

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 definitions

1 of "case study", "staff conference", "individualized  
2 educational program", and "qualified specialist" appropriate  
3 to each category of children with disabilities as defined in  
4 this Article. For purposes of determining the eligibility of  
5 children from homes in which a language other than English is  
6 used, the State Board of Education shall include in the rules  
7 definitions for "qualified bilingual specialists" and  
8 "linguistically and culturally appropriate individualized  
9 educational programs". For purposes of this Section, as well as  
10 Sections 14-8.02a, 14-8.02b, and 14-8.02c of this Code,  
11 "parent" means a parent as defined in the federal Individuals  
12 with Disabilities Education Act (20 U.S.C. 1401(23)).

13 (b) No child shall be eligible for special education  
14 facilities except with a carefully completed case study fully  
15 reviewed by professional personnel in a multidisciplinary  
16 staff conference and only upon the recommendation of qualified  
17 specialists or a qualified bilingual specialist, if available.  
18 At the conclusion of the multidisciplinary staff conference,  
19 the parent of the child shall be given a copy of the  
20 multidisciplinary conference summary report and  
21 recommendations, which includes options considered, and be  
22 informed of their right to obtain an independent educational  
23 evaluation if they disagree with the evaluation findings  
24 conducted or obtained by the school district. If the school  
25 district's evaluation is shown to be inappropriate, the school  
26 district shall reimburse the parent for the cost of the

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

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

1 left in the school year, the eligibility determination shall be  
2 made and the IEP meeting shall be completed prior to the first  
3 day of the following school year. Special education and related  
4 services must be provided in accordance with the student's IEP  
5 no later than 10 school attendance days after notice is  
6 provided to the parents pursuant to Section 300.503 of Title 34  
7 of the Code of Federal Regulations and implementing rules  
8 adopted by the State Board of Education. The appropriate  
9 program pursuant to the individualized educational program of  
10 students whose native tongue is a language other than English  
11 shall reflect the special education, cultural and linguistic  
12 needs. No later than September 1, 1993, the State Board of  
13 Education shall establish standards for the development,  
14 implementation and monitoring of appropriate bilingual special  
15 individualized educational programs. The State Board of  
16 Education shall further incorporate appropriate monitoring  
17 procedures to verify implementation of these standards. The  
18 district shall indicate to the parent and the State Board of  
19 Education the nature of the services the child will receive for  
20 the regular school term while waiting placement in the  
21 appropriate special education class. If the child's IEP team  
22 determines that the child does not require assistive technology  
23 services or devices, as defined under Section 1401 of the  
24 federal Individuals with Disabilities Education Act (20 U.S.C.  
25 1401), the team shall include a statement in the child's IEP  
26 that informs the child's parent or guardian of the decision and

1 the basis for the decision.

2       If the child is deaf, hard of hearing, blind, or visually  
3 impaired and he or she might be eligible to receive services  
4 from the Illinois School for the Deaf or the Illinois School  
5 for the Visually Impaired, the school district shall notify the  
6 parents, in writing, of the existence of these schools and the  
7 services they provide and shall make a reasonable effort to  
8 inform the parents of the existence of other, local schools  
9 that provide similar services and the services that these other  
10 schools provide. This notification shall include without  
11 limitation information on school services, school admissions  
12 criteria, and school contact information.

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

21           (1) The verbal and nonverbal communication needs of the  
22 child.

23           (2) The need to develop social interaction skills and  
24 proficiencies.

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

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

3           (5) The needs resulting from engagement in repetitive  
4 activities and stereotyped movements.

5           (6) The need for any positive behavioral  
6 interventions, strategies, and supports to address any  
7 behavioral difficulties resulting from autism spectrum  
8 disorder.

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

12 Public Act 95-257 does not create any new entitlement to a  
13 service, program, or benefit, but must not affect any  
14 entitlement to a service, program, or benefit created by any  
15 other law.

16           If the student may be eligible to participate in the  
17 Home-Based Support Services Program for Adults with Mental  
18 Disabilities authorized under the Developmental Disability and  
19 Mental Disability Services Act upon becoming an adult, the  
20 student's individualized education program shall include plans  
21 for (i) determining the student's eligibility for those  
22 home-based services, (ii) enrolling the student in the program  
23 of home-based services, and (iii) developing a plan for the  
24 student's most effective use of the home-based services after  
25 the student becomes an adult and no longer receives special  
26 educational services under this Article. The plans developed

1 under this paragraph shall include specific actions to be taken  
2 by specified individuals, agencies, or officials.

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

1 Each person assisting in the development of the individualized  
2 education program for a student who is functionally blind shall  
3 receive information describing the benefits of Braille  
4 instruction. The individualized education program for each  
5 student who is functionally blind shall specify the appropriate  
6 learning medium or media based on the assessment report.

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

1 prescribed in Section 2-3.30. If there is a disagreement  
2 between parties involved regarding the special education  
3 placement of any child, either in-state or out-of-state, the  
4 placement is subject to impartial due process procedures  
5 described in Article 10 of the Rules and Regulations to Govern  
6 the Administration and Operation of Special Education.

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

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

19 (g) School boards or their designee shall provide to the  
20 parents of a child prior written notice of any decision (a)  
21 proposing to initiate or change, or (b) refusing to initiate or  
22 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. Such  
25 written notification shall also inform the parent of the  
26 opportunity to present complaints with respect to any matter

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

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 of  
12 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 proposed  
19 visit, the purpose of the visit, and the approximate duration  
20 of the visit. The visitor and the school district shall arrange  
21 the visit or visits at times that are mutually agreeable.  
22 Visitors shall comply with school safety, security, and  
23 visitation policies at all times. School district visitation  
24 policies must not conflict with this subsection (g-5). Visitors  
25 shall be required to comply with the requirements of applicable  
26 privacy laws, including those laws protecting the

1 confidentiality of education records such as the federal Family  
2 Educational Rights and Privacy Act and the Illinois School  
3 Student Records Act. The visitor shall not disrupt the  
4 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 parent  
13 or child must be afforded reasonable access of sufficient  
14 duration and scope for the purpose of conducting an  
15 evaluation of the child, the child's performance, the  
16 child's current educational program, placement, services,  
17 or environment, or any educational program, placement,  
18 services, or environment proposed for the child, including  
19 interviews of educational personnel, child observations,  
20 assessments, tests or assessments of the child's  
21 educational program, services, or placement or of any  
22 proposed educational program, services, or placement. If  
23 one or more interviews of school personnel are part of the  
24 evaluation, the interviews must be conducted at a mutually  
25 agreed upon time, date, and place that do not interfere  
26 with the school employee's school duties. The school

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

5 (h) (Blank).

6 (i) (Blank).

7 (j) (Blank).

8 (k) (Blank).

9 (l) (Blank).

10 (m) (Blank).

11 (n) (Blank).

12 (o) (Blank).

13 (Source: P.A. 99-30, eff. 7-10-15; 99-143, eff. 7-27-15;  
14 99-642, eff. 7-28-16; 100-122, eff. 8-18-17; revised 9-25-17.)

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law.