

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 Sections
5 14-8.02 and 14-8.02a 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.

22 If the child is deaf, hard of hearing, blind, or visually
23 impaired and he or she might be eligible to receive services
24 from the Illinois School for the Deaf or the Illinois School
25 for the Visually Impaired, the school district shall notify the
26 parents, in writing, of the existence of these schools and the

1 services they provide and shall make a reasonable effort to
2 inform the parents of the existence of other, local schools
3 that provide similar services and the services that these other
4 schools provide. This notification shall include without
5 limitation information on school services, school admissions
6 criteria, and school contact information.

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

15 (1) The verbal and nonverbal communication needs of the
16 child.

17 (2) The need to develop social interaction skills and
18 proficiencies.

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

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

23 (5) The needs resulting from engagement in repetitive
24 activities and stereotyped movements.

25 (6) The need for any positive behavioral
26 interventions, strategies, and supports to address any

1 behavioral difficulties resulting from autism spectrum
2 disorder.

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

6 Public Act 95-257 does not create any new entitlement to a
7 service, program, or benefit, but must not affect any
8 entitlement to a service, program, or benefit created by any
9 other law.

10 If the student may be eligible to participate in the
11 Home-Based Support Services Program for Adults with Mental
12 Disabilities authorized under the Developmental Disability and
13 Mental Disability Services Act upon becoming an adult, the
14 student's individualized education program shall include plans
15 for (i) determining the student's eligibility for those
16 home-based services, (ii) enrolling the student in the program
17 of home-based services, and (iii) developing a plan for the
18 student's most effective use of the home-based services after
19 the student becomes an adult and no longer receives special
20 educational services under this Article. The plans developed
21 under this paragraph shall include specific actions to be taken
22 by specified individuals, agencies, or officials.

23 (c) In the development of the individualized education
24 program for a student who is functionally blind, it shall be
25 presumed that proficiency in Braille reading and writing is
26 essential for the student's satisfactory educational progress.

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

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

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

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

13 (g) School boards or their designee shall provide to the
14 parents of a child prior written notice of any decision (a)
15 proposing to initiate or change, or (b) refusing to initiate or
16 change, the identification, evaluation, or educational
17 placement of the child or the provision of a free appropriate
18 public education to their child, and the reasons therefor. Such
19 written notification shall also inform the parent of the
20 opportunity to present complaints with respect to any matter
21 relating to the educational placement of the student, or the
22 provision of a free appropriate public education and to have an
23 impartial due process hearing on the complaint. The notice
24 shall inform the parents in the parents' native language,
25 unless it is clearly not feasible to do so, of their rights and
26 all procedures available pursuant to this Act and the federal

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

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

24 To ensure that a parent can participate fully and
25 effectively with school personnel in the development of
26 appropriate educational and related services for his or her

1 child, the parent, an independent educational evaluator, or a
2 qualified professional retained by or on behalf of a parent or
3 child must be afforded reasonable access to educational
4 facilities, personnel, classrooms, and buildings and to the
5 child as provided in this subsection (g-5). The requirements of
6 this subsection (g-5) apply to any public school facility,
7 building, or program and to any facility, building, or program
8 supported in whole or in part by public funds. Prior to
9 visiting a school, school building, or school facility, the
10 parent, independent educational evaluator, or qualified
11 professional may be required by the school district to inform
12 the building principal or supervisor in writing of the proposed
13 visit, the purpose of the visit, and the approximate duration
14 of the visit. The visitor and the school district shall arrange
15 the visit or visits at times that are mutually agreeable.
16 Visitors shall comply with school safety, security, and
17 visitation policies at all times. School district visitation
18 policies must not conflict with this subsection (g-5). Visitors
19 shall be required to comply with the requirements of applicable
20 privacy laws, including those laws protecting the
21 confidentiality of education records such as the federal Family
22 Educational Rights and Privacy Act and the Illinois School
23 Student Records Act. The visitor shall not disrupt the
24 educational process.

