
17 pervasive developmental disorder not otherwise specified,
18 childhood disintegrative disorder, and Rett Syndrome, as
19 defined in the Diagnostic and Statistical Manual of Mental
20 Disorders, fourth edition (DSM-IV, 2000)), the IEP team shall
21 consider all of the following factors:

22 (1) The verbal and nonverbal communication needs of the
23 child.

24 (2) The need to develop social interaction skills and
25 proficiencies.

26 (3) The needs resulting from the child's unusual

1 responses to sensory experiences.

2 (4) The needs resulting from resistance to
3 environmental change or change in daily routines.

4 (5) The needs resulting from engagement in repetitive
5 activities and stereotyped movements.

6 (6) The need for any positive behavioral
7 interventions, strategies, and supports to address any
8 behavioral difficulties resulting from autism spectrum
9 disorder.

10 (7) Other needs resulting from the child's disability
11 that impact progress in the general curriculum, including
12 social and emotional development.

13 Public Act 95-257 does not create any new entitlement to a
14 service, program, or benefit, but must not affect any
15 entitlement to a service, program, or benefit created by any
16 other law.

17 If the student may be eligible to participate in the
18 Home-Based Support Services Program for Adults with Mental
19 Disabilities authorized under the Developmental Disability and
20 Mental Disability Services Act upon becoming an adult, the
21 student's individualized education program shall include plans
22 for (i) determining the student's eligibility for those
23 home-based services, (ii) enrolling the student in the program
24 of home-based services, and (iii) developing a plan for the
25 student's most effective use of the home-based services after
26 the student becomes an adult and no longer receives special

1 educational services under this Article. The plans developed
2 under this paragraph shall include specific actions to be taken
3 by specified individuals, agencies, or officials.

4 (c) In the development of the individualized education
5 program for a student who is functionally blind, it shall be
6 presumed that proficiency in Braille reading and writing is
7 essential for the student's satisfactory educational progress.
8 For purposes of this subsection, the State Board of Education
9 shall determine the criteria for a student to be classified as
10 functionally blind. Students who are not currently identified
11 as functionally blind who are also entitled to Braille
12 instruction include: (i) those whose vision loss is so severe
13 that they are unable to read and write at a level comparable to
14 their peers solely through the use of vision, and (ii) those
15 who show evidence of progressive vision loss that may result in
16 functional blindness. Each student who is functionally blind
17 shall be entitled to Braille reading and writing instruction
18 that is sufficient to enable the student to communicate with
19 the same level of proficiency as other students of comparable
20 ability. Instruction should be provided to the extent that the
21 student is physically and cognitively able to use Braille.
22 Braille instruction may be used in combination with other
23 special education services appropriate to the student's
24 educational needs. The assessment of each student who is
25 functionally blind for the purpose of developing the student's
26 individualized education program shall include documentation

1 of the student's strengths and weaknesses in Braille skills.
2 Each person assisting in the development of the individualized
3 education program for a student who is functionally blind shall
4 receive information describing the benefits of Braille
5 instruction. The individualized education program for each
6 student who is functionally blind shall specify the appropriate
7 learning medium or media based on the assessment report.

8 (d) To the maximum extent appropriate, the placement shall
9 provide the child with the opportunity to be educated with
10 children who do not have a disability; provided that children
11 with disabilities who are recommended to be placed into regular
12 education classrooms are provided with supplementary services
13 to assist the children with disabilities to benefit from the
14 regular classroom instruction and are included on the teacher's
15 regular education class register. Subject to the limitation of
16 the preceding sentence, placement in special classes, separate
17 schools or other removal of the child with a disability from
18 the regular educational environment shall occur only when the
19 nature of the severity of the disability is such that education
20 in the regular classes with the use of supplementary aids and
21 services cannot be achieved satisfactorily. The placement of
22 English learners with disabilities shall be in non-restrictive
23 environments which provide for integration with peers who do
24 not have disabilities in bilingual classrooms. Annually, each
25 January, school districts shall report data on students from
26 non-English speaking backgrounds receiving special education

1 and related services in public and private facilities as
2 prescribed in Section 2-3.30. If there is a disagreement
3 between parties involved regarding the special education
4 placement of any child, either in-state or out-of-state, the
5 placement is subject to impartial due process procedures
6 described in Article 10 of the Rules and Regulations to Govern
7 the Administration and Operation of Special Education.

