



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1165

Introduced 1/9/2025, by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

105 ILCS 5/14-7.02

from Ch. 122, par. 14-7.02

Amends the Children With Disabilities Article of the School Code. Allows a school district to place a student in a nonpublic day facility or residential special education facility providing educational services but not approved by the State Board of Education (rather than a nonpublic residential special education facility providing educational services but not approved by the State Board of Education) if the State Board of Education provides an emergency and student-specific approval for residential or day placement. Makes changes to provisions concerning the circumstances under which the State Board of Education will grant such an approval. Grants jurisdiction to the State Board's impartial due process hearing officer to resolve disputes involving the need for placement in a non-approved, student-specific, emergency placement, the selection of the facility, and whether an approved facility is an appropriate alternative to a non-approved facility. Makes conforming and other changes.

LRB104 06342 LNS 16378 b

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 14-7.02 as follows:

6 (105 ILCS 5/14-7.02) (from Ch. 122, par. 14-7.02)

7 Sec. 14-7.02. Children attending private special education
8 schools, separate public special education day schools, public
9 out-of-state schools, public school residential facilities, or
10 private special education facilities.

11 (a) The General Assembly recognizes that non-public
12 schools or special education facilities provide an important
13 service in the educational system in Illinois.

14 (b) If a student's individualized education program (IEP)
15 team determines that because of his or her disability the
16 special education program of a district is unable to meet the
17 needs of the child and the child attends a non-public school or
18 special education facility, a public out-of-state school or a
19 special education facility owned and operated by a county
20 government unit that provides special educational services
21 required by the child and is in compliance with the
22 appropriate rules and regulations of the State Superintendent
23 of Education, the school district in which the child is a

1 resident shall pay the actual cost of tuition for special
2 education and related services provided during the regular
3 school term and during the summer school term if the child's
4 educational needs so require, excluding room, board and
5 transportation costs charged the child by that non-public
6 school or special education facility, public out-of-state
7 school or county special education facility, or \$4,500 per
8 year, whichever is less, and shall provide him any necessary
9 transportation. "Nonpublic special education facility" shall
10 include a residential facility, within or without the State of
11 Illinois, which provides special education and related
12 services to meet the needs of the child by utilizing private
13 schools or public schools, whether located on the site or off
14 the site of the residential facility. Resident district
15 financial responsibility and reimbursement applies for both
16 nonpublic special education facilities that are approved by
17 the State Board of Education pursuant to 23 Ill. Adm. Code 401
18 or other applicable laws or rules and for emergency
19 residential placements in nonpublic special education
20 facilities that are not approved by the State Board of
21 Education pursuant to 23 Ill. Adm. Code 401 or other
22 applicable laws or rules, subject to the requirements of this
23 Section.

24 (c) Prior to the placement of a child in an out-of-state
25 special education residential facility, the school district
26 must refer to the child or the child's parent or guardian the

1 option to place the child in a special education residential
2 facility located within this State, if any, that provides
3 treatment and services comparable to those provided by the
4 out-of-state special education residential facility. The
5 school district must review annually the placement of a child
6 in an out-of-state special education residential facility. As
7 a part of the review, the school district must refer to the
8 child or the child's parent or guardian the option to place the
9 child in a comparable special education residential facility
10 located within this State, if any.

11 (c-5) Before a provider that operates a nonpublic special
12 education facility terminates a student's placement in that
13 facility, the provider must request an IEP meeting from the
14 contracting school district. If the provider elects to
15 terminate the student's placement following the IEP meeting,
16 the provider must give written notice to this effect to the
17 parent or guardian, the contracting public school district,
18 and the State Board of Education no later than 20 business days
19 before the date of termination, unless the health and safety
20 of any student are endangered. The notice must include the
21 detailed reasons for the termination and any actions taken to
22 address the reason for the termination.

23 (d) Payments shall be made by the resident school district
24 to the entity providing the educational services, whether the
25 entity is the nonpublic special education facility or the
26 school district wherein the facility is located, no less than

1 once per quarter, unless otherwise agreed to in writing by the
2 parties.

3 (e) A school district may ~~residentially~~ place a student in
4 a nonpublic day facility or residential special education
5 facility providing educational services, but not approved by
6 the State Board of Education pursuant to 23 Ill. Adm. Code 401
7 or other applicable laws or rules, provided that the State
8 Board of Education provides an emergency and student-specific
9 approval for residential or day placement. The State Board of
10 Education shall promptly, within 10 days after the request,
11 approve a request for emergency and student-specific approval
12 for residential or day placement if the following have been
13 demonstrated to the State Board of Education:

14 (1) the facility demonstrates appropriate licensure of
15 teachers for the student population or otherwise
16 substantiates that staff have the requisite competency or
17 experience to meet the student's needs;

18 (2) the facility demonstrates age-appropriate
19 curriculum;

20 (3) the facility provides enrollment and attendance
21 data;

22 (4) the facility demonstrates the ability to implement
23 the child's IEP; and

24 (5) the school district demonstrates that it made good
25 faith efforts to ~~residentially~~ place the student in an
26 approved residential or day facility, but no approved

1 facility has accepted the student or has availability for
2 immediate residential or day placement of the student.