25 (1) A parent must be afforded reasonable access of
26 sufficient duration and scope for the purpose of observing

1 his or her child in the child's current educational
2 placement, services, or program or for the purpose of
3 visiting an educational placement or program proposed for
4 the child.

5 (2) An independent educational evaluator or a
6 qualified professional retained by or on behalf of a parent
7 or child must be afforded reasonable access of sufficient
8 duration and scope for the purpose of conducting an
9 evaluation of the child, the child's performance, the
10 child's current educational program, placement, services,
11 or environment, or any educational program, placement,
12 services, or environment proposed for the child, including
13 interviews of educational personnel, child observations,
14 assessments, tests or assessments of the child's
15 educational program, services, or placement or of any
16 proposed educational program, services, or placement. If
17 one or more interviews of school personnel are part of the
18 evaluation, the interviews must be conducted at a mutually
19 agreed upon time, date, and place that do not interfere
20 with the school employee's school duties. The school
21 district may limit interviews to personnel having
22 information relevant to the child's current educational
23 services, program, or placement or to a proposed
24 educational service, program, or placement.

25 (h) (Blank).

26 (i) (Blank).

1 (j) (Blank).

2 (k) (Blank).

3 (l) (Blank).

4 (m) (Blank).

5 (n) (Blank).

6 (o) (Blank).

7 (Source: P.A. 98-219, eff. 8-9-13; 99-30, eff. 7-10-15; 99-143,
8 eff. 7-27-15; 99-642, eff. 7-28-16.)

9 (105 ILCS 5/14-8.02a)

10 Sec. 14-8.02a. Impartial due process hearing; civil
11 action.

12 (a) This Section shall apply to all impartial due process
13 hearings requested on or after July 1, 2005. Impartial due
14 process hearings requested before July 1, 2005 shall be
15 governed by the rules described in Public Act 89-652.

16 (a-5) For purposes of this Section and Section 14-8.02b of
17 this Code, days shall be computed in accordance with Section
18 1.11 of the Statute on Statutes.

19 (b) The State Board of Education shall establish an
20 impartial due process hearing system in accordance with this
21 Section and may, with the advice and approval of the Advisory
22 Council on Education of Children with Disabilities, promulgate
23 rules and regulations consistent with this Section to establish
24 the rules and procedures for due process hearings.

25 (c) (Blank).

1 (d) (Blank).

2 (e) (Blank).

3 (f) An impartial due process hearing shall be convened upon
4 the request of a parent, student if at least 18 years of age or
5 emancipated, or a school district. A school district shall make
6 a request in writing to the State Board of Education and
7 promptly mail a copy of the request to the parents or student
8 (if at least 18 years of age or emancipated) at the parent's or
9 student's last known address. A request made by the parent or
10 student shall be made in writing to the superintendent of the
11 school district where the student resides. The superintendent
12 shall forward the request to the State Board of Education
13 within 5 days after receipt of the request. The request shall
14 be filed no more than 2 years following the date the person or
15 school district knew or should have known of the event or
16 events forming the basis for the request. The request shall, at
17 a minimum, contain all of the following:

18 (1) The name of the student, the address of the
19 student's residence, and the name of the school the student
20 is attending.

21 (2) In the case of homeless children (as defined under
22 the federal McKinney-Vento Homeless Assistance Act (42
23 U.S.C. 11434a(2)), available contact information for the
24 student and the name of the school the student is
25 attending.

26 (3) A description of the nature of the problem relating

1 to the actual or proposed placement, identification,
2 services, or evaluation of the student, including facts
3 relating to the problem.

4 (4) A proposed resolution of the problem to the extent
5 known and available to the party at the time.

6 (f-5) Within 3 days after receipt of the hearing request,
7 the State Board of Education shall appoint a due process
8 hearing officer using a rotating appointment system and shall
9 notify the hearing officer of his or her appointment.

