



Sen. David Koehler

Filed: 3/26/2018

10000SB0454sam001

LRB100 04896 AXK 37385 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. If the child's IEP team
3 determines that the child does not require assistive technology
4 services or devices, as defined under Section 1401 of the
5 federal Individuals with Disabilities Education Act (20 U.S.C.
6 1401), the team shall include a statement in the child's IEP
7 that informs the child's parent or guardian of the decision and
8 the basis for the decision.

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

20 In the development of the individualized education program
21 for a student who has a disability on the autism spectrum
22 (which includes autistic disorder, Asperger's disorder,
23 pervasive developmental disorder not otherwise specified,
24 childhood disintegrative disorder, and Rett Syndrome, as
25 defined in the Diagnostic and Statistical Manual of Mental
26 Disorders, fourth edition (DSM-IV, 2000)), the IEP team shall

1 consider all of the following factors:

2 (1) The verbal and nonverbal communication needs of the
3 child.

4 (2) The need to develop social interaction skills and
5 proficiencies.

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

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

10 (5) The needs resulting from engagement in repetitive
11 activities and stereotyped movements.

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

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

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

23 If the student may be eligible to participate in the
24 Home-Based Support Services Program for Adults with Mental
25 Disabilities authorized under the Developmental Disability and
26 Mental Disability Services Act upon becoming an adult, the

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

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

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

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

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

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

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

26 (g) School boards or their designee shall provide to the

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

1 spoken English, who participates in a meeting with a
2 representative of a local educational agency for the purposes
3 of developing an individualized educational program shall be
4 entitled to the services of an interpreter.

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

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

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

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

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

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

12 (h) (Blank).

13 (i) (Blank).

14 (j) (Blank).

15 (k) (Blank).

16 (l) (Blank).

17 (m) (Blank).

18 (n) (Blank).

19 (o) (Blank).

20 (Source: P.A. 99-30, eff. 7-10-15; 99-143, eff. 7-27-15;
21 99-642, eff. 7-28-16; 100-122, eff. 8-18-17; revised 9-25-17.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."