



Rep. Michelle Mussman

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10300HB0340ham001

LRB103 03867 RJT 70238 a

1 AMENDMENT TO HOUSE BILL 340

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 340 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing  
5 Sections 14-8.02 and 14-8.02f 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

1 than English is used to determine their eligibility to receive  
2 special education. The placement of low English proficiency  
3 students in special education programs and facilities shall be  
4 made in accordance with the test results reflecting the  
5 student's linguistic, cultural and special education needs.  
6 For purposes of determining the eligibility of children the  
7 State Board of Education shall include in the rules  
8 definitions of "case study", "staff conference",  
9 "individualized educational program", and "qualified  
10 specialist" appropriate to each category of children with  
11 disabilities as defined in this Article. For purposes of  
12 determining the eligibility of children from homes in which a  
13 language other than English is used, the State Board of  
14 Education shall include in the rules definitions for  
15 "qualified bilingual specialists" and "linguistically and  
16 culturally appropriate individualized educational programs".  
17 For purposes of this Section, as well as Sections 14-8.02a,  
18 14-8.02b, and 14-8.02c of this Code, "parent" means a parent  
19 as defined in the federal Individuals with Disabilities  
20 Education Act (20 U.S.C. 1401(23)).

21 (b) No child shall be eligible for special education  
22 facilities except with a carefully completed case study fully  
23 reviewed by professional personnel in a multidisciplinary  
24 staff conference and only upon the recommendation of qualified  
25 specialists or a qualified bilingual specialist, if available.  
26 At the conclusion of the multidisciplinary staff conference,

1 the parent of the child and, if the child is in the legal  
2 custody of the Department of Children and Family Services, the  
3 Department's Office of Education and Transition Services shall  
4 be given a copy of the multidisciplinary conference summary  
5 report and recommendations, which includes options considered,  
6 and, in the case of the parent, be informed of his or her right  
7 to obtain an independent educational evaluation if he or she  
8 disagrees with the evaluation findings conducted or obtained  
9 by the school district. If the school district's evaluation is  
10 shown to be inappropriate, the school district shall reimburse  
11 the parent for the cost of the independent evaluation. The  
12 State Board of Education shall, with advice from the State  
13 Advisory Council on Education of Children with Disabilities on  
14 the inclusion of specific independent educational evaluators,  
15 prepare a list of suggested independent educational  
16 evaluators. The State Board of Education shall include on the  
17 list clinical psychologists licensed pursuant to the Clinical  
18 Psychologist Licensing Act. Such psychologists shall not be  
19 paid fees in excess of the amount that would be received by a  
20 school psychologist for performing the same services. The  
21 State Board of Education shall supply school districts with  
22 such list and make the list available to parents at their  
23 request. School districts shall make the list available to  
24 parents at the time they are informed of their right to obtain  
25 an independent educational evaluation. However, the school  
26 district may initiate an impartial due process hearing under

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

1 child before any evaluation is conducted. If consent is not  
2 given by the parent or if the parent disagrees with the  
3 findings of the evaluation, then the school district may  
4 initiate an impartial due process hearing under this Section.  
5 The school district may evaluate the child if that is the  
6 decision resulting from the impartial due process hearing and  
7 the decision is not appealed or if the decision is affirmed on  
8 appeal. The determination of eligibility shall be made and the  
9 IEP meeting shall be completed within 60 school days from the  
10 date of written parental consent. In those instances when  
11 written parental consent is obtained with fewer than 60 pupil  
12 attendance days left in the school year, the eligibility  
13 determination shall be made and the IEP meeting shall be  
14 completed prior to the first day of the following school year.  
15 Special education and related services must be provided in  
16 accordance with the student's IEP no later than 10 school  
17 attendance days after notice is provided to the parents  
18 pursuant to Section 300.503 of Title 34 of the Code of Federal  
19 Regulations and implementing rules adopted by the State Board  
20 of Education. The appropriate program pursuant to the  
21 individualized educational program of students whose native  
22 tongue is a language other than English shall reflect the  
23 special education, cultural and linguistic needs. No later  
24 than September 1, 1993, the State Board of Education shall  
25 establish standards for the development, implementation and  
26 monitoring of appropriate bilingual special individualized

