

HB5901



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5901

by Rep. Fred Crespo

SYNOPSIS AS INTRODUCED:

105 ILCS 5/14-8.02

from Ch. 122, par. 14-8.02

Amends the Children with Disabilities Article of the School Code. For the Chicago school district only, requires the school district to refer any student in grade 3 for an individualized education program evaluation if the student is not reading at a grade 3 level. Effective immediately.

LRB100 22251 AXK 40891 b

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Section
5 14-8.02 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. For a
14 school district organized under Article 34 of this Code only, a
15 school district must refer any student in grade 3 for an
16 individualized education program evaluation if the student is
17 not reading at a grade 3 level. The State Board of Education
18 shall require local school districts to administer
19 non-discriminatory procedures or tests to English learners
20 coming from homes in which a language other than English is
21 used to determine their eligibility to receive special
22 education. The placement of low English proficiency students in
23 special education programs and facilities shall be made in

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

17 (b) No child shall be eligible for special education
18 facilities except with a carefully completed case study fully
19 reviewed by professional personnel in a multidisciplinary
20 staff conference and only upon the recommendation of qualified
21 specialists or a qualified bilingual specialist, if available.
22 At the conclusion of the multidisciplinary staff conference,
23 the parent of the child shall be given a copy of the
24 multidisciplinary conference summary report and
25 recommendations, which includes options considered, and be
26 informed of their right to obtain an independent educational

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

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

1 eligibility shall be made and the IEP meeting shall be
2 completed within 60 school days from the date of written
3 parental consent. In those instances when written parental
4 consent is obtained with fewer than 60 pupil attendance days
5 left in the school year, the eligibility determination shall be
6 made and the IEP meeting shall be completed prior to the first
7 day of the following school year. Special education and related
8 services must be provided in accordance with the student's IEP
9 no later than 10 school attendance days after notice is
10 provided to the parents pursuant to Section 300.503 of Title 34
11 of the Code of Federal Regulations and implementing rules
12 adopted by the State Board of Education. The appropriate
13 program pursuant to the individualized educational program of
14 students whose native tongue is a language other than English
15 shall reflect the special education, cultural and linguistic
16 needs. No later than September 1, 1993, the State Board of
17 Education shall establish standards for the development,
18 implementation and monitoring of appropriate bilingual special
19 individualized educational programs. The State Board of
20 Education shall further incorporate appropriate monitoring
21 procedures to verify implementation of these standards. The
22 district shall indicate to the parent and the State Board of
23 Education the nature of the services the child will receive for
24 the regular school term while waiting placement in the
25 appropriate special education class.

26 If the child is deaf, hard of hearing, blind, or visually

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

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

19 (1) The verbal and nonverbal communication needs of the
20 child.

21 (2) The need to develop social interaction skills and
22 proficiencies.

23 (3) The needs resulting from the child's unusual
24 responses to sensory experiences.

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

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

3 (6) The need for any positive behavioral
4 interventions, strategies, and supports to address any
5 behavioral difficulties resulting from autism spectrum
6 disorder.

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

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

14 If the student may be eligible to participate in the
15 Home-Based Support Services Program for Adults with Mental
16 Disabilities authorized under the Developmental Disability and
17 Mental Disability Services Act upon becoming an adult, the
18 student's individualized education program shall include plans
19 for (i) determining the student's eligibility for those
20 home-based services, (ii) enrolling the student in the program
21 of home-based services, and (iii) developing a plan for the
22 student's most effective use of the home-based services after
23 the student becomes an adult and no longer receives special
24 educational services under this Article. The plans developed
25 under this paragraph shall include specific actions to be taken
26 by specified individuals, agencies, or officials.

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

1 receive information describing the benefits of Braille
2 instruction. The individualized education program for each
3 student who is functionally blind shall specify the appropriate
4 learning medium or media based on the assessment report.

5 (d) To the maximum extent appropriate, the placement shall
6 provide the child with the opportunity to be educated with
7 children who do not have a disability; provided that children
8 with disabilities who are recommended to be placed into regular
9 education classrooms are provided with supplementary services
10 to assist the children with disabilities to benefit from the
11 regular classroom instruction and are included on the teacher's
12 regular education class register. Subject to the limitation of
13 the preceding sentence, placement in special classes, separate
14 schools or other removal of the child with a disability from
15 the regular educational environment shall occur only when the
16 nature of the severity of the disability is such that education
17 in the regular classes with the use of supplementary aids and
18 services cannot be achieved satisfactorily. The placement of
19 English learners with disabilities shall be in non-restrictive
20 environments which provide for integration with peers who do
21 not have disabilities in bilingual classrooms. Annually, each
22 January, school districts shall report data on students from
23 non-English speaking backgrounds receiving special education
24 and related services in public and private facilities as
25 prescribed in Section 2-3.30. If there is a disagreement
26 between parties involved regarding the special education

1 placement of any child, either in-state or out-of-state, the
2 placement is subject to impartial due process procedures
3 described in Article 10 of the Rules and Regulations to Govern
4 the Administration and Operation of Special Education.

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

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

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

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

22 (g-5) For purposes of this subsection (g-5), "qualified
23 professional" means an individual who holds credentials to
24 evaluate the child in the domain or domains for which an
25 evaluation is sought or an intern working under the direct
26 supervision of a qualified professional, including a master's

1 or doctoral degree candidate.

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

1 Student Records Act. The visitor shall not disrupt the
2 educational process.

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

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

1 services, program, or placement or to a proposed
2 educational service, program, or placement.

3 (h) (Blank).

4 (i) (Blank).

5 (j) (Blank).

6 (k) (Blank).

7 (l) (Blank).

8 (m) (Blank).

9 (n) (Blank).

10 (o) (Blank).

11 (Source: P.A. 99-30, eff. 7-10-15; 99-143, eff. 7-27-15;
12 99-642, eff. 7-28-16; 100-122, eff. 8-18-17; revised 9-25-17.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.