

HB0835



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0835

Introduced 2/9/2009, by Rep. Elizabeth Coulson

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. Provides that the determination of eligibility for special education must be made and the individualized education program must be completed within 60 calendar days for children ages 3 and 4 and within 60 school days for children ages 5 through 21 (now, 60 school days regardless of age) from the date of written parental consent.

LRB096 08014 NHT 18118 b

FISCAL NOTE ACT
MAY APPLY

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. The
14 State Board of Education shall require local school districts
15 to administer non-discriminatory procedures or tests to
16 limited English proficiency students coming from homes in which
17 a language other than English is used to determine their
18 eligibility to receive special education. The placement of low
19 English proficiency students in special education programs and
20 facilities shall be made in accordance with the test results
21 reflecting the student's linguistic, cultural and special
22 education needs. For purposes of determining the eligibility of
23 children the State Board of Education shall include in the

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

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

1 district shall reimburse the parent for the cost of the
2 independent evaluation. The State Board of Education shall,
3 with advice from the State Advisory Council on Education of
4 Children with Disabilities on the inclusion of specific
5 independent educational evaluators, prepare a list of
6 suggested independent educational evaluators. The State Board
7 of Education shall include on the list clinical psychologists
8 licensed pursuant to the Clinical Psychologist Licensing Act.
9 Such psychologists shall not be paid fees in excess of the
10 amount that would be received by a school psychologist for
11 performing the same services. The State Board of Education
12 shall supply school districts with such list and make the list
13 available to parents at their request. School districts shall
14 make the list available to parents at the time they are
15 informed of their right to obtain an independent educational
16 evaluation. However, the school district may initiate an
17 impartial due process hearing under this Section within 5 days
18 of any written parent request for an independent educational
19 evaluation to show that its evaluation is appropriate. If the
20 final decision is that the evaluation is appropriate, the
21 parent still has a right to an independent educational
22 evaluation, but not at public expense. An independent
23 educational evaluation at public expense must be completed
24 within 30 days of a parent written request unless the school
25 district initiates an impartial due process hearing or the
26 parent or school district offers reasonable grounds to show

1 that such 30 day time period should be extended. If the due
2 process hearing decision indicates that the parent is entitled
3 to an independent educational evaluation, it must be completed
4 within 30 days of the decision unless the parent or the school
5 district offers reasonable grounds to show that such 30 day
6 period should be extended. If a parent disagrees with the
7 summary report or recommendations of the multidisciplinary
8 conference or the findings of any educational evaluation which
9 results therefrom, the school district shall not proceed with a
10 placement based upon such evaluation and the child shall remain
11 in his or her regular classroom setting. No child shall be
12 eligible for admission to a special class for the educable
13 mentally disabled or for the trainable mentally disabled except
14 with a psychological evaluation and recommendation by a school
15 psychologist. Consent shall be obtained from the parent of a
16 child before any evaluation is conducted. If consent is not
17 given by the parent or if the parent disagrees with the
18 findings of the evaluation, then the school district may
19 initiate an impartial due process hearing under this Section.
20 The school district may evaluate the child if that is the
21 decision resulting from the impartial due process hearing and
22 the decision is not appealed or if the decision is affirmed on
23 appeal. The determination of eligibility shall be made and the
24 IEP meeting shall be completed within 60 calendar days for
25 children ages 3 and 4 and 60 school days for children ages 5
26 through 21 from the date of written parental consent. In those

1 instances when written parental consent is obtained with fewer
2 than 60 pupil attendance days left in the school year, the
3 eligibility determination shall be made and the IEP meeting
4 shall be completed prior to the first day of the following
5 school year. After a child has been determined to be eligible
6 for a special education class, such child must be placed in the
7 appropriate program pursuant to the individualized educational
8 program by or no later than the beginning of the next school
9 semester. The appropriate program pursuant to the
10 individualized educational program of students whose native
11 tongue is a language other than English shall reflect the
12 special education, cultural and linguistic needs. No later than
13 September 1, 1993, the State Board of Education shall establish
14 standards for the development, implementation and monitoring
15 of appropriate bilingual special individualized educational
16 programs. The State Board of Education shall further
17 incorporate appropriate monitoring procedures to verify
18 implementation of these standards. The district shall indicate
19 to the parent and the State Board of Education the nature of
20 the services the child will receive for the regular school term
21 while waiting placement in the appropriate special education
22 class.

23 If the child is deaf, hard of hearing, blind, or visually
24 impaired and he or she might be eligible to receive services
25 from the Illinois School for the Deaf or the Illinois School
26 for the Visually Impaired, the school district shall notify the

1 parents, in writing, of the existence of these schools and the
2 services they provide and shall make a reasonable effort to
3 inform the parents of the existence of other, local schools
4 that provide similar services and the services that these other
5 schools provide. This notification shall include without
6 limitation information on school services, school admissions
7 criteria, and school contact information.

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

16 (1) The verbal and nonverbal communication needs of the
17 child.

18 (2) The need to develop social interaction skills and
19 proficiencies.

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

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

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

26 (6) The need for any positive behavioral

1 interventions, strategies, and supports to address any
2 behavioral difficulties resulting from autism spectrum
3 disorder.

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

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

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

24 (c) In the development of the individualized education
25 program for a student who is functionally blind, it shall be
26 presumed that proficiency in Braille reading and writing is

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

1 learning medium or media based on the assessment report.

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

1 the Administration and Operation of Special Education.

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

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

14 (g) School boards or their designee shall provide to the
15 parents of a child prior written notice of any decision (a)
16 proposing to initiate or change, or (b) refusing to initiate or
17 change, the identification, evaluation, or educational
18 placement of the child or the provision of a free appropriate
19 public education to their child, and the reasons therefor. Such
20 written notification shall also inform the parent of the
21 opportunity to present complaints with respect to any matter
22 relating to the educational placement of the student, or the
23 provision of a free appropriate public education and to have an
24 impartial due process hearing on the complaint. The notice
25 shall inform the parents in the parents' native language,
26 unless it is clearly not feasible to do so, of their rights and

1 all procedures available pursuant to this Act and the federal
2 Individuals with Disabilities Education Improvement Act of
3 2004 (Public Law 108-446); it shall be the responsibility of
4 the State Superintendent to develop uniform notices setting
5 forth the procedures available under this Act and the federal
6 Individuals with Disabilities Education Improvement Act of
7 2004 (Public Law 108-446) to be used by all school boards. The
8 notice shall also inform the parents of the availability upon
9 request of a list of free or low-cost legal and other relevant
10 services available locally to assist parents in initiating an
11 impartial due process hearing. Any parent who is deaf, or does
12 not normally communicate using spoken English, who
13 participates in a meeting with a representative of a local
14 educational agency for the purposes of developing an
15 individualized educational program shall be entitled to the
16 services of an interpreter.

17 (h) (Blank).

18 (i) (Blank).

19 (j) (Blank).

20 (k) (Blank).

21 (l) (Blank).

22 (m) (Blank).

23 (n) (Blank).

24 (o) (Blank).

25 (Source: P.A. 94-376, eff. 7-29-05; 94-1100, eff. 2-2-07;
26 95-257, eff. 1-1-08; 95-876, eff. 8-21-08.)