



Sen. Karina Villa

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LRB102 23868 RJT 38387 a

1 AMENDMENT TO HOUSE BILL 5214

2 AMENDMENT NO. _____. Amend House Bill 5214 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing
5 Sections 14-6.01, 14-8.02, and 14-8.02a as follows:

6 (105 ILCS 5/14-6.01) (from Ch. 122, par. 14-6.01)

7 Sec. 14-6.01. Powers and duties of school boards. School
8 boards of one or more school districts establishing and
9 maintaining any of the educational facilities described in
10 this Article shall, in connection therewith, exercise similar
11 powers and duties as are prescribed by law for the
12 establishment, maintenance, and management of other recognized
13 educational facilities. Such school boards shall include only
14 eligible children in the program and shall comply with all the
15 requirements of this Article and all rules and regulations
16 established by the State Board of Education. Such school

1 boards shall accept in part-time attendance children with
2 disabilities of the types described in Sections 14-1.02
3 through 14-1.07 who are enrolled in nonpublic schools. A
4 request for part-time attendance must be submitted by a parent
5 or guardian of the child with a disability and may be made only
6 to those public schools located in the district where the
7 child attending the nonpublic school resides; however, nothing
8 in this Section shall be construed as prohibiting an agreement
9 between the district where the child resides and another
10 public school district to provide special educational services
11 if such an arrangement is deemed more convenient and
12 economical. Special education and related services must be
13 provided in accordance with the student's IEP no later than 10
14 school attendance days after notice is provided to the parents
15 pursuant to Section 300.503 of Title 34 of the Code of Federal
16 Regulations and implementing rules adopted by the State Board
17 of Education. Transportation for students in part time
18 attendance shall be provided only if required in the child's
19 individualized educational program on the basis of the child's
20 disabling condition or as the special education program
21 location may require.

22 Beginning with the 2019-2020 school year, a school board
23 shall post on its Internet website, if any, and incorporate
24 into its student handbook or newsletter notice that students
25 with disabilities who do not qualify for an individualized
26 education program, as required by the federal Individuals with

1 Disabilities Education Act and implementing provisions of this
2 Code, may qualify for services under Section 504 of the
3 federal Rehabilitation Act of 1973 if the child (i) has a
4 physical or mental impairment that substantially limits one or
5 more major life activities, (ii) has a record of a physical or
6 mental impairment, or (iii) is regarded as having a physical
7 or mental impairment. Such notice shall identify the location
8 and phone number of the office or agent of the school district
9 to whom inquiries should be directed regarding the
10 identification, assessment, and placement of such children.
11 The notice shall also state that any parent who is deaf or does
12 not typically communicate using spoken English and who
13 participates in a Section 504 meeting with a representative of
14 a local educational agency shall be entitled to the services
15 of an interpreter.

16 For a school district organized under Article 34 only,
17 beginning with the 2019-2020 school year, the school district
18 shall, in collaboration with its primary office overseeing
19 special education, publish on the school district's publicly
20 available website any proposed changes to its special
21 education policies, directives, guidelines, or procedures that
22 impact the provision of educational or related services to
23 students with disabilities or the procedural safeguards
24 afforded to students with disabilities or their parents or
25 guardians made by the school district or school board. Any
26 policy, directive, guideline, or procedural change that

1 impacts those provisions or safeguards that is authorized by
2 the school district's primary office overseeing special
3 education or any other administrative office of the school
4 district must be published on the school district's publicly
5 available website no later than 45 days before the adoption of
6 that change. Any policy directive, guideline, or procedural
7 change that impacts those provisions or safeguards that is
8 authorized by the school board must be published on the school
9 district's publicly available website no later than 30 days
10 before the date of presentation to the school board for
11 adoption. The school district's website must allow for virtual
12 public comments on proposed special education policy,
13 directive, guideline, or procedural changes that impact the
14 provision of educational or related services to students with
15 disabilities or the procedural safeguards afforded to students
16 with disabilities or their parents or guardians from the date
17 of the notification of the proposed change on the website
18 until the date the change is adopted by the school district or
19 until the date the change is presented to the school board for
20 adoption. After the period for public comment is closed, the
21 school district must maintain all public comments for a period
22 of not less than 2 years from the date the special education
23 change is adopted. The public comments are subject to the
24 Freedom of Information Act. The school board shall, at a
25 minimum, advertise the notice of the change and availability
26 for public comment on its website. The State Board of

