



Rep. Elizabeth Hernandez

**Filed: 3/25/2019**

10100HB0424ham001

LRB101 03355 AXK 58098 a

1 AMENDMENT TO HOUSE BILL 424

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 424 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  
9 toll-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. The State Board of  
7 Education must adopt rules to establish the criteria,  
8 standards, and competencies for a bilingual language  
9 interpreter who attends an individualized education program  
10 meeting under this subsection to assist a parent who has  
11 limited English proficiency.

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

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

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

19 (1) A parent must be afforded reasonable access of  
20 sufficient duration and scope for the purpose of observing  
21 his or her child in the child's current educational  
22 placement, services, or program or for the purpose of  
23 visiting an educational placement or program proposed for  
24 the child.

25 (2) An independent educational evaluator or a  
26 qualified professional retained by or on behalf of a parent

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

19 (h) (Blank).

20 (i) (Blank).

21 (j) (Blank).

22 (k) (Blank).

23 (l) (Blank).

24 (m) (Blank).

25 (n) (Blank).

26 (o) (Blank).

1 (Source: P.A. 99-30, eff. 7-10-15; 99-143, eff. 7-27-15;  
2 99-642, eff. 7-28-16; 100-122, eff. 8-18-17; 100-863, eff.  
3 8-14-18; 100-993, eff. 8-20-18.)".