

SB1741



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1741

Introduced 2/15/2019, by Sen. John G. Mulroe

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. Provides that an application for initial approval as a nonpublic special education facility shall be approved by the State Board of Education within 60 days after receipt of the application if the applicant has otherwise complied with the State Board's requirements for approval. Effective immediately.

LRB101 07791 AXK 52842 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 14-7.02 as follows:

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

7 Sec. 14-7.02. Children attending private schools, public
8 out-of-state schools, public school residential facilities or
9 private special education facilities. The General Assembly
10 recognizes that non-public schools or special education
11 facilities provide an important service in the educational
12 system in Illinois.

13 If because of his or her disability the special education
14 program of a district is unable to meet the needs of a child
15 and the child attends a non-public school or special education
16 facility, a public out-of-state school or a special education
17 facility owned and operated by a county government unit that
18 provides special educational services required by the child and
19 is in compliance with the appropriate rules and regulations of
20 the State Superintendent of Education, the school district in
21 which the child is a resident shall pay the actual cost of
22 tuition for special education and related services provided
23 during the regular school term and during the summer school

1 term if the child's educational needs so require, excluding
2 room, board and transportation costs charged the child by that
3 non-public school or special education facility, public
4 out-of-state school or county special education facility, or
5 \$4,500 per year, whichever is less, and shall provide him any
6 necessary transportation. "Nonpublic special education
7 facility" shall include a residential facility, within or
8 without the State of Illinois, which provides special education
9 and related services to meet the needs of the child by
10 utilizing private schools or public schools, whether located on
11 the site or off the site of the residential facility.

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

22 The State Board of Education shall also promulgate rules
23 and regulations for transportation to and from a residential
24 school. Transportation to and from home to a residential school
25 more than once each school term shall be subject to prior
26 approval by the State Superintendent in accordance with the

1 rules and regulations of the State Board.

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

26 No child shall be placed in a special education program

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

26 In determining rates based on allowable costs, the Review

1 Board shall consider any wage increases awarded by the General
2 Assembly to front line personnel defined as direct support
3 persons, aides, front-line supervisors, qualified intellectual
4 disabilities professionals, nurses, and non-administrative
5 support staff working in service settings in community-based
6 settings within the State and adjust customary rates or rates
7 of a special education program to be equitable to the wage
8 increase awarded to similar staff positions in a community
9 residential setting. Any wage increase awarded by the General
10 Assembly to front line personnel defined as direct support
11 persons, aides, front-line supervisors, qualified intellectual
12 disabilities professionals, nurses, and non-administrative
13 support staff working in community-based settings within the
14 State shall also be a basis for any facility covered by this
15 Section to appeal its rate before the Review Board under the
16 process defined in Title 89, Part 900, Section 340 of the
17 Illinois Administrative Code. Illinois Administrative Code
18 Title 89, Part 900, Section 342 shall be updated to recognize
19 wage increases awarded to community-based settings to be a
20 basis for appeal.

21 The Review Board shall establish uniform definitions and
22 criteria for accounting separately by special education, room
23 and board and other related services costs. The Board shall
24 also establish guidelines for the coordination of services and
25 financial assistance provided by all State agencies to assure
26 that no otherwise qualified child with a disability receiving

1 services under Article 14 shall be excluded from participation
2 in, be denied the benefits of or be subjected to discrimination
3 under any program or activity provided by any State agency.

4 The Review Board shall review the costs for special
5 education and related services provided by non-public schools
6 or special education facilities and shall approve or disapprove
7 such facilities in accordance with the rules and regulations
8 established by it with respect to allowable costs.

9 The State Board of Education shall provide administrative
10 and staff support for the Review Board as deemed reasonable by
11 the State Superintendent of Education. This support shall not
12 include travel expenses or other compensation for any Review
13 Board member other than the State Superintendent of Education.

14 The Review Board shall seek the advice of the Advisory
15 Council on Education of Children with Disabilities on the rules
16 and regulations to be promulgated by it relative to providing
17 special education services.

18 If a child has been placed in a program in which the actual
19 per pupil costs of tuition for special education and related
20 services based on program enrollment, excluding room, board and
21 transportation costs, exceed \$4,500 and such costs have been
22 approved by the Review Board, the district shall pay such total
23 costs which exceed \$4,500. A district making such tuition
24 payments in excess of \$4,500 pursuant to this Section shall be
25 responsible for an amount in excess of \$4,500 equal to the
26 district per capita tuition charge and shall be eligible for

1 reimbursement from the State for the amount of such payments
2 actually made in excess of the districts per capita tuition
3 charge for students not receiving special education services.

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

1 program. Nothing in this Section shall be construed as
2 relieving an insurer or similar third party from an otherwise
3 valid obligation to provide or to pay for services provided to
4 a child with a disability.

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

18 Nothing in this Section authorizes the reimbursement of a
19 school district for the amount paid for tuition of a child
20 attending a non-public school or special education facility,
21 public out-of-state school or county special education
22 facility unless the school district certifies to the State
23 Superintendent of Education that the special education program
24 of that district is unable to meet the needs of that child
25 because of his disability and the State Superintendent of
26 Education finds that the school district is in substantial

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

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

18 Reimbursement for children attending public school
19 residential facilities shall be made in accordance with the
20 provisions of this Section.

21 Notwithstanding any other provision of law, any school
22 district receiving a payment under this Section or under
23 Section 14-7.02b, 14-13.01, or 29-5 of this Code may classify
24 all or a portion of the funds that it receives in a particular
25 fiscal year or from general State aid pursuant to Section
26 18-8.05 of this Code as funds received in connection with any

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

1 An application for initial approval as a nonpublic special
2 education facility under this Section shall be approved by the
3 State Board of Education within 60 days after receipt of the
4 application if the applicant has otherwise complied with the
5 State Board's requirements for approval.

6 (Source: P.A. 99-78, eff. 7-20-15; 99-143, eff. 7-27-15;
7 100-587, eff. 6-4-18.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.