



Rep. Laura Fine

Filed: 5/17/2018

10000SB0454ham001

LRB100 04896 AXK 40233 a

1 AMENDMENT TO SENATE BILL 454

2 AMENDMENT NO. _____. Amend Senate Bill 454 by replacing
3 everything after the enacting clause with the following:

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

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

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

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

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

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

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

11 If the child is deaf, hard of hearing, blind, or visually
12 impaired and he or she might be eligible to receive services
13 from the Illinois School for the Deaf or the Illinois School
14 for the Visually Impaired, the school district shall notify the
15 parents, in writing, of the existence of these schools and the
16 services they provide and shall make a reasonable effort to
17 inform the parents of the existence of other, local schools
18 that provide similar services and the services that these other
19 schools provide. This notification shall include without
20 limitation information on school services, school admissions
21 criteria, and school contact information.

22 In the development of the individualized education program
23 for a student who has a disability on the autism spectrum
24 (which includes autistic disorder, Asperger's disorder,
25 pervasive developmental disorder not otherwise specified,
26 childhood disintegrative disorder, and Rett Syndrome, as

1 defined in the Diagnostic and Statistical Manual of Mental
2 Disorders, fourth edition (DSM-IV, 2000)), the IEP team shall
3 consider all of the following factors:

4 (1) The verbal and nonverbal communication needs of the
5 child.

6 (2) The need to develop social interaction skills and
7 proficiencies.

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

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

12 (5) The needs resulting from engagement in repetitive
13 activities and stereotyped movements.

14 (6) The need for any positive behavioral
15 interventions, strategies, and supports to address any
16 behavioral difficulties resulting from autism spectrum
17 disorder.

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

21 Public Act 95-257 does not create any new entitlement to a
22 service, program, or benefit, but must not affect any
23 entitlement to a service, program, or benefit created by any
24 other law.

25 If the student may be eligible to participate in the
26 Home-Based Support Services Program for Adults with Mental

1 Disabilities authorized under the Developmental Disability and
2 Mental Disability Services Act upon becoming an adult, the
3 student's individualized education program shall include plans
4 for (i) determining the student's eligibility for those
5 home-based services, (ii) enrolling the student in the program
6 of home-based services, and (iii) developing a plan for the
7 student's most effective use of the home-based services after
8 the student becomes an adult and no longer receives special
9 educational services under this Article. The plans developed
10 under this paragraph shall include specific actions to be taken
11 by specified individuals, agencies, or officials.

12 (c) In the development of the individualized education
13 program for a student who is functionally blind, it shall be
14 presumed that proficiency in Braille reading and writing is
15 essential for the student's satisfactory educational progress.
16 For purposes of this subsection, the State Board of Education
17 shall determine the criteria for a student to be classified as
18 functionally blind. Students who are not currently identified
19 as functionally blind who are also entitled to Braille
20 instruction include: (i) those whose vision loss is so severe
21 that they are unable to read and write at a level comparable to
22 their peers solely through the use of vision, and (ii) those
23 who show evidence of progressive vision loss that may result in
24 functional blindness. Each student who is functionally blind
25 shall be entitled to Braille reading and writing instruction
26 that is sufficient to enable the student to communicate with

1 the same level of proficiency as other students of comparable
2 ability. Instruction should be provided to the extent that the
3 student is physically and cognitively able to use Braille.
4 Braille instruction may be used in combination with other
5 special education services appropriate to the student's
6 educational needs. The assessment of each student who is
7 functionally blind for the purpose of developing the student's
8 individualized education program shall include documentation
9 of the student's strengths and weaknesses in Braille skills.
10 Each person assisting in the development of the individualized
11 education program for a student who is functionally blind shall
12 receive information describing the benefits of Braille
13 instruction. The individualized education program for each
14 student who is functionally blind shall specify the appropriate
15 learning medium or media based on the assessment report.

16 (d) To the maximum extent appropriate, the placement shall
17 provide the child with the opportunity to be educated with
18 children who do not have a disability; provided that children
19 with disabilities who are recommended to be placed into regular
20 education classrooms are provided with supplementary services
21 to assist the children with disabilities to benefit from the
22 regular classroom instruction and are included on the teacher's
23 regular education class register. Subject to the limitation of
24 the preceding sentence, placement in special classes, separate
25 schools or other removal of the child with a disability from
26 the regular educational environment shall occur only when the

1 nature of the severity of the disability is such that education
2 in the regular classes with the use of supplementary aids and
3 services cannot be achieved satisfactorily. The placement of
4 English learners with disabilities shall be in non-restrictive
5 environments which provide for integration with peers who do
6 not have disabilities in bilingual classrooms. Annually, each
7 January, school districts shall report data on students from
8 non-English speaking backgrounds receiving special education
9 and related services in public and private facilities as
10 prescribed in Section 2-3.30. If there is a disagreement
11 between parties involved regarding the special education
12 placement of any child, either in-state or out-of-state, the
13 placement is subject to impartial due process procedures
14 described in Article 10 of the Rules and Regulations to Govern
15 the Administration and Operation of Special Education.

16 (e) No child who comes from a home in which a language
17 other than English is the principal language used may be
18 assigned to any class or program under this Article until he
19 has been given, in the principal language used by the child and
20 used in his home, tests reasonably related to his cultural
21 environment. All testing and evaluation materials and
22 procedures utilized for evaluation and placement shall not be
23 linguistically, racially or culturally discriminatory.

24 (f) Nothing in this Article shall be construed to require
25 any child to undergo any physical examination or medical
26 treatment whose parents object thereto on the grounds that such

1 examination or treatment conflicts with his religious beliefs.

2 (g) School boards or their designee shall provide to the
3 parents of a child prior written notice of any decision (a)
4 proposing to initiate or change, or (b) refusing to initiate or
5 change, the identification, evaluation, or educational
6 placement of the child or the provision of a free appropriate
7 public education to their child, and the reasons therefor. Such
8 written notification shall also inform the parent of the
9 opportunity to present complaints with respect to any matter
10 relating to the educational placement of the student, or the
11 provision of a free appropriate public education and to have an
12 impartial due process hearing on the complaint. The notice
13 shall inform the parents in the parents' native language,
14 unless it is clearly not feasible to do so, of their rights and
15 all procedures available pursuant to this Act and the federal
16 Individuals with Disabilities Education Improvement Act of
17 2004 (Public Law 108-446); it shall be the responsibility of
18 the State Superintendent to develop uniform notices setting
19 forth the procedures available under this Act and the federal
20 Individuals with Disabilities Education Improvement Act of
21 2004 (Public Law 108-446) to be used by all school boards. The
22 notice shall also inform the parents of the availability upon
23 request of a list of free or low-cost legal and other relevant
24 services available locally to assist parents in initiating an
25 impartial due process hearing. The State Superintendent shall
26 revise the uniform notices required by this subsection (g) to

1 reflect current law and procedures at least once every 2 years.
2 Any parent who is deaf, or does not normally communicate using
3 spoken English, who participates in a meeting with a
4 representative of a local educational agency for the purposes
5 of developing an individualized educational program shall be
6 entitled to the services of an interpreter.

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

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

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

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

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

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

14 (h) (Blank).

15 (i) (Blank).

16 (j) (Blank).

17 (k) (Blank).

18 (l) (Blank).

19 (m) (Blank).

20 (n) (Blank).

21 (o) (Blank).

22 (Source: P.A. 99-30, eff. 7-10-15; 99-143, eff. 7-27-15;
23 99-642, eff. 7-28-16; 100-122, eff. 8-18-17; revised
24 9-25-17.)".