

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 English learners coming from homes in which a language other  
17 than English is used to determine their eligibility to receive  
18 special education. The placement of low English proficiency  
19 students in special education programs and facilities shall be  
20 made in accordance with the test results reflecting the  
21 student's linguistic, cultural and special education needs.  
22 For purposes of determining the eligibility of children the  
23 State Board of Education shall include in the rules

1 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  
8 "qualified bilingual specialists" and "linguistically and  
9 culturally appropriate individualized educational programs".  
10 For purposes of this Section, as well as Sections 14-8.02a,  
11 14-8.02b, and 14-8.02c of this Code, "parent" means a parent  
12 as defined in the federal Individuals with Disabilities  
13 Education Act (20 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 and, if the child is in the legal  
21 custody of the Department of Children and Family Services, the  
22 Department's Office of Education and Transition Services shall  
23 be given a copy of the multidisciplinary conference summary  
24 report and recommendations, which includes options considered,  
25 and, in the case of the parent, be informed of his or her right  
26 to obtain an independent educational evaluation if he or she

1 disagrees with the evaluation findings conducted or obtained  
2 by the school district. If the school district's evaluation is  
3 shown to be inappropriate, the school district shall reimburse  
4 the parent for the cost of the independent evaluation. The  
5 State Board of Education shall, with advice from the State  
6 Advisory Council on Education of Children with Disabilities on  
7 the inclusion of specific independent educational evaluators,  
8 prepare a list of suggested independent educational  
9 evaluators. The State Board of Education shall include on the  
10 list clinical psychologists licensed pursuant to the Clinical  
11 Psychologist Licensing Act. Such psychologists shall not be  
12 paid fees in excess of the amount that would be received by a  
13 school psychologist for performing the same services. The  
14 State Board of Education shall supply school districts with  
15 such list and make the list available to parents at their  
16 request. School districts shall make the list available to  
17 parents at the time they are informed of their right to obtain  
18 an independent educational evaluation. However, the school  
19 district may initiate an impartial due process hearing under  
20 this Section within 7 school ~~5~~ days of any written parent  
21 request for an independent educational evaluation to show that  
22 its evaluation is appropriate. If the final decision is that  
23 the evaluation is appropriate, the parent still has a right to  
24 an independent educational evaluation, but not at public  
25 expense. An independent educational evaluation at public  
26 expense must be completed within 60 school ~~30~~ days of a

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

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

1 receive for the regular school term while awaiting placement  
2 in the appropriate special education class. At the child's  
3 initial IEP meeting and at each annual review meeting, the  
4 child's IEP team shall provide the child's parent or guardian  
5 and, if applicable, the Department's Office of Education and  
6 Transition Services with a written notification that informs  
7 the parent or guardian or the Department's Office of Education  
8 and Transition Services that the IEP team is required to  
9 consider whether the child requires assistive technology in  
10 order to receive free, appropriate public education. The  
11 notification must also include a toll-free telephone number  
12 and internet address for the State's assistive technology  
13 program.

14 If the child is deaf, hard of hearing, blind, or visually  
15 impaired or has an orthopedic impairment or physical  
16 disability and he or she might be eligible to receive services  
17 from the Illinois School for the Deaf, the Illinois School for  
18 the Visually Impaired, or the Illinois Center for  
19 Rehabilitation and Education-Roosevelt, the school district  
20 shall notify the parents, in writing, of the existence of  
21 these schools and the services they provide and shall make a  
22 reasonable effort to inform the parents of the existence of  
23 other, local schools that provide similar services and the  
24 services that these other schools provide. This notification  
25 shall include, without limitation, information on school  
26 services, school admissions criteria, and school contact

1 information.

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

10 (1) The verbal and nonverbal communication needs of  
11 the child.

12 (2) The need to develop social interaction skills and  
13 proficiencies.

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

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

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

20 (6) The need for any positive behavioral  
21 interventions, strategies, and supports to address any  
22 behavioral difficulties resulting from autism spectrum  
23 disorder.

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

1 Public Act 95-257 does not create any new entitlement to a  
2 service, program, or benefit, but must not affect any  
3 entitlement to a service, program, or benefit created by any  
4 other law.

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

18 (c) In the development of the individualized education  
19 program for a student who is functionally blind, it shall be  
20 presumed that proficiency in Braille reading and writing is  
21 essential for the student's satisfactory educational progress.  
22 For purposes of this subsection, the State Board of Education  
23 shall determine the criteria for a student to be classified as  
24 functionally blind. Students who are not currently identified  
25 as functionally blind who are also entitled to Braille  
26 instruction include: (i) those whose vision loss is so severe

1 that they are unable to read and write at a level comparable to  
2 their peers solely through the use of vision, and (ii) those  
3 who show evidence of progressive vision loss that may result  
4 in functional blindness. Each student who is functionally  
5 blind shall be entitled to Braille reading and writing  
6 instruction that is sufficient to enable the student to  
7 communicate with the same level of proficiency as other  
8 students of comparable ability. Instruction should be provided  
9 to the extent that the student is physically and cognitively  
10 able to use Braille. Braille instruction may be used in  
11 combination with other special education services appropriate  
12 to the student's educational needs. The assessment of each  
13 student who is functionally blind for the purpose of  
14 developing the student's individualized education program  
15 shall include documentation of the student's strengths and  
16 weaknesses in Braille skills. Each person assisting in the  
17 development of the individualized education program for a  
18 student who is functionally blind shall receive information  
19 describing the benefits of Braille instruction. The  
20 individualized education program for each student who is  
21 functionally blind shall specify the appropriate learning  
22 medium or media based on the assessment report.

23 (d) To the maximum extent appropriate, the placement shall  
24 provide the child with the opportunity to be educated with  
25 children who do not have a disability; provided that children  
26 with disabilities who are recommended to be placed into

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

24 (e) No child who comes from a home in which a language  
25 other than English is the principal language used may be  
26 assigned to any class or program under this Article until he

1 has been given, in the principal language used by the child and  
2 used in his home, tests reasonably related to his cultural  
3 environment. All testing and evaluation materials and  
4 procedures utilized for evaluation and placement shall not be  
5 linguistically, racially or culturally discriminatory.

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

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

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

24 (g-5) For purposes of this subsection (g-5), "qualified  
25 professional" means an individual who holds credentials to  
26 evaluate the child in the domain or domains for which an

1 evaluation is sought or an intern working under the direct  
2 supervision of a qualified professional, including a master's  
3 or doctoral degree candidate.

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

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

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

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

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

5 (h) In the development of the individualized education  
6 program or federal Section 504 plan for a student, if the  
7 student needs extra accommodation during emergencies,  
8 including natural disasters or an active shooter situation,  
9 then that accommodation shall be taken into account when  
10 developing the student's individualized education program or  
11 federal Section 504 plan.

12 (Source: P.A. 102-199, eff. 7-1-22; 102-264, eff. 8-6-21;  
13 102-558, eff. 8-20-21; 102-813, eff. 5-13-22; 102-1072, eff.  
14 6-10-22; 103-197, eff. 1-1-24; 103-605, eff. 7-1-24.)