10 For a school district other than a school district located
11 in a municipality having a population exceeding 500,000, a
12 hearing officer who is a current resident of the school
13 district, special education cooperative, or other public
14 entity involved in the hearing shall recuse himself or herself.
15 A hearing officer who is a former employee of the school
16 district, special education cooperative, or other public
17 entity involved in the hearing shall immediately disclose the
18 former employment to the parties and shall recuse himself or
19 herself, unless the parties otherwise agree in writing. A
20 hearing officer having a personal or professional interest that
21 may conflict with his or her objectivity in the hearing shall
22 disclose the conflict to the parties and shall recuse himself
23 or herself unless the parties otherwise agree in writing. For
24 purposes of this subsection an assigned hearing officer shall
25 be considered to have a conflict of interest if, at any time
26 prior to the issuance of his or her written decision, he or she

1 knows or should know that he or she may receive remuneration
2 from a party to the hearing within 3 years following the
3 conclusion of the due process hearing.

4 A party to a due process hearing shall be permitted one
5 substitution of hearing officer as a matter of right, in
6 accordance with procedures established by the rules adopted by
7 the State Board of Education under this Section. The State
8 Board of Education shall randomly select and appoint another
9 hearing officer within 3 days after receiving notice that the
10 appointed hearing officer is ineligible to serve or upon
11 receiving a proper request for substitution of hearing officer.
12 If a party withdraws its request for a due process hearing
13 after a hearing officer has been appointed, that hearing
14 officer shall retain jurisdiction over a subsequent hearing
15 that involves the same parties and is requested within one year
16 from the date of withdrawal of the previous request, unless
17 that hearing officer is unavailable.

18 Any party may raise facts that constitute a conflict of
19 interest for the hearing officer at any time before or during
20 the hearing and may move for recusal.

21 (g) Impartial due process hearings shall be conducted
22 pursuant to this Section and any rules and regulations
23 promulgated by the State Board of Education consistent with
24 this Section and other governing laws and regulations. The
25 hearing shall address only those issues properly raised in the
26 hearing request under subsection (f) of this Section or, if

1 applicable, in the amended hearing request under subsection
2 (g-15) of this Section. The hearing shall be closed to the
3 public unless the parents request that the hearing be open to
4 the public. The parents involved in the hearing shall have the
5 right to have the student who is the subject of the hearing
6 present. The hearing shall be held at a time and place which
7 are reasonably convenient to the parties involved. Upon the
8 request of a party, the hearing officer shall hold the hearing
9 at a location neutral to the parties if the hearing officer
10 determines that there is no cost for securing the use of the
11 neutral location. Once appointed, the impartial due process
12 hearing officer shall not communicate with the State Board of
13 Education or its employees concerning the hearing, except that,
14 where circumstances require, communications for administrative
15 purposes that do not deal with substantive or procedural
16 matters or issues on the merits are authorized, provided that
17 the hearing officer promptly notifies all parties of the
18 substance of the communication as a matter of record.

19 (g-5) Unless the school district has previously provided
20 prior written notice to the parent or student (if at least 18
21 years of age or emancipated) regarding the subject matter of
22 the hearing request, the school district shall, within 10 days
23 after receiving a hearing request initiated by a parent or
24 student (if at least 18 years of age or emancipated), provide a
25 written response to the request that shall include all of the
26 following:

1 (1) An explanation of why the school district proposed
2 or refused to take the action or actions described in the
3 hearing request.

4 (2) A description of other options the IEP team
5 considered and the reasons why those options were rejected.

6 (3) A description of each evaluation procedure,
7 assessment, record, report, or other evidence the school
8 district used as the basis for the proposed or refused
9 action or actions.

10 (4) A description of the factors that are or were
11 relevant to the school district's proposed or refused
12 action or actions.

13 (g-10) When the hearing request has been initiated by a
14 school district, within 10 days after receiving the request,
15 the parent or student (if at least 18 years of age or
16 emancipated) shall provide the school district with a response
17 that specifically addresses the issues raised in the school
18 district's hearing request. The parent's or student's response
19 shall be provided in writing, unless he or she is illiterate or
20 has a disability that prevents him or her from providing a
21 written response. The parent's or student's response may be
22 provided in his or her native language, if other than English.
23 In the event that illiteracy or another disabling condition
24 prevents the parent or student from providing a written
25 response, the school district shall assist the parent or
26 student in providing the written response.