8 (e) No child who comes from a home in which a language
9 other than English is the principal language used may be
10 assigned to any class or program under this Article until he
11 has been given, in the principal language used by the child and
12 used in his home, tests reasonably related to his cultural
13 environment. All testing and evaluation materials and
14 procedures utilized for evaluation and placement shall not be
15 linguistically, racially or culturally discriminatory.

16 (f) Nothing in this Article shall be construed to require
17 any child to undergo any physical examination or medical
18 treatment whose parents object thereto on the grounds that such
19 examination or treatment conflicts with his religious beliefs.

20 (g) School boards or their designee shall provide to the
21 parents of a child prior written notice of any decision (a)
22 proposing to initiate or change, or (b) refusing to initiate or
23 change, the identification, evaluation, or educational
24 placement of the child or the provision of a free appropriate
25 public education to their child, and the reasons therefor. Such
26 written notification shall also inform the parent of the

1 opportunity to present complaints with respect to any matter
2 relating to the educational placement of the student, or the
3 provision of a free appropriate public education and to have an
4 impartial due process hearing on the complaint. The notice
5 shall inform the parents in the parents' native language,
6 unless it is clearly not feasible to do so, of their rights and
7 all procedures available pursuant to this Act and the federal
8 Individuals with Disabilities Education Improvement Act of
9 2004 (Public Law 108-446); it shall be the responsibility of
10 the State Superintendent to develop uniform notices setting
11 forth the procedures available under this Act and the federal
12 Individuals with Disabilities Education Improvement Act of
13 2004 (Public Law 108-446) to be used by all school boards. The
14 notice shall also inform the parents of the availability upon
15 request of a list of free or low-cost legal and other relevant
16 services available locally to assist parents in initiating an
17 impartial due process hearing. The State Superintendent shall
18 revise the uniform notices required by this subsection (g) to
19 reflect current law and procedures at least once every 2 years.
20 Any parent who is deaf, or does not normally communicate using
21 spoken English, who participates in a meeting with a
22 representative of a local educational agency for the purposes
23 of developing an individualized educational program shall be
24 entitled to the services of an interpreter.

25 (g-5) For purposes of this subsection (g-5), "qualified
26 professional" means an individual who holds credentials to

1 evaluate the child in the domain or domains for which an
2 evaluation is sought or an intern working under the direct
3 supervision of a qualified professional, including a master's
4 or doctoral degree candidate.

5 To ensure that a parent can participate fully and
6 effectively with school personnel in the development of
7 appropriate educational and related services for his or her
8 child, the parent, an independent educational evaluator, or a
9 qualified professional retained by or on behalf of a parent or
10 child must be afforded reasonable access to educational
11 facilities, personnel, classrooms, and buildings and to the
12 child as provided in this subsection (g-5). The requirements of
13 this subsection (g-5) apply to any public school facility,
14 building, or program and to any facility, building, or program
15 supported in whole or in part by public funds. Prior to
16 visiting a school, school building, or school facility, the
17 parent, independent educational evaluator, or qualified
18 professional may be required by the school district to inform
19 the building principal or supervisor in writing of the proposed
20 visit, the purpose of the visit, and the approximate duration
21 of the visit. The visitor and the school district shall arrange
22 the visit or visits at times that are mutually agreeable.
23 Visitors shall comply with school safety, security, and
24 visitation policies at all times. School district visitation
25 policies must not conflict with this subsection (g-5). Visitors
26 shall be required to comply with the requirements of applicable

1 privacy laws, including those laws protecting the
2 confidentiality of education records such as the federal Family
3 Educational Rights and Privacy Act and the Illinois School
4 Student Records Act. The visitor shall not disrupt the
5 educational process.

