



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5214

Introduced 1/31/2022, by Rep. Elizabeth Hernandez

SYNOPSIS AS INTRODUCED:

105 ILCS 5/14-8.02

from Ch. 122, par. 14-8.02

Amends the School Code. Adds a provision that any parent who is deaf, or does not normally communicate using spoken English, who participates in a meeting with a representative of a local educational agency for the purposes of developing an individualized educational program, or attends a multidisciplinary conference, a 504 mediation session, or a due process hearing (instead of just a meeting with a representative of a local educational agency for the purposes of developing an individualized educational program) shall be entitled to the services of an interpreter. Requires the State Board of Education to adopt rules to implement the provisions. Effective immediately.

LRB102 23868 CMG 33061 b

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Section
5 14-8.02 as follows:

6 (105 ILCS 5/14-8.02) (from Ch. 122, par. 14-8.02)

7 (Text of Section before amendment by P.A. 102-199)

8 Sec. 14-8.02. Identification, evaluation, and placement of
9 children.

10 (a) The State Board of Education shall make rules under
11 which local school boards shall determine the eligibility of
12 children to receive special education. Such rules shall ensure
13 that a free appropriate public education be available to all
14 children with disabilities as defined in Section 14-1.02. The
15 State Board of Education shall require local school districts
16 to administer non-discriminatory procedures or tests to
17 English learners coming from homes in which a language other
18 than English is used to determine their eligibility to receive
19 special education. The placement of low English proficiency
20 students in special education programs and facilities shall be
21 made in accordance with the test results reflecting the
22 student's linguistic, cultural and special education needs.
23 For purposes of determining the eligibility of children the

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

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

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

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

1 date of written parental consent. In those instances when
2 written parental consent is obtained with fewer than 60 pupil
3 attendance days left in the school year, the eligibility
4 determination shall be made and the IEP meeting shall be
5 completed prior to the first day of the following school year.
6 Special education and related services must be provided in
7 accordance with the student's IEP no later than 10 school
8 attendance days after notice is provided to the parents
9 pursuant to Section 300.503 of Title 34 of the Code of Federal
10 Regulations and implementing rules adopted by the State Board
11 of Education. The appropriate program pursuant to the
12 individualized educational program of students whose native
13 tongue is a language other than English shall reflect the
14 special education, cultural and linguistic needs. No later
15 than September 1, 1993, the State Board of Education shall
16 establish standards for the development, implementation and
17 monitoring of appropriate bilingual special individualized
18 educational programs. The State Board of Education shall
19 further incorporate appropriate monitoring procedures to
20 verify implementation of these standards. The district shall
21 indicate to the parent and the State Board of Education the
22 nature of the services the child will receive for the regular
23 school term while awaiting ~~waiting~~ placement in the
24 appropriate special education class. At the child's initial
25 IEP meeting and at each annual review meeting, the child's IEP
26 team shall provide the child's parent or guardian with a

1 written notification that informs the parent or guardian that
2 the IEP team is required to consider whether the child
3 requires assistive technology in order to receive free,
4 appropriate public education. The notification must also
5 include a toll-free telephone number and internet address for
6 the State's assistive technology program.

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

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

1 Disorders, fourth edition (DSM-IV, 2000)), the IEP team shall
2 consider all of the following factors:

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

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

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

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

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

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

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

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

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

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

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

1 students of comparable ability. Instruction should be provided
2 to the extent that the student is physically and cognitively
3 able to use Braille. Braille instruction may be used in
4 combination with other special education services appropriate
5 to the student's educational needs. The assessment of each
6 student who is functionally blind for the purpose of
7 developing the student's individualized education program
8 shall include documentation of the student's strengths and
9 weaknesses in Braille skills. Each person assisting in the
10 development of the individualized education program for a
11 student who is functionally blind shall receive information
12 describing the benefits of Braille instruction. The
13 individualized education program for each student who is
14 functionally blind shall specify the appropriate learning
15 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
20 regular education classrooms are provided with supplementary
21 services to assist the children with disabilities to benefit
22 from the regular classroom instruction and are included on the
23 teacher's regular education class register. Subject to the
24 limitation of the preceding sentence, placement in special
25 classes, separate schools or other removal of the child with a
26 disability from the regular educational environment shall

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

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

25 (f) Nothing in this Article shall be construed to require
26 any child to undergo any physical examination or medical

1 treatment whose parents object thereto on the grounds that
2 such examination or treatment conflicts with his religious
3 beliefs.

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

1 impartial due process hearing. The State Superintendent shall
2 revise the uniform notices required by this subsection (g) to
3 reflect current law and procedures at least once every 2
4 years. Any parent who is deaf, or does not normally
5 communicate using spoken English, who participates in a
6 meeting with a representative of a local educational agency
7 for the purposes of developing an individualized educational
8 program, or attends a multidisciplinary conference, a 504
9 mediation session, or a due process hearing, shall be entitled
10 to the services of an interpreter. The State Board of
11 Education must adopt rules to establish the criteria,
12 standards, and competencies for a bilingual language
13 interpreter who attends an individualized education program
14 meeting, a multidisciplinary conference, a 504 mediation
15 session, or a due process hearing under this subsection to
16 assist a parent who has limited English proficiency.