1 (g-15) Within 15 days after receiving notice of the hearing
2 request, the non-requesting party may challenge the
3 sufficiency of the request by submitting its challenge in
4 writing to the hearing officer. Within 5 days after receiving
5 the challenge to the sufficiency of the request, the hearing
6 officer shall issue a determination of the challenge in writing
7 to the parties. In the event that the hearing officer upholds
8 the challenge, the party who requested the hearing may, with
9 the consent of the non-requesting party or hearing officer,
10 file an amended request. Amendments are permissible for the
11 purpose of raising issues beyond those in the initial hearing
12 request. In addition, the party who requested the hearing may
13 amend the request once as a matter of right by filing the
14 amended request within 5 days after filing the initial request.
15 An amended request, other than an amended request as a matter
16 of right, shall be filed by the date determined by the hearing
17 officer, but in no event any later than 5 days prior to the
18 date of the hearing. If an amended request, other than an
19 amended request as a matter of right, raises issues that were
20 not part of the initial request, the applicable timeline for a
21 hearing, including the timeline under subsection (g-20) of this
22 Section, shall recommence.

23 (g-20) Within 15 days after receiving a request for a
24 hearing from a parent or student (if at least 18 years of age
25 or emancipated) or, in the event that the school district
26 requests a hearing, within 15 days after initiating the

1 request, the school district shall convene a resolution meeting
2 with the parent and relevant members of the IEP team who have
3 specific knowledge of the facts contained in the request for
4 the purpose of resolving the problem that resulted in the
5 request. The resolution meeting shall include a representative
6 of the school district who has decision-making authority on
7 behalf of the school district. Unless the parent is accompanied
8 by an attorney at the resolution meeting, the school district
9 may not include an attorney representing the school district.

10 The resolution meeting may not be waived unless agreed to
11 in writing by the school district and the parent or student (if
12 at least 18 years of age or emancipated) or the parent or
13 student (if at least 18 years of age or emancipated) and the
14 school district agree in writing to utilize mediation in place
15 of the resolution meeting. If either party fails to cooperate
16 in the scheduling or convening of the resolution meeting, the
17 hearing officer may order an extension of the timeline for
18 completion of the resolution meeting or, upon the motion of a
19 party and at least 7 days after ordering the non-cooperating
20 party to cooperate, order the dismissal of the hearing request
21 or the granting of all relief set forth in the request, as
22 appropriate.

23 In the event that the school district and the parent or
24 student (if at least 18 years of age or emancipated) agree to a
25 resolution of the problem that resulted in the hearing request,
26 the terms of the resolution shall be committed to writing and

1 signed by the parent or student (if at least 18 years of age or
2 emancipated) and the representative of the school district with
3 decision-making authority. The agreement shall be legally
4 binding and shall be enforceable in any State or federal court
5 of competent jurisdiction. In the event that the parties
6 utilize the resolution meeting process, the process shall
7 continue until no later than the 30th day following the receipt
8 of the hearing request by the non-requesting party (or as
9 properly extended by order of the hearing officer) to resolve
10 the issues underlying the request, at which time the timeline
11 for completion of the impartial due process hearing shall
12 commence. The State Board of Education may, by rule, establish
13 additional procedures for the conduct of resolution meetings.

14 (g-25) If mutually agreed to in writing, the parties to a
15 hearing request may request State-sponsored mediation as a
16 substitute for the resolution process described in subsection
17 (g-20) of this Section or may utilize mediation at the close of
18 the resolution process if all issues underlying the hearing
19 request have not been resolved through the resolution process.

20 (g-30) If mutually agreed to in writing, the parties to a
21 hearing request may waive the resolution process described in
22 subsection (g-20) of this Section. Upon signing a written
23 agreement to waive the resolution process, the parties shall be
24 required to forward the written waiver to the hearing officer
25 appointed to the case within 2 business days following the
26 signing of the waiver by the parties. The timeline for the

1 impartial due process hearing shall commence on the date of the
2 signing of the waiver by the parties.