6 (1) A parent must be afforded reasonable access of
7 sufficient duration and scope for the purpose of observing
8 his or her child in the child's current educational
9 placement, services, or program or for the purpose of
10 visiting an educational placement or program proposed for
11 the child.

12 (2) An independent educational evaluator or a
13 qualified professional retained by or on behalf of a parent
14 or child must be afforded reasonable access of sufficient
15 duration and scope for the purpose of conducting an
16 evaluation of the child, the child's performance, the
17 child's current educational program, placement, services,
18 or environment, or any educational program, placement,
19 services, or environment proposed for the child, including
20 interviews of educational personnel, child observations,
21 assessments, tests or assessments of the child's
22 educational program, services, or placement or of any
23 proposed educational program, services, or placement. If
24 one or more interviews of school personnel are part of the
25 evaluation, the interviews must be conducted at a mutually
26 agreed upon time, date, and place that do not interfere

1 with the school employee's school duties. The school
2 district may limit interviews to personnel having
3 information relevant to the child's current educational
4 services, program, or placement or to a proposed
5 educational service, program, or placement.

6 (h) (Blank).

7 (i) (Blank).

8 (j) (Blank).

9 (k) (Blank).

10 (l) (Blank).

11 (m) (Blank).

12 (n) (Blank).

13 (o) (Blank).

14 (Source: P.A. 98-219, eff. 8-9-13; 99-30, eff. 7-10-15; 99-143,
15 eff. 7-27-15; 99-642, eff. 7-28-16.)

16 (105 ILCS 5/14-8.02a)

17 Sec. 14-8.02a. Impartial due process hearing; civil
18 action.

19 (a) This Section shall apply to all impartial due process
20 hearings requested on or after July 1, 2005. Impartial due
21 process hearings requested before July 1, 2005 shall be
22 governed by the rules described in Public Act 89-652.

23 (a-5) For purposes of this Section and Section 14-8.02b of
24 this Code, days shall be computed in accordance with Section
25 1.11 of the Statute on Statutes.

1 (b) The State Board of Education shall establish an
2 impartial due process hearing system in accordance with this
3 Section and may, with the advice and approval of the Advisory
4 Council on Education of Children with Disabilities, promulgate
5 rules and regulations consistent with this Section to establish
6 the rules and procedures for due process hearings.

7 (c) (Blank).

8 (d) (Blank).

9 (e) (Blank).

10 (f) An impartial due process hearing shall be convened upon
11 the request of a parent, student if at least 18 years of age or
12 emancipated, or a school district. A school district shall make
13 a request in writing to the State Board of Education and
14 promptly mail a copy of the request to the parents or student
15 (if at least 18 years of age or emancipated) at the parent's or
16 student's last known address. A request made by the parent or
17 student shall be made in writing to the superintendent of the
18 school district where the student resides. The superintendent
19 shall forward the request to the State Board of Education
20 within 5 days after receipt of the request. The request shall
21 be filed no more than 2 years following the date the person or
22 school district knew or should have known of the event or
23 events forming the basis for the request. The request shall, at
24 a minimum, contain all of the following:

25 (1) The name of the student, the address of the
26 student's residence, and the name of the school the student

1 is attending.

2 (2) In the case of homeless children (as defined under
3 the federal McKinney-Vento Homeless Assistance Act (42
4 U.S.C. 11434a(2)), available contact information for the
5 student and the name of the school the student is
6 attending.

7 (3) A description of the nature of the problem relating
8 to the actual or proposed placement, identification,
9 services, or evaluation of the student, including facts
10 relating to the problem.

11 (4) A proposed resolution of the problem to the extent
12 known and available to the party at the time.

13 (f-5) Within 3 days after receipt of the hearing request,
14 the State Board of Education shall appoint a due process
15 hearing officer using a rotating appointment system and shall
16 notify the hearing officer of his or her appointment.