1 Education may add additional reporting requirements for the
2 district beyond policy, directive, guideline, or procedural
3 changes that impact the provision of educational or related
4 services to students with disabilities or the procedural
5 safeguards afforded to students with disabilities or their
6 parents or guardians if the State Board determines it is in the
7 best interest of the students enrolled in the district
8 receiving special education services.

9 School boards shall immediately provide upon request by
10 any person written materials and other information that
11 indicates the specific policies, procedures, rules and
12 regulations regarding the identification, evaluation or
13 educational placement of children with disabilities under
14 Section 14-8.02 of the School Code. Such information shall
15 include information regarding all rights and entitlements of
16 such children under this Code, and of the opportunity to
17 present complaints with respect to any matter relating to
18 educational placement of the student, or the provision of a
19 free appropriate public education and to have an impartial due
20 process hearing on the complaint. The notice shall inform the
21 parents or guardian in the parents' or guardian's native
22 language, unless it is clearly not feasible to do so, of their
23 rights and all procedures available pursuant to this Act and
24 federal Public Law 94-142; it shall be the responsibility of
25 the State Superintendent to develop uniform notices setting
26 forth the procedures available under this Act and federal

1 Public Law 94-142, as amended, to be used by all school boards.
2 The notice shall also inform the parents or guardian of the
3 availability upon request of a list of free or low-cost legal
4 and other relevant services available locally to assist
5 parents or guardians in exercising rights or entitlements
6 under this Code. For a school district organized under Article
7 34 only, the school district must make the entirety of its
8 special education Procedural Manual and any other guidance
9 documents pertaining to special education publicly available,
10 in print and on the school district's website, in both English
11 and Spanish. Upon request, the school district must make the
12 Procedural Manual and other guidance documents available in
13 print in any other language and accessible for individuals
14 with disabilities.

15 Any parent or guardian who is deaf, or does not normally
16 communicate using spoken English, who participates in a
17 meeting with a representative of a local educational agency
18 for the purposes of developing an individualized educational
19 program shall be entitled to the services of an interpreter.

20 No student with a disability or, in a school district
21 organized under Article 34 of this Code, child with a learning
22 disability may be denied promotion, graduation or a general
23 diploma on the basis of failing a minimal competency test when
24 such failure can be directly related to the disabling
25 condition of the student. For the purpose of this Act,
26 "minimal competency testing" is defined as tests which are

1 constructed to measure the acquisition of skills to or beyond
2 a certain defined standard.

3 Effective July 1, 1966, high school districts are
4 financially responsible for the education of pupils with
5 disabilities who are residents in their districts when such
6 pupils have reached age 15 but may admit children with
7 disabilities into special educational facilities without
8 regard to graduation from the eighth grade after such pupils
9 have reached the age of 14 1/2 years. Upon a pupil with a
10 disability attaining the age of 14 1/2 years, it shall be the
11 duty of the elementary school district in which the pupil
12 resides to notify the high school district in which the pupil
13 resides of the pupil's current eligibility for special
14 education services, of the pupil's current program, and of all
15 evaluation data upon which the current program is based. After
16 an examination of that information the high school district
17 may accept the current placement and all subsequent timelines
18 shall be governed by the current individualized educational
19 program; or the high school district may elect to conduct its
20 own evaluation and multidisciplinary staff conference and
21 formulate its own individualized educational program, in which
22 case the procedures and timelines contained in Section 14-8.02
23 shall apply.