3 (g-35) The timeline for completing the impartial due
4 process hearing, as set forth in subsection (h) of this
5 Section, shall be initiated upon the occurrence of any one of
6 the following events:

7 (1) The unsuccessful completion of the resolution
8 process as described in subsection (g-20) of this Section.

9 (2) The mutual agreement of the parties to waive the
10 resolution process as described in subsection (g-25) or
11 (g-30) of this Section.

12 (g-40) The hearing officer shall convene a prehearing
13 conference no later than 14 days before the scheduled date for
14 the due process hearing for the general purpose of aiding in
15 the fair, orderly, and expeditious conduct of the hearing. The
16 hearing officer shall provide the parties with written notice
17 of the prehearing conference at least 7 days in advance of the
18 conference. The written notice shall require the parties to
19 notify the hearing officer by a date certain whether they
20 intend to participate in the prehearing conference. The hearing
21 officer may conduct the prehearing conference in person or by
22 telephone. Each party shall at the prehearing conference (1)
23 disclose whether it is represented by legal counsel or intends
24 to retain legal counsel; (2) clarify matters it believes to be
25 in dispute in the case and the specific relief being sought;
26 (3) disclose whether there are any additional evaluations for

1 the student that it intends to introduce into the hearing
2 record that have not been previously disclosed to the other
3 parties; (4) disclose a list of all documents it intends to
4 introduce into the hearing record, including the date and a
5 brief description of each document; and (5) disclose the names
6 of all witnesses it intends to call to testify at the hearing.
7 The hearing officer shall specify the order of presentation to
8 be used at the hearing. If the prehearing conference is held by
9 telephone, the parties shall transmit the information required
10 in this paragraph in such a manner that it is available to all
11 parties at the time of the prehearing conference. The State
12 Board of Education may, by rule, establish additional
13 procedures for the conduct of prehearing conferences.

14 (g-45) The impartial due process hearing officer shall not
15 initiate or participate in any ex parte communications with the
16 parties, except to arrange the date, time, and location of the
17 prehearing conference, due process hearing, or other status
18 conferences convened at the discretion of the hearing officer
19 and to receive confirmation of whether a party intends to
20 participate in the prehearing conference.

21 (g-50) The parties shall disclose and provide to each other
22 any evidence which they intend to submit into the hearing
23 record no later than 5 days before the hearing. Any party to a
24 hearing has the right to prohibit the introduction of any
25 evidence at the hearing that has not been disclosed to that
26 party at least 5 days before the hearing. The party requesting

1 a hearing shall not be permitted at the hearing to raise issues
2 that were not raised in the party's initial or amended request,
3 unless otherwise permitted in this Section.

4 (g-55) All reasonable efforts must be made by the parties
5 to present their respective cases at the hearing within a
6 cumulative period of 7 days. When scheduling hearing dates, the
7 hearing officer shall schedule the final day of the hearing no
8 more than 30 calendar days after the first day of the hearing
9 unless good cause is shown. This subsection (g-55) shall not be
10 applied in a manner that (i) denies any party to the hearing a
11 fair and reasonable allocation of time and opportunity to
12 present its case in its entirety or (ii) deprives any party to
13 the hearing of the safeguards accorded under the federal
14 Individuals with Disabilities Education Improvement Act of
15 2004 (Public Law 108-446), regulations promulgated under the
16 Individuals with Disabilities Education Improvement Act of
17 2004, or any other applicable law. The school district shall
18 present evidence that the special education needs of the child
19 have been appropriately identified and that the special
20 education program and related services proposed to meet the
21 needs of the child are adequate, appropriate, and available.
22 Any party to the hearing shall have the right to (1) be
23 represented by counsel and be accompanied and advised by
24 individuals with special knowledge or training with respect to
25 the problems of children with disabilities, at the party's own
26 expense; (2) present evidence and confront and cross-examine