1 educational programs. The State Board of Education shall  
2 further incorporate appropriate monitoring procedures to  
3 verify implementation of these standards. The district shall  
4 indicate to the parent, the State Board of Education, and, if  
5 applicable, the Department's Office of Education and  
6 Transition Services the nature of the services the child will  
7 receive for the regular school term while awaiting placement  
8 in the appropriate special education class. At the child's  
9 initial IEP meeting and at each annual review meeting, the  
10 child's IEP team shall provide the child's parent or guardian  
11 and, if applicable, the Department's Office of Education and  
12 Transition Services with a written notification that informs  
13 the parent or guardian or the Department's Office of Education  
14 and Transition Services that the IEP team is required to  
15 consider whether the child requires assistive technology in  
16 order to receive free, appropriate public education. The  
17 notification must also include a toll-free telephone number  
18 and internet address for the State's assistive technology  
19 program.

20 If the child is deaf, hard of hearing, blind, or visually  
21 impaired or has an orthopedic impairment or physical  
22 disability and he or she might be eligible to receive services  
23 from the Illinois School for the Deaf, the Illinois School for  
24 the Visually Impaired, or the Illinois Center for  
25 Rehabilitation and Education-Roosevelt, the school district  
26 shall notify the parents, in writing, of the existence of

1 these schools and the services they provide and shall make a  
2 reasonable effort to inform the parents of the existence of  
3 other, local schools that provide similar services and the  
4 services that these other schools provide. This notification  
5 shall include, without limitation, information on school  
6 services, school admissions criteria, and school contact  
7 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  
17 the 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 Adults with Mental  
13 Disabilities 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  
23 taken 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  
10 in functional blindness. Each student who is functionally  
11 blind shall be entitled to Braille reading and writing  
12 instruction that is sufficient to enable the student to  
13 communicate with the same level of proficiency as other  
14 students of comparable ability. Instruction should be provided  
15 to the extent that the student is physically and cognitively  
16 able to use Braille. Braille instruction may be used in  
17 combination with other special education services appropriate  
18 to the student's educational needs. The assessment of each  
19 student who is functionally blind for the purpose of  
20 developing the student's individualized education program  
21 shall include documentation of the student's strengths and  
22 weaknesses in Braille skills. Each person assisting in the  
23 development of the individualized education program for a  
24 student who is functionally blind shall receive information  
25 describing the benefits of Braille instruction. The  
26 individualized education program for each student who is

1 functionally blind shall specify the appropriate learning  
2 medium or media based on the assessment report.

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

1 placement is subject to impartial due process procedures  
2 described in Article 10 of the Rules and Regulations to Govern  
3 the Administration and Operation of Special Education.

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

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

17 (g) School boards or their designee shall provide to the  
18 parents of a child or, if applicable, the Department of  
19 Children and Family Services' Office of Education and  
20 Transition Services prior written notice of any decision (a)  
21 proposing to initiate or change, or (b) refusing to initiate  
22 or change, the identification, evaluation, or educational  
23 placement of the child or the provision of a free appropriate  
24 public education to their child, and the reasons therefor. For  
25 a parent, such written notification shall also inform the  
26 parent of the opportunity to present complaints with respect

1 to any matter relating to the educational placement of the  
2 student, or the provision of a free appropriate public  
3 education and to have an impartial due process hearing on the  
4 complaint. The notice shall inform the parents in the parents'  
5 native language, unless it is clearly not feasible to do so, of  
6 their rights and all procedures available pursuant to this Act  
7 and the federal Individuals with Disabilities Education  
8 Improvement Act of 2004 (Public Law 108-446); it shall be the  
9 responsibility of the State Superintendent to develop uniform  
10 notices setting forth the procedures available under this Act  
11 and the federal Individuals with Disabilities Education  
12 Improvement Act of 2004 (Public Law 108-446) to be used by all  
13 school boards. The notice shall also include the content  
14 required under subsection (c) of Section 14-8.02f and inform  
15 the parents of the availability upon request of a list of free  
16 or low-cost legal and other relevant services available  
17 locally to assist parents in initiating an impartial due  
18 process hearing. The State Superintendent shall revise the  
19 uniform notices required by this subsection (g) to reflect  
20 current law and procedures at least once every 2 years. Any  
21 parent who is deaf or does not normally communicate using  
22 spoken English and who participates in a meeting with a  
23 representative of a local educational agency for the purposes  
24 of developing an individualized educational program or attends  
25 a multidisciplinary conference shall be entitled to the  
26 services of an interpreter. The State Board of Education must

1 adopt rules to establish the criteria, standards, and  
2 competencies for a bilingual language interpreter who attends  
3 an individualized education program meeting under this  
4 subsection to assist a parent who has limited English  
5 proficiency.