24 (Source: P.A. 100-201, eff. 8-18-17; 100-1112, eff. 8-28-18;
25 101-515, eff. 8-23-19.)

1 (105 ILCS 5/14-8.02) (from Ch. 122, par. 14-8.02)

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

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

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

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

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

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

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

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

25 If the child is deaf, hard of hearing, blind, or visually
26 impaired or has an orthopedic impairment or physical

1 disability and he or she might be eligible to receive services
2 from the Illinois School for the Deaf, the Illinois School for
3 the Visually Impaired, or the Illinois Center for
4 Rehabilitation and Education-Roosevelt, the school district
5 shall notify the parents, in writing, of the existence of
6 these schools and the services they provide and shall make a
7 reasonable effort to inform the parents of the existence of
8 other, local schools that provide similar services and the
9 services that these other schools provide. This notification
10 shall include without limitation information on school
11 services, school admissions criteria, and school contact
12 information.

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

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

23 (2) The need to develop social interaction skills and
24 proficiencies.

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

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

3 (5) The needs resulting from engagement in repetitive
4 activities and stereotyped movements.

5 (6) The need for any positive behavioral
6 interventions, strategies, and supports to address any
7 behavioral difficulties resulting from autism spectrum
8 disorder.

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

12 Public Act 95-257 does not create any new entitlement to a
13 service, program, or benefit, but must not affect any
14 entitlement to a service, program, or benefit created by any
15 other law.

16 If the student may be eligible to participate in the
17 Home-Based Support Services Program for Adults with Mental
18 Disabilities authorized under the Developmental Disability and
19 Mental Disability Services Act upon becoming an adult, the
20 student's individualized education program shall include plans
21 for (i) determining the student's eligibility for those
22 home-based services, (ii) enrolling the student in the program
23 of home-based services, and (iii) developing a plan for the
24 student's most effective use of the home-based services after
25 the student becomes an adult and no longer receives special
26 educational services under this Article. The plans developed

1 under this paragraph shall include specific actions to be
2 taken by specified individuals, agencies, or officials.

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

1 weaknesses in Braille skills. Each person assisting in the
2 development of the individualized education program for a
3 student who is functionally blind shall receive information
4 describing the benefits of Braille instruction. The
5 individualized education program for each student who is
6 functionally blind shall specify the appropriate learning
7 medium or media based on the assessment report.

8 (d) To the maximum extent appropriate, the placement shall
9 provide the child with the opportunity to be educated with
10 children who do not have a disability; provided that children
11 with disabilities who are recommended to be placed into
12 regular education classrooms are provided with supplementary
13 services to assist the children with disabilities to benefit
14 from the regular classroom instruction and are included on the
15 teacher's regular education class register. Subject to the
16 limitation of the preceding sentence, placement in special
17 classes, separate schools or other removal of the child with a
18 disability from the regular educational environment shall
19 occur only when the nature of the severity of the disability is
20 such that education in the regular classes with the use of
21 supplementary aids and services cannot be achieved
22 satisfactorily. The placement of English learners with
23 disabilities shall be in non-restrictive environments which
24 provide for integration with peers who do not have
25 disabilities in bilingual classrooms. Annually, each January,
26 school districts shall report data on students from

1 non-English speaking backgrounds receiving special education
2 and related services in public and private facilities as
3 prescribed in Section 2-3.30. If there is a disagreement
4 between parties involved regarding the special education
5 placement of any child, either in-state or out-of-state, the
6 placement is subject to impartial due process procedures
7 described in Article 10 of the Rules and Regulations to Govern
8 the Administration and Operation of Special Education.

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

17 (f) Nothing in this Article shall be construed to require
18 any child to undergo any physical examination or medical
19 treatment whose parents object thereto on the grounds that
20 such examination or treatment conflicts with his religious
21 beliefs.

