

# HB0837



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0837

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 School Code. Makes a technical change in a Section concerning the identification, evaluation, and placement of children in special education programs.

LRB096 08526 NHT 18646 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 ~~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 school days from the  
25 date of written parental consent. In those instances when  
26 written parental consent is obtained with fewer than 60 pupil

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

21 If the child is deaf, hard of hearing, blind, or visually  
22 impaired and he or she might be eligible to receive services  
23 from the Illinois School for the Deaf or the Illinois School  
24 for the Visually Impaired, the school district shall notify the  
25 parents, in writing, of the existence of these schools and the  
26 services they provide and shall make a reasonable effort to

1 inform the parents of the existence of other, local schools  
2 that provide similar services and the services that these other  
3 schools provide. This notification shall include without  
4 limitation information on school services, school admissions  
5 criteria, and school contact information.

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

14 (1) The verbal and nonverbal communication needs of the  
15 child.

16 (2) The need to develop social interaction skills and  
17 proficiencies.

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

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

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

24 (6) The need for any positive behavioral  
25 interventions, strategies, and supports to address any  
26 behavioral difficulties resulting from autism spectrum

1 disorder.

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

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

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

22 (c) In the development of the individualized education  
23 program for a student who is functionally blind, it shall be  
24 presumed that proficiency in Braille reading and writing is  
25 essential for the student's satisfactory educational progress.  
26 For purposes of this subsection, the State Board of Education



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

26 (d) To the maximum extent appropriate, the placement shall

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

26 (e) No child who comes from a home in which a language

1 other than English is the principal language used may be  
2 assigned to any class or program under this Article until he  
3 has been given, in the principal language used by the child and  
4 used in his home, tests reasonably related to his cultural  
5 environment. All testing and evaluation materials and  
6 procedures utilized for evaluation and placement shall not be  
7 linguistically, racially or culturally discriminatory.

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

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

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

15 (h) (Blank).

16 (i) (Blank).

17 (j) (Blank).

18 (k) (Blank).

19 (l) (Blank).

20 (m) (Blank).

21 (n) (Blank).

22 (o) (Blank).

23 (Source: P.A. 94-376, eff. 7-29-05; 94-1100, eff. 2-2-07;  
24 95-257, eff. 1-1-08; 95-876, eff. 8-21-08.)