17 For a school district other than a school district located
18 in a municipality having a population exceeding 500,000, a
19 hearing officer who is a current resident of the school
20 district, special education cooperative, or other public
21 entity involved in the hearing shall recuse himself or herself.
22 A hearing officer who is a former employee of the school
23 district, special education cooperative, or other public
24 entity involved in the hearing shall immediately disclose the
25 former employment to the parties and shall recuse himself or
26 herself, unless the parties otherwise agree in writing. A

1 hearing officer having a personal or professional interest that
2 may conflict with his or her objectivity in the hearing shall
3 disclose the conflict to the parties and shall recuse himself
4 or herself unless the parties otherwise agree in writing. For
5 purposes of this subsection an assigned hearing officer shall
6 be considered to have a conflict of interest if, at any time
7 prior to the issuance of his or her written decision, he or she
8 knows or should know that he or she may receive remuneration
9 from a party to the hearing within 3 years following the
10 conclusion of the due process hearing.

11 A party to a due process hearing shall be permitted one
12 substitution of hearing officer as a matter of right, in
13 accordance with procedures established by the rules adopted by
14 the State Board of Education under this Section. The State
15 Board of Education shall randomly select and appoint another
16 hearing officer within 3 days after receiving notice that the
17 appointed hearing officer is ineligible to serve or upon
18 receiving a proper request for substitution of hearing officer.
19 If a party withdraws its request for a due process hearing
20 after a hearing officer has been appointed, that hearing
21 officer shall retain jurisdiction over a subsequent hearing
22 that involves the same parties and is requested within one year
23 from the date of withdrawal of the previous request, unless
24 that hearing officer is unavailable.

25 Any party may raise facts that constitute a conflict of
26 interest for the hearing officer at any time before or during

1 the hearing and may move for recusal.

2 (g) Impartial due process hearings shall be conducted
3 pursuant to this Section and any rules and regulations
4 promulgated by the State Board of Education consistent with
5 this Section and other governing laws and regulations. The
6 hearing shall address only those issues properly raised in the
7 hearing request under subsection (f) of this Section or, if
8 applicable, in the amended hearing request under subsection
9 (g-15) of this Section. The hearing shall be closed to the
10 public unless the parents request that the hearing be open to
11 the public. The parents involved in the hearing shall have the
12 right to have the student who is the subject of the hearing
13 present. The hearing shall be held at a time and place which
14 are reasonably convenient to the parties involved. Upon the
15 request of a party, the hearing officer shall hold the hearing
16 at a location neutral to the parties if the hearing officer
17 determines that there is no cost for securing the use of the
18 neutral location. Once appointed, the impartial due process
19 hearing officer shall not communicate with the State Board of
20 Education or its employees concerning the hearing, except that,
21 where circumstances require, communications for administrative
22 purposes that do not deal with substantive or procedural
23 matters or issues on the merits are authorized, provided that
24 the hearing officer promptly notifies all parties of the
25 substance of the communication as a matter of record.

26 (g-5) Unless the school district has previously provided

1 prior written notice to the parent or student (if at least 18
2 years of age or emancipated) regarding the subject matter of
3 the hearing request, the school district shall, within 10 days
4 after receiving a hearing request initiated by a parent or
5 student (if at least 18 years of age or emancipated), provide a
6 written response to the request that shall include all of the
7 following:

8 (1) An explanation of why the school district proposed
9 or refused to take the action or actions described in the
10 hearing request.

11 (2) A description of other options the IEP team
12 considered and the reasons why those options were rejected.

13 (3) A description of each evaluation procedure,
14 assessment, record, report, or other evidence the school
15 district used as the basis for the proposed or refused
16 action or actions.

17 (4) A description of the factors that are or were
18 relevant to the school district's proposed or refused
19 action or actions.

20 (g-10) When the hearing request has been initiated by a
21 school district, within 10 days after receiving the request,
22 the parent or student (if at least 18 years of age or
23 emancipated) shall provide the school district with a response
24 that specifically addresses the issues raised in the school
25 district's hearing request. The parent's or student's response
26 shall be provided in writing, unless he or she is illiterate or

1 has a disability that prevents him or her from providing a
2 written response. The parent's or student's response may be
3 provided in his or her native language, if other than English.
4 In the event that illiteracy or another disabling condition
5 prevents the parent or student from providing a written
6 response, the school district shall assist the parent or
7 student in providing the written response.