22 (g) School boards or their designee shall provide to the
23 parents of a child prior written notice of any decision (a)
24 proposing to initiate or change, or (b) refusing to initiate
25 or change, the identification, evaluation, or educational
26 placement of the child or the provision of a free appropriate

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

1 entitled to the services of an interpreter. The State Board of
2 Education must adopt rules to establish the criteria,
3 standards, and competencies for a bilingual language
4 interpreter who attends an individualized education program
5 meeting under this subsection to assist a parent who has
6 limited English proficiency.

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

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

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

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

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

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

14 (Source: P.A. 101-124, eff. 1-1-20; 102-264, eff. 8-6-21;
15 102-558, eff. 8-20-21.)

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

17 Sec. 14-8.02. Identification, evaluation, and placement of
18 children.

19 (a) The State Board of Education shall make rules under
20 which local school boards shall determine the eligibility of
21 children to receive special education. Such rules shall ensure
22 that a free appropriate public education be available to all
23 children with disabilities as defined in Section 14-1.02. The
24 State Board of Education shall require local school districts
25 to administer non-discriminatory procedures or tests to

1 English learners coming from homes in which a language other
2 than English is used to determine their eligibility to receive
3 special education. The placement of low English proficiency
4 students in special education programs and facilities shall be
5 made in accordance with the test results reflecting the
6 student's linguistic, cultural and special education needs.
7 For purposes of determining the eligibility of children the
8 State Board of Education shall include in the rules
9 definitions of "case study", "staff conference",
10 "individualized educational program", and "qualified
11 specialist" appropriate to each category of children with
12 disabilities as defined in this Article. For purposes of
13 determining the eligibility of children from homes in which a
14 language other than English is used, the State Board of
15 Education shall include in the rules definitions for
16 "qualified bilingual specialists" and "linguistically and
17 culturally appropriate individualized educational programs".
18 For purposes of this Section, as well as Sections 14-8.02a,
19 14-8.02b, and 14-8.02c of this Code, "parent" means a parent
20 as defined in the federal Individuals with Disabilities
21 Education Act (20 U.S.C. 1401(23)).

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

1 At the conclusion of the multidisciplinary staff conference,
2 the parent of the child and, if the child is in the legal
3 custody of the Department of Children and Family Services, the
4 Department's Office of Education and Transition Services shall
5 be given a copy of the multidisciplinary conference summary
6 report and recommendations, which includes options considered,
7 and, in the case of the parent, be informed of his or her right
8 to obtain an independent educational evaluation if he or she
9 disagrees with the evaluation findings conducted or obtained
10 by the school district. If the school district's evaluation is
11 shown to be inappropriate, the school district shall reimburse
12 the parent for the cost of the independent evaluation. The
13 State Board of Education shall, with advice from the State
14 Advisory Council on Education of Children with Disabilities on
15 the inclusion of specific independent educational evaluators,
16 prepare a list of suggested independent educational
17 evaluators. The State Board of Education shall include on the
18 list clinical psychologists licensed pursuant to the Clinical
19 Psychologist Licensing Act. Such psychologists shall not be
20 paid fees in excess of the amount that would be received by a
21 school psychologist for performing the same services. The
22 State Board of Education shall supply school districts with
23 such list and make the list available to parents at their
24 request. School districts shall make the list available to
25 parents at the time they are informed of their right to obtain
26 an independent educational evaluation. However, the school

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

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

1 monitoring of appropriate bilingual special individualized
2 educational programs. The State Board of Education shall
3 further incorporate appropriate monitoring procedures to
4 verify implementation of these standards. The district shall
5 indicate to the parent, the State Board of Education, and, if
6 applicable, the Department's Office of Education and
7 Transition Services the nature of the services the child will
8 receive for the regular school term while awaiting ~~waiting~~
9 placement in the appropriate special education class. At the
10 child's initial IEP meeting and at each annual review meeting,
11 the child's IEP team shall provide the child's parent or
12 guardian and, if applicable, the Department's Office of
13 Education and Transition Services with a written notification
14 that informs the parent or guardian or the Department's Office
15 of Education and Transition Services that the IEP team is
16 required to consider whether the child requires assistive
17 technology in order to receive free, appropriate public
18 education. The notification must also include a toll-free
19 telephone number and internet address for the State's
20 assistive technology program.