3 A resident school district may also submit such proof to the
4 State Board of Education as may be required for its student.
5 The State Board of Education may not unreasonably withhold
6 approval once satisfactory proof is provided to the State
7 Board.

8 (f) If an impartial due process hearing officer who is
9 contracted by the State Board of Education pursuant to this
10 Article orders placement of a student with a disability in a
11 residential or day facility that is not approved by the State
12 Board of Education, then, for purposes of this Section, the
13 facility shall be deemed approved for placement and school
14 district payments and State reimbursements shall be made
15 accordingly. The State Board of Education's impartial due
16 process hearing officer shall have jurisdiction to resolve
17 disputes involving the need for placement in a non-State Board
18 of Education approved, student-specific, emergency placement,
19 the selection of the facility, and whether an approved
20 facility is an appropriate alternative to a non-approved
21 facility.

22 (g) Emergency residential or day placement in a facility
23 approved pursuant to subsection (e) or (f) may continue to be
24 utilized so long as (i) the student's IEP team determines
25 annually that such placement continues to be appropriate to
26 meet the student's needs and (ii) at least every 3 years

1 following the student's residential or day placement, the IEP
2 team reviews appropriate placements approved by the State
3 Board of Education pursuant to 23 Ill. Adm. Code 401 or other
4 applicable laws or rules to determine whether there are any
5 approved placements that can meet the student's needs, have
6 accepted the student, and have availability for placement of
7 the student and that transfer to another facility would not be
8 unduly disruptive to the student's educational progress.

9 (h) The State Board of Education shall promulgate rules
10 and regulations for determining when placement in a private
11 special education facility is appropriate. Such rules and
12 regulations shall take into account the various types of
13 services needed by a child and the availability of such
14 services to the particular child in the public school. In
15 developing these rules and regulations the State Board of
16 Education shall consult with the Advisory Council on Education
17 of Children with Disabilities and hold public hearings to
18 secure recommendations from parents, school personnel, and
19 others concerned about this matter.

20 The State Board of Education shall also promulgate rules
21 and regulations for transportation to and from a residential
22 or day school. Transportation to and from home to a
23 residential school more than once each school term shall be
24 subject to prior approval by the State Superintendent in
25 accordance with the rules and regulations of the State Board,
26 unless additional home visits are required by the facility.

1 (i) A school district making tuition payments pursuant to
2 this Section is eligible for reimbursement from the State for
3 the amount of such payments actually made in excess of the
4 district per capita tuition charge for students not receiving
5 special education services. Such reimbursement shall be
6 approved in accordance with Section 14-12.01 and each district
7 shall file its claims, computed in accordance with rules
8 prescribed by the State Board of Education, on forms
9 prescribed by the State Superintendent of Education. Data used
10 as a basis of reimbursement claims shall be for the preceding
11 regular school term and summer school term. Each school
12 district shall transmit its claims to the State Board of
13 Education on or before August 15. The State Board of
14 Education, before approving any such claims, shall determine
15 their accuracy and whether they are based upon services and
16 facilities provided under approved programs. Upon approval the
17 State Board shall cause vouchers to be prepared showing the
18 amount due for payment of reimbursement claims to school
19 districts, for transmittal to the State Comptroller on the
20 30th day of September, December, and March, respectively, and
21 the final voucher, no later than June 20. If the money
22 appropriated by the General Assembly for such purpose for any
23 year is insufficient, it shall be apportioned on the basis of
24 the claims approved.

25 (j) No child shall be placed in a special education
26 program pursuant to this Section if the tuition cost for

1 special education and related services increases more than 10
2 percent over the tuition cost for the previous school year or
3 exceeds \$4,500 per year unless such costs have been approved
4 by the Illinois Purchased Care Review Board. The Illinois
5 Purchased Care Review Board shall consist of the following
6 persons, or their designees: the Directors of Children and
7 Family Services, Public Health, Public Aid, and the Governor's
8 Office of Management and Budget; the Secretary of Human
9 Services; the State Superintendent of Education; and such
10 other persons as the Governor may designate. The Review Board
11 shall also consist of one non-voting member who is an
12 administrator of a private, nonpublic, special education
13 school, one non-voting member who is an administrator of a
14 separate public special education day school, and one
15 non-voting member from a State agency that administers and
16 provides early childhood education and care programs and
17 services to children and families. The Review Board shall
18 establish rules and regulations for its determination of
19 allowable costs and payments made by local school districts
20 for special education, room and board, and other related
21 services provided by non-public schools, separate public
22 special education day schools, or special education facilities
23 and shall establish uniform standards and criteria which it
24 shall follow. The Review Board shall approve the usual and
25 customary rate or rates of a special education program that
26 (i) is offered by an out-of-state, non-public provider of

1 integrated autism specific educational and autism specific
2 residential services, (ii) offers 2 or more levels of
3 residential care, including at least one locked facility, and
4 (iii) serves 12 or fewer Illinois students.