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

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

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

24 (1) A parent must be afforded reasonable access of
25 sufficient duration and scope for the purpose of observing
26 his or her child in the child's current educational

1 placement, services, or program or for the purpose of
2 visiting an educational placement or program proposed for
3 the child.

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

24 (Source: P.A. 101-124, eff. 1-1-20; 102-264, eff. 8-6-21;
25 102-558, eff. 8-20-21.)

1 (Text of Section after amendment by P.A. 102-199)

2 Sec. 14-8.02. Identification, evaluation, and placement of
3 children.

4 (a) The State Board of Education shall make rules under
5 which local school boards shall determine the eligibility of
6 children to receive special education. Such rules shall ensure
7 that a free appropriate public education be available to all
8 children with disabilities as defined in Section 14-1.02. The
9 State Board of Education shall require local school districts
10 to administer non-discriminatory procedures or tests to
11 English learners coming from homes in which a language other
12 than English is used to determine their eligibility to receive
13 special education. The placement of low English proficiency
14 students in special education programs and facilities shall be
15 made in accordance with the test results reflecting the
16 student's linguistic, cultural and special education needs.
17 For purposes of determining the eligibility of children the
18 State Board of Education shall include in the rules
19 definitions of "case study", "staff conference",
20 "individualized educational program", and "qualified
21 specialist" appropriate to each category of children with
22 disabilities as defined in this Article. For purposes of
23 determining the eligibility of children from homes in which a
24 language other than English is used, the State Board of
25 Education shall include in the rules definitions for
26 "qualified bilingual specialists" and "linguistically and

1 culturally appropriate individualized educational programs".
2 For purposes of this Section, as well as Sections 14-8.02a,
3 14-8.02b, and 14-8.02c of this Code, "parent" means a parent
4 as defined in the federal Individuals with Disabilities
5 Education Act (20 U.S.C. 1401(23)).

6 (b) No child shall be eligible for special education
7 facilities except with a carefully completed case study fully
8 reviewed by professional personnel in a multidisciplinary
9 staff conference and only upon the recommendation of qualified
10 specialists or a qualified bilingual specialist, if available.
11 At the conclusion of the multidisciplinary staff conference,
12 the parent of the child and, if the child is in the legal
13 custody of the Department of Children and Family Services, the
14 Department's Office of Education and Transition Services shall
15 be given a copy of the multidisciplinary conference summary
16 report and recommendations, which includes options considered,
17 and, in the case of the parent, be informed of his or her right
18 to obtain an independent educational evaluation if he or she
19 disagrees with the evaluation findings conducted or obtained
20 by the school district. If the school district's evaluation is
21 shown to be inappropriate, the school district shall reimburse
22 the parent for the cost of the independent evaluation. The
23 State Board of Education shall, with advice from the State
24 Advisory Council on Education of Children with Disabilities on
25 the inclusion of specific independent educational evaluators,
26 prepare a list of suggested independent educational

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

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

1 student's IEP no later than 10 school attendance days after
2 notice is provided to the parents pursuant to Section 300.503
3 of Title 34 of the Code of Federal Regulations and
4 implementing rules adopted by the State Board of Education.
5 The appropriate program pursuant to the individualized
6 educational program of students whose native tongue is a
7 language other than English shall reflect the special
8 education, cultural and linguistic needs. No later than
9 September 1, 1993, the State Board of Education shall
10 establish standards for the development, implementation and
11 monitoring of appropriate bilingual special individualized
12 educational programs. The State Board of Education shall
13 further incorporate appropriate monitoring procedures to
14 verify implementation of these standards. The district shall
15 indicate to the parent, the State Board of Education, and, if
16 applicable, the Department's Office of Education and
17 Transition Services the nature of the services the child will
18 receive for the regular school term while awaiting ~~waiting~~
19 placement in the appropriate special education class. At the
20 child's initial IEP meeting and at each annual review meeting,
21 the child's IEP team shall provide the child's parent or
22 guardian and, if applicable, the Department's Office of
23 Education and Transition Services with a written notification
24 that informs the parent or guardian or the Department's Office
25 of Education and Transition Services that the IEP team is
26 required to consider whether the child requires assistive

1 technology in order to receive free, appropriate public
2 education. The notification must also include a toll-free
3 telephone number and internet address for the State's
4 assistive technology program.