8 (g-15) Within 15 days after receiving notice of the hearing
9 request, the non-requesting party may challenge the
10 sufficiency of the request by submitting its challenge in
11 writing to the hearing officer. Within 5 days after receiving
12 the challenge to the sufficiency of the request, the hearing
13 officer shall issue a determination of the challenge in writing
14 to the parties. In the event that the hearing officer upholds
15 the challenge, the party who requested the hearing may, with
16 the consent of the non-requesting party or hearing officer,
17 file an amended request. Amendments are permissible for the
18 purpose of raising issues beyond those in the initial hearing
19 request. In addition, the party who requested the hearing may
20 amend the request once as a matter of right by filing the
21 amended request within 5 days after filing the initial request.
22 An amended request, other than an amended request as a matter
23 of right, shall be filed by the date determined by the hearing
24 officer, but in no event any later than 5 days prior to the
25 date of the hearing. If an amended request, other than an
26 amended request as a matter of right, raises issues that were

1 not part of the initial request, the applicable timeline for a
2 hearing, including the timeline under subsection (g-20) of this
3 Section, shall recommence.

4 (g-20) Within 15 days after receiving a request for a
5 hearing from a parent or student (if at least 18 years of age
6 or emancipated) or, in the event that the school district
7 requests a hearing, within 15 days after initiating the
8 request, the school district shall convene a resolution meeting
9 with the parent and relevant members of the IEP team who have
10 specific knowledge of the facts contained in the request for
11 the purpose of resolving the problem that resulted in the
12 request. The resolution meeting shall include a representative
13 of the school district who has decision-making authority on
14 behalf of the school district. Unless the parent is accompanied
15 by an attorney at the resolution meeting, the school district
16 may not include an attorney representing the school district.

17 The resolution meeting may not be waived unless agreed to
18 in writing by the school district and the parent or student (if
19 at least 18 years of age or emancipated) or the parent or
20 student (if at least 18 years of age or emancipated) and the
21 school district agree in writing to utilize mediation in place
22 of the resolution meeting. If either party fails to cooperate
23 in the scheduling or convening of the resolution meeting, the
24 hearing officer may order an extension of the timeline for
25 completion of the resolution meeting or, upon the motion of a
26 party and at least 7 days after ordering the non-cooperating

1 party to cooperate, order the dismissal of the hearing request
2 or the granting of all relief set forth in the request, as
3 appropriate.

4 In the event that the school district and the parent or
5 student (if at least 18 years of age or emancipated) agree to a
6 resolution of the problem that resulted in the hearing request,
7 the terms of the resolution shall be committed to writing and
8 signed by the parent or student (if at least 18 years of age or
9 emancipated) and the representative of the school district with
10 decision-making authority. The agreement shall be legally
11 binding and shall be enforceable in any State or federal court
12 of competent jurisdiction. In the event that the parties
13 utilize the resolution meeting process, the process shall
14 continue until no later than the 30th day following the receipt
15 of the hearing request by the non-requesting party (or as
16 properly extended by order of the hearing officer) to resolve
17 the issues underlying the request, at which time the timeline
18 for completion of the impartial due process hearing shall
19 commence. The State Board of Education may, by rule, establish
20 additional procedures for the conduct of resolution meetings.

21 (g-25) If mutually agreed to in writing, the parties to a
22 hearing request may request State-sponsored mediation as a
23 substitute for the resolution process described in subsection
24 (g-20) of this Section or may utilize mediation at the close of
25 the resolution process if all issues underlying the hearing
26 request have not been resolved through the resolution process.

1 (g-30) If mutually agreed to in writing, the parties to a
2 hearing request may waive the resolution process described in
3 subsection (g-20) of this Section. Upon signing a written
4 agreement to waive the resolution process, the parties shall be
5 required to forward the written waiver to the hearing officer
6 appointed to the case within 2 business days following the
7 signing of the waiver by the parties. The timeline for the
8 impartial due process hearing shall commence on the date of the
9 signing of the waiver by the parties.