5 (k) In determining rates based on allowable costs, the
6 Review Board shall consider any wage increases awarded by the
7 General Assembly to front line personnel defined as direct
8 support persons, aides, front-line supervisors, qualified
9 intellectual disabilities professionals, nurses, and
10 non-administrative support staff working in service settings
11 in community-based settings within the State and adjust
12 customary rates or rates of a special education program to be
13 equitable to the wage increase awarded to similar staff
14 positions in a community residential setting. Any wage
15 increase awarded by the General Assembly to front line
16 personnel defined as direct support persons, aides, front-line
17 supervisors, qualified intellectual disabilities
18 professionals, nurses, and non-administrative support staff
19 working in community-based settings within the State,
20 including the \$0.75 per hour increase contained in Public Act
21 100-23 and the \$0.50 per hour increase included in Public Act
22 100-23, shall also be a basis for any facility covered by this
23 Section to appeal its rate before the Review Board under the
24 process defined in Title 89, Part 900, Section 340 of the
25 Illinois Administrative Code. Illinois Administrative Code
26 Title 89, Part 900, Section 342 shall be updated to recognize

1 wage increases awarded to community-based settings to be a
2 basis for appeal. However, any wage increase that is captured
3 upon appeal from a previous year shall not be counted by the
4 Review Board as revenue for the purpose of calculating a
5 facility's future rate.

6 (l) Any definition used by the Review Board in
7 administrative rule or policy to define "related
8 organizations" shall include any and all exceptions contained
9 in federal law or regulation as it pertains to the federal
10 definition of "related organizations".

11 (m) The Review Board shall establish uniform definitions
12 and criteria for accounting separately by special education,
13 room and board and other related services costs. The Board
14 shall also establish guidelines for the coordination of
15 services and financial assistance provided by all State
16 agencies to assure that no otherwise qualified child with a
17 disability receiving services under Article 14 shall be
18 excluded from participation in, be denied the benefits of or
19 be subjected to discrimination under any program or activity
20 provided by any State agency.

21 (n) The Review Board shall review the costs for special
22 education and related services provided by non-public schools,
23 separate public special education day schools, or special
24 education facilities and shall approve or disapprove such
25 facilities in accordance with the rules and regulations
26 established by it with respect to allowable costs.

1 (o) The State Board of Education shall provide
2 administrative and staff support for the Review Board as
3 deemed reasonable by the State Superintendent of Education.
4 This support shall not include travel expenses or other
5 compensation for any Review Board member other than the State
6 Superintendent of Education.

7 (p) The Review Board shall seek the advice of the Advisory
8 Council on Education of Children with Disabilities on the
9 rules and regulations to be promulgated by it relative to
10 providing special education services.

11 (q) If a child has been placed in a program in which the
12 actual per pupil costs of tuition for special education and
13 related services based on program enrollment, excluding room,
14 board and transportation costs, exceed \$4,500 and such costs
15 have been approved by the Review Board, the district shall pay
16 such total costs which exceed \$4,500. A district making such
17 tuition payments in excess of \$4,500 pursuant to this Section
18 shall be responsible for an amount in excess of \$4,500 equal to
19 the district per capita tuition charge and shall be eligible
20 for reimbursement from the State for the amount of such
21 payments actually made in excess of the district's per capita
22 tuition charge for students not receiving special education
23 services. If a child has been placed in a private special
24 education school, separate public special education day
25 school, or private special education facility, a district
26 making tuition payments in excess of \$4,500 pursuant to this

1 Section shall be responsible for an amount in excess of \$4,500
2 equal to 2 times the district's per capita tuition charge and
3 shall be eligible for reimbursement from the State for the
4 amount of such payments actually made in excess of 2 times the
5 district's per capita tuition charge for students not
6 receiving special education services.