1 witnesses; (3) move for the exclusion of witnesses from the
2 hearing until they are called to testify, provided, however,
3 that this provision may not be invoked to exclude the
4 individual designated by a party to assist that party or its
5 representative in the presentation of the case; (4) obtain a
6 written or electronic verbatim record of the proceedings within
7 30 days of receipt of a written request from the parents by the
8 school district; and (5) obtain a written decision, including
9 findings of fact and conclusions of law, within 10 days after
10 the conclusion of the hearing. If at issue, the school district
11 shall present evidence that it has properly identified and
12 evaluated the nature and severity of the student's suspected or
13 identified disability and that, if the student has been or
14 should have been determined eligible for special education and
15 related services, that it is providing or has offered a free
16 appropriate public education to the student in the least
17 restrictive environment, consistent with procedural safeguards
18 and in accordance with an individualized educational program.
19 At any time prior to the conclusion of the hearing, the
20 impartial due process hearing officer shall have the authority
21 to require additional information and order independent
22 evaluations for the student at the expense of the school
23 district. The State Board of Education and the school district
24 shall share equally the costs of providing a written or
25 electronic verbatim record of the proceedings. Any party may
26 request that the due process hearing officer issue a subpoena

1 to compel the testimony of witnesses or the production of
2 documents relevant to the resolution of the hearing. Whenever a
3 person refuses to comply with any subpoena issued under this
4 Section, the circuit court of the county in which that hearing
5 is pending, on application of the impartial hearing officer or
6 the party requesting the issuance of the subpoena, may compel
7 compliance through the contempt powers of the court in the same
8 manner as if the requirements of a subpoena issued by the court
9 had been disobeyed.

10 (h) The impartial hearing officer shall issue a written
11 decision, including findings of fact and conclusions of law,
12 within 10 days after the conclusion of the hearing and send by
13 certified mail a copy of the decision to the parents or student
14 (if the student requests the hearing), the school district, the
15 director of special education, legal representatives of the
16 parties, and the State Board of Education. Unless the hearing
17 officer has granted specific extensions of time at the request
18 of a party, a final decision, including the clarification of a
19 decision requested under this subsection, shall be reached and
20 mailed to the parties named above not later than 45 days after
21 the initiation of the timeline for conducting the hearing, as
22 described in subsection (g-35) of this Section. The decision
23 shall specify the educational and related services that shall
24 be provided to the student in accordance with the student's
25 needs and the timeline for which the school district shall
26 submit evidence to the State Board of Education to demonstrate

1 compliance with the hearing officer's decision in the event
2 that the decision orders the school district to undertake
3 corrective action. The hearing officer shall retain
4 jurisdiction for the sole purpose of considering a request for
5 clarification of the final decision submitted in writing by a
6 party to the impartial hearing officer within 5 days after
7 receipt of the decision. A copy of the request for
8 clarification shall specify the portions of the decision for
9 which clarification is sought and shall be mailed to all
10 parties of record and to the State Board of Education. The
11 request shall operate to stay implementation of those portions
12 of the decision for which clarification is sought, pending
13 action on the request by the hearing officer, unless the
14 parties otherwise agree. The hearing officer shall issue a
15 clarification of the specified portion of the decision or issue
16 a partial or full denial of the request in writing within 10
17 days of receipt of the request and mail copies to all parties
18 to whom the decision was mailed. This subsection does not
19 permit a party to request, or authorize a hearing officer to
20 entertain, reconsideration of the decision itself. The statute
21 of limitations for seeking review of the decision shall be
22 tolled from the date the request is submitted until the date
23 the hearing officer acts upon the request. The hearing
24 officer's decision shall be binding upon the school district
25 and the parents unless a civil action is commenced.