10 (g-35) The timeline for completing the impartial due
11 process hearing, as set forth in subsection (h) of this
12 Section, shall be initiated upon the occurrence of any one of
13 the following events:

14 (1) The unsuccessful completion of the resolution
15 process as described in subsection (g-20) of this Section.

16 (2) The mutual agreement of the parties to waive the
17 resolution process as described in subsection (g-25) or
18 (g-30) of this Section.

19 (g-40) The hearing officer shall convene a prehearing
20 conference no later than 14 days before the scheduled date for
21 the due process hearing for the general purpose of aiding in
22 the fair, orderly, and expeditious conduct of the hearing. The
23 hearing officer shall provide the parties with written notice
24 of the prehearing conference at least 7 days in advance of the
25 conference. The written notice shall require the parties to
26 notify the hearing officer by a date certain whether they

1 intend to participate in the prehearing conference. The hearing
2 officer may conduct the prehearing conference in person or by
3 telephone. Each party shall at the prehearing conference (1)
4 disclose whether it is represented by legal counsel or intends
5 to retain legal counsel; (2) clarify matters it believes to be
6 in dispute in the case and the specific relief being sought;
7 (3) disclose whether there are any additional evaluations for
8 the student that it intends to introduce into the hearing
9 record that have not been previously disclosed to the other
10 parties; (4) disclose a list of all documents it intends to
11 introduce into the hearing record, including the date and a
12 brief description of each document; and (5) disclose the names
13 of all witnesses it intends to call to testify at the hearing.
14 The hearing officer shall specify the order of presentation to
15 be used at the hearing. If the prehearing conference is held by
16 telephone, the parties shall transmit the information required
17 in this paragraph in such a manner that it is available to all
18 parties at the time of the prehearing conference. The State
19 Board of Education may, by rule, establish additional
20 procedures for the conduct of prehearing conferences.

21 (g-45) The impartial due process hearing officer shall not
22 initiate or participate in any ex parte communications with the
23 parties, except to arrange the date, time, and location of the
24 prehearing conference, due process hearing, or other status
25 conferences convened at the discretion of the hearing officer
26 and to receive confirmation of whether a party intends to

1 participate in the prehearing conference.

2 (g-50) The parties shall disclose and provide to each other
3 any evidence which they intend to submit into the hearing
4 record no later than 5 days before the hearing. Any party to a
5 hearing has the right to prohibit the introduction of any
6 evidence at the hearing that has not been disclosed to that
7 party at least 5 days before the hearing. The party requesting
8 a hearing shall not be permitted at the hearing to raise issues
9 that were not raised in the party's initial or amended request,
10 unless otherwise permitted in this Section.

11 (g-55) All reasonable efforts must be made by the parties
12 to present their respective cases at the hearing within a
13 cumulative period of 7 days. When scheduling hearing dates, the
14 hearing officer shall schedule the final day of the hearing no
15 more than 30 calendar days after the first day of the hearing
16 unless good cause is shown. This subsection (g-55) shall not be
17 applied in a manner that (i) denies any party to the hearing a
18 fair and reasonable allocation of time and opportunity to
19 present its case in its entirety or (ii) deprives any party to
20 the hearing of the safeguards accorded under the federal
21 Individuals with Disabilities Education Improvement Act of
22 2004 (Public Law 108-446), regulations promulgated under the
23 Individuals with Disabilities Education Improvement Act of
24 2004, or any other applicable law. The school district shall
25 present evidence that the special education needs of the child
26 have been appropriately identified and that the special