7 (r) If a child has been placed in an approved individual
8 program and the tuition costs including room and board costs
9 have been approved by the Review Board, then such room and
10 board costs shall be paid by the appropriate State agency
11 subject to the provisions of Section 14-8.01 of this Act. Room
12 and board costs not provided by a State agency other than the
13 State Board of Education shall be provided by the State Board
14 of Education on a current basis. In no event, however, shall
15 the State's liability for funding of these tuition costs begin
16 until after the legal obligations of third party payors have
17 been subtracted from such costs. If the money appropriated by
18 the General Assembly for such purpose for any year is
19 insufficient, it shall be apportioned on the basis of the
20 claims approved. Each district shall submit estimated claims
21 to the State Superintendent of Education. Upon approval of
22 such claims, the State Superintendent of Education shall
23 direct the State Comptroller to make payments on a monthly
24 basis. The frequency for submitting estimated claims and the
25 method of determining payment shall be prescribed in rules and
26 regulations adopted by the State Board of Education. Such

1 current state reimbursement shall be reduced by an amount
2 equal to the proceeds which the child or child's parents are
3 eligible to receive under any public or private insurance or
4 assistance program. Nothing in this Section shall be construed
5 as relieving an insurer or similar third party from an
6 otherwise valid obligation to provide or to pay for services
7 provided to a child with a disability.

8 (s) If it otherwise qualifies, a school district is
9 eligible for the transportation reimbursement under Section
10 14-13.01 and for the reimbursement of tuition payments under
11 this Section whether the non-public school or special
12 education facility, public out-of-state school or county
13 special education facility, attended by a child who resides in
14 that district and requires special educational services, is
15 within or outside of the State of Illinois. However, a
16 district is not eligible to claim transportation reimbursement
17 under this Section unless the district certifies to the State
18 Superintendent of Education that the district is unable to
19 provide special educational services required by the child for
20 the current school year.

21 (t) Nothing in this Section authorizes the reimbursement
22 of a school district for the amount paid for tuition of a child
23 attending a non-public school or special education facility, a
24 public special education facility, a public out-of-state
25 school, or a county special education facility unless the
26 school district certifies to the State Superintendent of

1 Education that the special education program of that district
2 is unable to meet the needs of that child because of the
3 child's disability and the State Superintendent of Education
4 finds that the school district is in substantial compliance
5 with Section 14-4.01. However, if a child is unilaterally
6 placed by a State agency or any court in a non-public school or
7 special education facility, public out-of-state school, or
8 county special education facility, a school district shall not
9 be required to certify to the State Superintendent of
10 Education, for the purpose of tuition reimbursement, that the
11 special education program of that district is unable to meet
12 the needs of a child because of his or her disability.

13 (u) Any educational or related services provided, pursuant
14 to this Section in a non-public school or special education
15 facility or a special education facility owned and operated by
16 a county government unit shall be at no cost to the parent or
17 guardian of the child. However, current law and practices
18 relative to contributions by parents or guardians for costs
19 other than educational or related services are not affected by
20 this amendatory Act of 1978.

21 (v) Reimbursement for children attending public school
22 residential facilities shall be made in accordance with the
23 provisions of this Section.

24 (w) Notwithstanding any other provision of law, any school
25 district receiving a payment under this Section or under
26 Section 14-7.02b, 14-13.01, or 29-5 of this Code may classify

1 all or a portion of the funds that it receives in a particular
2 fiscal year or from general State aid pursuant to Section
3 18-8.05 of this Code as funds received in connection with any
4 funding program for which it is entitled to receive funds from
5 the State in that fiscal year (including, without limitation,
6 any funding program referenced in this Section), regardless of
7 the source or timing of the receipt. The district may not
8 classify more funds as funds received in connection with the
9 funding program than the district is entitled to receive in
10 that fiscal year for that program. Any classification by a
11 district must be made by a resolution of its board of
12 education. The resolution must identify the amount of any
13 payments or general State aid to be classified under this
14 paragraph and must specify the funding program to which the
15 funds are to be treated as received in connection therewith.
16 This resolution is controlling as to the classification of
17 funds referenced therein. A certified copy of the resolution
18 must be sent to the State Superintendent of Education. The
19 resolution shall still take effect even though a copy of the
20 resolution has not been sent to the State Superintendent of
21 Education in a timely manner. No classification under this
22 paragraph by a district shall affect the total amount or
23 timing of money the district is entitled to receive under this
24 Code. No classification under this paragraph by a district
25 shall in any way relieve the district from or affect any
26 requirements that otherwise would apply with respect to that

1 funding program, including any accounting of funds by source,
2 reporting expenditures by original source and purpose,
3 reporting requirements, or requirements of providing services.

4 (x) The State Board of Education may adopt such rules as
5 may be necessary to implement this Section.

6 (Source: P.A. 102-254, eff. 8-6-21; 102-703, eff. 4-22-22;
7 103-175, eff. 6-30-23; 103-546, eff. 8-11-23; 103-605, eff.
8 7-1-24; 103-644, eff. 7-1-24.)