21 If the child is deaf, hard of hearing, blind, or visually
22 impaired or has an orthopedic impairment or physical
23 disability and he or she might be eligible to receive services
24 from the Illinois School for the Deaf, the Illinois School for
25 the Visually Impaired, or the Illinois Center for
26 Rehabilitation and Education-Roosevelt, the school district

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

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

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

19 (2) The need to develop social interaction skills and
20 proficiencies.

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

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

25 (5) The needs resulting from engagement in repetitive
26 activities and stereotyped movements.

1 (6) The need for any positive behavioral
2 interventions, strategies, and supports to address any
3 behavioral difficulties resulting from autism spectrum
4 disorder.

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

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

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

25 (c) In the development of the individualized education
26 program for a student who is functionally blind, it shall be

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

1 individualized education program for each student who is
2 functionally blind shall specify the appropriate learning
3 medium or media based on the assessment report.

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

1 placement of any child, either in-state or out-of-state, the
2 placement is subject to impartial due process procedures
3 described in Article 10 of the Rules and Regulations to Govern
4 the Administration and Operation of Special Education.

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

13 (f) Nothing in this Article shall be construed to require
14 any child to undergo any physical examination or medical
15 treatment whose parents object thereto on the grounds that
16 such examination or treatment conflicts with his religious
17 beliefs.

18 (g) School boards or their designee shall provide to the
19 parents of a child or, if applicable, the Department of
20 Children and Family Services' Office of Education and
21 Transition Services prior written notice of any decision (a)
22 proposing to initiate or change, or (b) refusing to initiate
23 or change, the identification, evaluation, or educational
24 placement of the child or the provision of a free appropriate
25 public education to their child, and the reasons therefor. For
26 a parent, such written notification shall also inform the

1 parent of the opportunity to present complaints with respect
2 to any matter relating to the educational placement of the
3 student, or the provision of a free appropriate public
4 education and to have an impartial due process hearing on the
5 complaint. The notice shall inform the parents in the parents'
6 native language, unless it is clearly not feasible to do so, of
7 their rights and all procedures available pursuant to this Act
8 and the federal Individuals with Disabilities Education
9 Improvement Act of 2004 (Public Law 108-446); it shall be the
10 responsibility of the State Superintendent to develop uniform
11 notices setting forth the procedures available under this Act
12 and the federal Individuals with Disabilities Education
13 Improvement Act of 2004 (Public Law 108-446) to be used by all
14 school boards. The notice shall also inform the parents of the
15 availability upon request of a list of free or low-cost legal
16 and other relevant services available locally to assist
17 parents in initiating an impartial due process hearing. The
18 State Superintendent shall revise the uniform notices required
19 by this subsection (g) to reflect current law and procedures
20 at least once every 2 years. Any parent who is deaf~~r~~ or does
21 not normally communicate using spoken English and~~r~~ who
22 participates in a meeting with a representative of a local
23 educational agency for the purposes of developing an
24 individualized educational program or attends a
25 multidisciplinary conference shall be entitled to the services
26 of an interpreter. The State Board of Education must adopt

1 rules to establish the criteria, standards, and competencies
2 for a bilingual language interpreter who attends an
3 individualized education program meeting under this subsection
4 to assist a parent who has limited English proficiency.

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

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

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

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

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

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

12 (Source: P.A. 101-124, eff. 1-1-20; 102-199, eff. 7-1-22;
13 102-264, eff. 8-6-21; 102-558, eff. 8-20-21; revised
14 10-14-21.)