1 education program and related services proposed to meet the
2 needs of the child are adequate, appropriate, and available.
3 Any party to the hearing shall have the right to (1) be
4 represented by counsel and be accompanied and advised by
5 individuals with special knowledge or training with respect to
6 the problems of children with disabilities, at the party's own
7 expense; (2) present evidence and confront and cross-examine
8 witnesses; (3) move for the exclusion of witnesses from the
9 hearing until they are called to testify, provided, however,
10 that this provision may not be invoked to exclude the
11 individual designated by a party to assist that party or its
12 representative in the presentation of the case; (4) obtain a
13 written or electronic verbatim record of the proceedings within
14 30 days of receipt of a written request from the parents by the
15 school district; and (5) obtain a written decision, including
16 findings of fact and conclusions of law, within 10 days after
17 the conclusion of the hearing. If at issue, the school district
18 shall present evidence that it has properly identified and
19 evaluated the nature and severity of the student's suspected or
20 identified disability and that, if the student has been or
21 should have been determined eligible for special education and
22 related services, that it is providing or has offered a free
23 appropriate public education to the student in the least
24 restrictive environment, consistent with procedural safeguards
25 and in accordance with an individualized educational program.
26 At any time prior to the conclusion of the hearing, the

1 impartial due process hearing officer shall have the authority
2 to require additional information and order independent
3 evaluations for the student at the expense of the school
4 district. The State Board of Education and the school district
5 shall share equally the costs of providing a written or
6 electronic verbatim record of the proceedings. Any party may
7 request that the due process hearing officer issue a subpoena
8 to compel the testimony of witnesses or the production of
9 documents relevant to the resolution of the hearing. Whenever a
10 person refuses to comply with any subpoena issued under this
11 Section, the circuit court of the county in which that hearing
12 is pending, on application of the impartial hearing officer or
13 the party requesting the issuance of the subpoena, may compel
14 compliance through the contempt powers of the court in the same
15 manner as if the requirements of a subpoena issued by the court
16 had been disobeyed.

17 (h) The impartial hearing officer shall issue a written
18 decision, including findings of fact and conclusions of law,
19 within 10 days after the conclusion of the hearing and send by
20 certified mail a copy of the decision to the parents or student
21 (if the student requests the hearing), the school district, the
22 director of special education, legal representatives of the
23 parties, and the State Board of Education. Unless the hearing
24 officer has granted specific extensions of time at the request
25 of a party, a final decision, including the clarification of a
26 decision requested under this subsection, shall be reached and

1 mailed to the parties named above not later than 45 days after
2 the initiation of the timeline for conducting the hearing, as
3 described in subsection (g-35) of this Section. The decision
4 shall specify the educational and related services that shall
5 be provided to the student in accordance with the student's
6 needs and the timeline for which the school district shall
7 submit evidence to the State Board of Education to demonstrate
8 compliance with the hearing officer's decision in the event
9 that the decision orders the school district to undertake
10 corrective action. The hearing officer shall retain
11 jurisdiction for the sole purpose of considering a request for
12 clarification of the final decision submitted in writing by a
13 party to the impartial hearing officer within 5 days after
14 receipt of the decision. A copy of the request for
15 clarification shall specify the portions of the decision for
16 which clarification is sought and shall be mailed to all
17 parties of record and to the State Board of Education. The
18 request shall operate to stay implementation of those portions
19 of the decision for which clarification is sought, pending
20 action on the request by the hearing officer, unless the
21 parties otherwise agree. The hearing officer shall issue a
22 clarification of the specified portion of the decision or issue
23 a partial or full denial of the request in writing within 10
24 days of receipt of the request and mail copies to all parties
25 to whom the decision was mailed. This subsection does not
26 permit a party to request, or authorize a hearing officer to

1 entertain, reconsideration of the decision itself. The statute
2 of limitations for seeking review of the decision shall be
3 tolled from the date the request is submitted until the date
4 the hearing officer acts upon the request. The hearing
5 officer's decision shall be binding upon the school district
6 and the parents unless a civil action is commenced.