6 (g-5) For purposes of this subsection (g-5), "qualified  
7 professional" means an individual who holds credentials to  
8 evaluate the child in the domain or domains for which an  
9 evaluation is sought or an intern working under the direct  
10 supervision of a qualified professional, including a master's  
11 or doctoral degree candidate.

12 To ensure that a parent can participate fully and  
13 effectively with school personnel in the development of  
14 appropriate educational and related services for his or her  
15 child, the parent, an independent educational evaluator, or a  
16 qualified professional retained by or on behalf of a parent or  
17 child must be afforded reasonable access to educational  
18 facilities, personnel, classrooms, and buildings and to the  
19 child as provided in this subsection (g-5). The requirements  
20 of this subsection (g-5) apply to any public school facility,  
21 building, or program and to any facility, building, or program  
22 supported in whole or in part by public funds. Prior to  
23 visiting a school, school building, or school facility, the  
24 parent, independent educational evaluator, or qualified  
25 professional may be required by the school district to inform  
26 the building principal or supervisor in writing of the

1 proposed visit, the purpose of the visit, and the approximate  
2 duration of the visit. The visitor and the school district  
3 shall arrange the visit or visits at times that are mutually  
4 agreeable. Visitors shall comply with school safety, security,  
5 and visitation policies at all times. School district  
6 visitation policies must not conflict with this subsection  
7 (g-5). Visitors shall be required to comply with the  
8 requirements of applicable privacy laws, including those laws  
9 protecting the confidentiality of education records such as  
10 the federal Family Educational Rights and Privacy Act and the  
11 Illinois School Student Records Act. The visitor shall not  
12 disrupt the educational process.

13 (1) A parent must be afforded reasonable access of  
14 sufficient duration and scope for the purpose of observing  
15 his or her child in the child's current educational  
16 placement, services, or program or for the purpose of  
17 visiting an educational placement or program proposed for  
18 the child.

19 (2) An independent educational evaluator or a  
20 qualified professional retained by or on behalf of a  
21 parent or child must be afforded reasonable access of  
22 sufficient duration and scope for the purpose of  
23 conducting an evaluation of the child, the child's  
24 performance, the child's current educational program,  
25 placement, services, or environment, or any educational  
26 program, placement, services, or environment proposed for

1 the child, including interviews of educational personnel,  
2 child observations, assessments, tests or assessments of  
3 the child's educational program, services, or placement or  
4 of any proposed educational program, services, or  
5 placement. If one or more interviews of school personnel  
6 are part of the evaluation, the interviews must be  
7 conducted at a mutually agreed-upon ~~agreed-upon~~ time,  
8 date, and place that do not interfere with the school  
9 employee's school duties. The school district may limit  
10 interviews to personnel having information relevant to the  
11 child's current educational services, program, or  
12 placement or to a proposed educational service, program,  
13 or placement.

14 (h) In the development of the individualized education  
15 program or federal Section 504 plan for a student, if the  
16 student needs extra accommodation during emergencies,  
17 including natural disasters or an active shooter situation,  
18 then that accommodation shall be taken into account when  
19 developing the student's individualized education program or  
20 federal Section 504 plan.

21 (Source: P.A. 102-199, eff. 7-1-22; 102-264, eff. 8-6-21;  
22 102-558, eff. 8-20-21; 102-813, eff. 5-13-22; 102-1072, eff.  
23 6-10-22; 103-197, eff. 1-1-24; revised 1-30-24.)

24 (105 ILCS 5/14-8.02f)

25 Sec. 14-8.02f. Individualized education program meeting

1 protections.

2 (a) (Blank).

3 (b) This subsection (b) applies only to a school district  
4 organized under Article 34. No later than 10 calendar days  
5 prior to a child's individualized education program meeting or  
6 as soon as possible if a meeting is scheduled within 10  
7 calendar days with written parental consent, the school board  
8 or school personnel must provide the child's parent or  
9 guardian with a written notification of the services that  
10 require a specific data collection procedure from the school  
11 district for services related to the child's individualized  
12 education program. The notification must indicate, with a  
13 checkbox, whether specific data has been collected for the  
14 child's individualized education program services. For  
15 purposes of this subsection (b), individualized education  
16 program services must include, but are not limited to,  
17 paraprofessional support, an extended school year,  
18 transportation, therapeutic day school, and services for  
19 specific learning disabilities.