26 (i) Any party to an impartial due process hearing aggrieved

1 by the final written decision of the impartial due process
2 hearing officer shall have the right to commence a civil action
3 with respect to the issues presented in the impartial due
4 process hearing. That civil action shall be brought in any
5 court of competent jurisdiction within 120 days after a copy of
6 the decision of the impartial due process hearing officer is
7 mailed to the party as provided in subsection (h). The civil
8 action authorized by this subsection shall not be exclusive of
9 any rights or causes of action otherwise available. The
10 commencement of a civil action under this subsection shall
11 operate as a supersedeas. In any action brought under this
12 subsection the Court shall receive the records of the impartial
13 due process hearing, shall hear additional evidence at the
14 request of a party, and, basing its decision on the
15 preponderance of the evidence, shall grant such relief as the
16 court determines is appropriate. In any instance where a school
17 district willfully disregards applicable regulations or
18 statutes regarding a child covered by this Article, and which
19 disregard has been detrimental to the child, the school
20 district shall be liable for any reasonable attorney's fees
21 incurred by the parent in connection with proceedings under
22 this Section.

23 (j) During the pendency of any administrative or judicial
24 proceeding conducted pursuant to this Section, including
25 mediation (if the school district or other public entity
26 voluntarily agrees to participate in mediation), unless the

1 school district and the parents or student (if at least 18
2 years of age or emancipated) otherwise agree, the student shall
3 remain in his or her present educational placement and continue
4 in his or her present eligibility status and special education
5 and related services, if any. If mediation fails to resolve the
6 dispute between the parties, or if the parties do not agree to
7 use mediation, the parent (or student if 18 years of age or
8 older or emancipated) shall have 10 days after the mediation
9 concludes, or after a party declines to use mediation, to file
10 a request for a due process hearing in order to continue to
11 invoke the "stay-put" provisions of this subsection (j). If
12 applying for initial admission to the school district, the
13 student shall, with the consent of the parents (if the student
14 is not at least 18 years of age or emancipated), be placed in
15 the school district program until all such proceedings have
16 been completed. The costs for any special education and related
17 services or placement incurred following 60 school days after
18 the initial request for evaluation shall be borne by the school
19 district if the services or placement is in accordance with the
20 final determination as to the special education and related
21 services or placement that must be provided to the child,
22 provided that during that 60 day period there have been no
23 delays caused by the child's parent. The requirements and
24 procedures of this subsection (j) shall be included in the
25 uniform notices developed by the State Superintendent under
26 subsection (g) of Section 14-8.02 of this Code.

1 (k) Whenever the parents of a child of the type described
2 in Section 14-1.02 are not known, are unavailable, or the child
3 is a ward of the State, a person shall be assigned to serve as
4 surrogate parent for the child in matters relating to the
5 identification, evaluation, and educational placement of the
6 child and the provision of a free appropriate public education
7 to the child. Persons shall be assigned as surrogate parents by
8 the State Superintendent of Education. The State Board of
9 Education shall promulgate rules and regulations establishing
10 qualifications of those persons and their responsibilities and
11 the procedures to be followed in making assignments of persons
12 as surrogate parents. Surrogate parents shall not be employees
13 of the school district, an agency created by joint agreement
14 under Section 10-22.31, an agency involved in the education or
15 care of the student, or the State Board of Education. Services
16 of any person assigned as surrogate parent shall terminate if
17 the parent becomes available unless otherwise requested by the
18 parents. The assignment of a person as surrogate parent at no
19 time supersedes, terminates, or suspends the parents' legal
20 authority relative to the child. Any person participating in
21 good faith as surrogate parent on behalf of the child before
22 school officials or a hearing officer shall have immunity from
23 civil or criminal liability that otherwise might result by
24 reason of that participation, except in cases of willful and
25 wanton misconduct.

26 (1) At all stages of the hearing the hearing officer shall

1 require that interpreters be made available by the school
2 district for persons who are deaf or for persons whose normally
3 spoken language is other than English.

4 (m) If any provision of this Section or its application to
5 any person or circumstance is held invalid, the invalidity of
6 that provision or application does not affect other provisions
7 or applications of the Section that can be given effect without
8 the invalid application or provision, and to this end the
9 provisions of this Section are severable, unless otherwise
10 provided by this Section.

11 (Source: P.A. 98-383, eff. 8-16-13.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.