7 (i) Any party to an impartial due process hearing aggrieved
8 by the final written decision of the impartial due process
9 hearing officer shall have the right to commence a civil action
10 with respect to the issues presented in the impartial due
11 process hearing. That civil action shall be brought in any
12 court of competent jurisdiction within 120 days after a copy of
13 the decision of the impartial due process hearing officer is
14 mailed to the party as provided in subsection (h). The civil
15 action authorized by this subsection shall not be exclusive of
16 any rights or causes of action otherwise available. The
17 commencement of a civil action under this subsection shall
18 operate as a supersedeas. In any action brought under this
19 subsection the Court shall receive the records of the impartial
20 due process hearing, shall hear additional evidence at the
21 request of a party, and, basing its decision on the
22 preponderance of the evidence, shall grant such relief as the
23 court determines is appropriate. In any instance where a school
24 district willfully disregards applicable regulations or
25 statutes regarding a child covered by this Article, and which
26 disregard has been detrimental to the child, the school

1 district shall be liable for any reasonable attorney's fees
2 incurred by the parent in connection with proceedings under
3 this Section.

4 (j) During the pendency of any administrative or judicial
5 proceeding conducted pursuant to this Section, including
6 mediation (if the school district or other public entity
7 voluntarily agrees to participate in mediation), unless the
8 school district and the parents or student (if at least 18
9 years of age or emancipated) otherwise agree, the student shall
10 remain in his or her present educational placement and continue
11 in his or her present eligibility status and special education
12 and related services, if any. If mediation fails to resolve the
13 dispute between the parties, or if the parties do not agree to
14 use mediation, the parent (or student if 18 years of age or
15 older or emancipated) shall have 10 days after the mediation
16 concludes, or after a party declines to use mediation, to file
17 a request for a due process hearing in order to continue to
18 invoke the "stay-put" provisions of this subsection (j). If
19 applying for initial admission to the school district, the
20 student shall, with the consent of the parents (if the student
21 is not at least 18 years of age or emancipated), be placed in
22 the school district program until all such proceedings have
23 been completed. The costs for any special education and related
24 services or placement incurred following 60 school days after
25 the initial request for evaluation shall be borne by the school
26 district if the services or placement is in accordance with the

1 final determination as to the special education and related
2 services or placement that must be provided to the child,
3 provided that during that 60 day period there have been no
4 delays caused by the child's parent. The requirements and
5 procedures of this subsection (j) shall be included in the
6 uniform notices developed by the State Superintendent under
7 subsection (g) of Section 14-8.02 of this Code.

8 (k) Whenever the parents of a child of the type described
9 in Section 14-1.02 are not known, are unavailable, or the child
10 is a ward of the State, a person shall be assigned to serve as
11 surrogate parent for the child in matters relating to the
12 identification, evaluation, and educational placement of the
13 child and the provision of a free appropriate public education
14 to the child. Persons shall be assigned as surrogate parents by
15 the State Superintendent of Education. The State Board of
16 Education shall promulgate rules and regulations establishing
17 qualifications of those persons and their responsibilities and
18 the procedures to be followed in making assignments of persons
19 as surrogate parents. Surrogate parents shall not be employees
20 of the school district, an agency created by joint agreement
21 under Section 10-22.31, an agency involved in the education or
22 care of the student, or the State Board of Education. Services
23 of any person assigned as surrogate parent shall terminate if
24 the parent becomes available unless otherwise requested by the
25 parents. The assignment of a person as surrogate parent at no
26 time supersedes, terminates, or suspends the parents' legal

1 authority relative to the child. Any person participating in
2 good faith as surrogate parent on behalf of the child before
3 school officials or a hearing officer shall have immunity from
4 civil or criminal liability that otherwise might result by
5 reason of that participation, except in cases of willful and
6 wanton misconduct.

7 (l) At all stages of the hearing the hearing officer shall
8 require that interpreters be made available by the school
9 district for persons who are deaf or for persons whose normally
10 spoken language is other than English.

11 (m) If any provision of this Section or its application to
12 any person or circumstance is held invalid, the invalidity of
13 that provision or application does not affect other provisions
14 or applications of the Section that can be given effect without
15 the invalid application or provision, and to this end the
16 provisions of this Section are severable, unless otherwise
17 provided by this Section.

18 (Source: P.A. 98-383, eff. 8-16-13.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law."