20 (c) Beginning on July 1, 2020, no later than 3 school days  
21 prior to a meeting to determine a child's eligibility for  
22 special education and related services or to review a child's  
23 individualized education program, or as soon as possible if an  
24 individualized education program meeting is scheduled within 3  
25 school days with the written consent of the child's parent or  
26 guardian, the local education agency must provide the child's



1 parent or guardian copies of all written material that will be  
2 considered by the individualized education program team at the  
3 meeting so that the parent or guardian may participate in the  
4 meeting as a fully-informed team member. The parent or  
5 guardian shall have the option of choosing from the available  
6 methods of delivery, which must include regular mail and  
7 picking up the materials at school. The notice provided to the  
8 parent or guardian prior to the meeting pursuant to subsection  
9 (g) of Section 14-8.02 shall inform the parent or guardian of  
10 the parent's or guardian's right to receive copies of all  
11 written material under this subsection (c) and shall provide  
12 the date when the written material will be delivered or made  
13 available to the parent or guardian.

14 For a meeting to determine the child's eligibility for  
15 special education, the written material must include all  
16 evaluations and collected data that will be considered at the  
17 meeting. For a child who is already eligible for special  
18 education and related services, the written material must  
19 include a copy of all individualized education program  
20 components that will be discussed by the individualized  
21 education program team, other than the components related to  
22 the educational and related service minutes proposed for the  
23 child and the child's placement.

24 Parents shall also be informed of their right to review  
25 and copy their child's school student records prior to any  
26 special education eligibility or individualized education

1 program review meeting, subject to the requirements of  
2 applicable federal and State law.

3 (d) Local education agencies must make logs that record  
4 the delivery of related services administered under the  
5 child's individualized education program and the minutes of  
6 each type of related service that has been administered  
7 available to the child's parent or guardian at any time upon  
8 request of the child's parent or guardian. For purposes of  
9 this subsection (d), related services for which a log must be  
10 made are: speech and language services, occupational therapy  
11 services, physical therapy services, school social work  
12 services, school counseling services, school psychology  
13 services, and school nursing services. The local education  
14 agency must inform the child's parent or guardian within 20  
15 school days from the beginning of the school year or upon  
16 establishment of an individualized education program of his or  
17 her ability to request those related service logs.

18 (d-5) If, at a meeting to develop or revise a child's  
19 individualized education program, the individualized education  
20 program team determines that a certain service is required in  
21 order for the child to receive a free, appropriate public  
22 education and that service is not implemented within 10 school  
23 days after the service was to be initiated as set forth by the  
24 child's individualized education program, then the local  
25 education agency shall provide the child's parent or guardian  
26 with written notification that the service has not yet been

1 implemented. The notification must be provided to the child's  
2 parent or guardian within 3 school days of the local education  
3 agency's non-compliance with the child's individualized  
4 education program and must inform the parent or guardian about  
5 the school district's procedures for requesting compensatory  
6 services. In this subsection (d-5), "school days" does not  
7 include days where a child is absent from school for reasons  
8 unrelated to a lack of individualized education program  
9 services or when the service is available, but the child is  
10 unavailable.

11 (e) The State Board of Education may create a telephone  
12 hotline to address complaints regarding the special education  
13 services or lack of special education services of a school  
14 district subject to this Section. If a hotline is created, it  
15 must be available to all students enrolled in the school  
16 district, parents or guardians of those students, and school  
17 personnel. If a hotline is created, any complaints received  
18 through the hotline must be registered and recorded with the  
19 State Board's monitor of special education policies. No  
20 student, parent or guardian, or member of school personnel may  
21 be retaliated against for submitting a complaint through a  
22 telephone hotline created by the State Board under this  
23 subsection (e).

24 (f) A school district subject to this Section may not use  
25 any measure that would prevent or delay an individualized  
26 education program team from adding a service to the program or

1 create a time restriction in which a service is prohibited  
2 from being added to the program. The school district may not  
3 build functions into its computer software that would remove  
4 any services from a student's individualized education program  
5 without the approval of the program team and may not prohibit  
6 the program team from adding a service to the program.

7 (Source: P.A. 100-993, eff. 8-20-18; 101-515, eff. 8-23-19;  
8 101-598, eff. 12-6-19; 101-643, eff. 6-18-20.)

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