5 If the child is deaf, hard of hearing, blind, or visually
6 impaired or has an orthopedic impairment or physical
7 disability and he or she might be eligible to receive services
8 from the Illinois School for the Deaf, the Illinois School for
9 the Visually Impaired, or the Illinois Center for
10 Rehabilitation and Education-Roosevelt, the school district
11 shall notify the parents, in writing, of the existence of
12 these schools and the services they provide and shall make a
13 reasonable effort to inform the parents of the existence of
14 other, local schools that provide similar services and the
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16 shall include without limitation information on school
17 services, school admissions criteria, and school contact
18 information.

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

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

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

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

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

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11 (6) The need for any positive behavioral
12 interventions, strategies, and supports to address any
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14 disorder.

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

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

22 If the student may be eligible to participate in the
23 Home-Based Support Services Program for Adults with Mental
24 Disabilities authorized under the Developmental Disability and
25 Mental Disability Services Act upon becoming an adult, the
26 student's individualized education program shall include plans

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

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

1 able to use Braille. Braille instruction may be used in
2 combination with other special education services appropriate
3 to the student's educational needs. The assessment of each
4 student who is functionally blind for the purpose of
5 developing the student's individualized education program
6 shall include documentation of the student's strengths and
7 weaknesses in Braille skills. Each person assisting in the
8 development of the individualized education program for a
9 student who is functionally blind shall receive information
10 describing the benefits of Braille instruction. The
11 individualized education program for each student who is
12 functionally blind shall specify the appropriate learning
13 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
18 regular education classrooms are provided with supplementary
19 services to assist the children with disabilities to benefit
20 from the regular classroom instruction and are included on the
21 teacher's regular education class register. Subject to the
22 limitation of the preceding sentence, placement in special
23 classes, separate schools or other removal of the child with a
24 disability from the regular educational environment shall
25 occur only when the nature of the severity of the disability is
26 such that education in the regular classes with the use of

1 supplementary aids and services cannot be achieved
2 satisfactorily. The placement of English learners with
3 disabilities shall be in non-restrictive environments which
4 provide for integration with peers who do not have
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7 non-English speaking backgrounds receiving special education
8 and related services in public and private facilities as
9 prescribed in Section 2-3.30. If there is a disagreement
10 between parties involved regarding the special education
11 placement of any child, either in-state or out-of-state, the
12 placement is subject to impartial due process procedures
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14 the Administration and Operation of Special Education.

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

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

1 beliefs.

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

1 parents in initiating an impartial due process hearing. The
2 State Superintendent shall revise the uniform notices required
3 by this subsection (g) to reflect current law and procedures
4 at least once every 2 years. Any parent who is deaf, or does
5 not normally communicate using spoken English, who
6 participates in a meeting with a representative of a local
7 educational agency for the purposes of developing an
8 individualized educational program, or attends a
9 multidisciplinary conference, a 504 mediation session, or a
10 due process hearing, shall be entitled to the services of an
11 interpreter. The State Board of Education must adopt rules to
12 establish the criteria, standards, and competencies for a
13 bilingual language interpreter who attends an individualized
14 education program meeting, multidisciplinary conference, 504
15 mediation session, or a due process hearing under this
16 subsection to assist a parent who has limited English
17 proficiency.

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
6 of 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
13 proposed visit, the purpose of the visit, and the approximate
14 duration of the visit. The visitor and the school district
15 shall arrange the visit or visits at times that are mutually
16 agreeable. Visitors shall comply with school safety, security,
17 and visitation policies at all times. School district
18 visitation policies must not conflict with this subsection
19 (g-5). Visitors shall be required to comply with the
20 requirements of applicable privacy laws, including those laws
21 protecting the confidentiality of education records such as
22 the federal Family Educational Rights and Privacy Act and the
23 Illinois School Student Records Act. The visitor shall not
24 disrupt the 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
7 parent or child must be afforded reasonable access of
8 sufficient duration and scope for the purpose of
9 conducting an evaluation of the child, the child's
10 performance, the child's current educational program,
11 placement, services, or environment, or any educational
12 program, placement, services, or environment proposed for
13 the child, including interviews of educational personnel,
14 child observations, assessments, tests or assessments of
15 the child's educational program, services, or placement or
16 of any proposed educational program, services, or
17 placement. If one or more interviews of school personnel
18 are part of the evaluation, the interviews must be
19 conducted at a mutually agreed upon time, date, and place
20 that do not interfere with the school employee's school
21 duties. The school district may limit interviews to
22 personnel having information relevant to the child's
23 current educational services, program, or placement or to
24 a proposed educational service, program, or placement.

25 (Source: P.A. 101-124, eff. 1-1-20; 102-199, eff. 7-1-22;
26 102-264, eff. 8-6-21; 102-558, eff. 8-20-21; revised

1 10-14-21.)

2 Section 95. No acceleration or delay. Where this Act makes
3 changes in a statute that is represented in this Act by text
4 that is not yet or no longer in effect (for example, a Section
5 represented by multiple versions), the use of that text does
6 not accelerate or delay the taking effect of (i) the changes
7 made by this Act or (ii) provisions derived from any other
8 Public Act.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.