15 (105 ILCS 5/14-8.02a)

16 Sec. 14-8.02a. Impartial due process hearing; civil
17 action.

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

22 (a-5) For purposes of this Section and Section 14-8.02b of
23 this Code, days shall be computed in accordance with Section
24 1.11 of the Statute on Statutes.

25 (b) The State Board of Education shall establish an

1 impartial due process hearing system in accordance with this
2 Section and may, with the advice and approval of the Advisory
3 Council on Education of Children with Disabilities, promulgate
4 rules and regulations consistent with this Section to
5 establish the rules and procedures for due process hearings.

6 (c) (Blank).

7 (d) (Blank).

8 (e) (Blank).

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

25 (1) The name of the student, the address of the
26 student's residence, and the name of the school the

1 student is attending.

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

7 (3) A description of the nature of the problem
8 relating to the actual or proposed placement,
9 identification, services, or evaluation of the student,
10 including facts relating to the problem.

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

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

17 For a school district other than a school district located
18 in a municipality having a population exceeding 500,000, a
19 hearing officer who is a current resident of the school
20 district, special education cooperative, or other public
21 entity involved in the hearing shall recuse himself or
22 herself. A hearing officer who is a former employee of the
23 school district, special education cooperative, or other
24 public entity involved in the hearing shall immediately
25 disclose the former employment to the parties and shall recuse
26 himself or herself, unless the parties otherwise agree in

1 writing. A hearing officer having a personal or professional
2 interest that may conflict with his or her objectivity in the
3 hearing shall disclose the conflict to the parties and shall
4 recuse himself or herself unless the parties otherwise agree
5 in writing. For purposes of this subsection an assigned
6 hearing officer shall be considered to have a conflict of
7 interest if, at any time prior to the issuance of his or her
8 written decision, he or she knows or should know that he or she
9 may receive remuneration from a party to the hearing within 3
10 years following the conclusion of the due process hearing.

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

25 Any party may raise facts that constitute a conflict of
26 interest for the hearing officer at any time before or during

1 the hearing and may move for recusal.

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

1 (g-5) Unless the school district has previously provided
2 prior written notice to the parent or student (if at least 18
3 years of age or emancipated) regarding the subject matter of
4 the hearing request, the school district shall, within 10 days
5 after receiving a hearing request initiated by a parent or
6 student (if at least 18 years of age or emancipated), provide a
7 written response to the request that shall include all of the
8 following:

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

12 (2) A description of other options the IEP team
13 considered and the reasons why those options were
14 rejected.

15 (3) A description of each evaluation procedure,
16 assessment, record, report, or other evidence the school
17 district used as the basis for the proposed or refused
18 action or actions.

19 (4) A description of the factors that are or were
20 relevant to the school district's proposed or refused
21 action or actions.

22 (g-10) When the hearing request has been initiated by a
23 school district, within 10 days after receiving the request,
24 the parent or student (if at least 18 years of age or
25 emancipated) shall provide the school district with a response
26 that specifically addresses the issues raised in the school

1 district's hearing request. The parent's or student's response
2 shall be provided in writing, unless he or she is illiterate or
3 has a disability that prevents him or her from providing a
4 written response. The parent's or student's response may be
5 provided in his or her native language, if other than English.
6 In the event that illiteracy or another disabling condition
7 prevents the parent or student from providing a written
8 response, the school district shall assist the parent or
9 student in providing the written response.

10 (g-15) Within 15 days after receiving notice of the
11 hearing request, the non-requesting party may challenge the
12 sufficiency of the request by submitting its challenge in
13 writing to the hearing officer. Within 5 days after receiving
14 the challenge to the sufficiency of the request, the hearing
15 officer shall issue a determination of the challenge in
16 writing to the parties. In the event that the hearing officer
17 upholds the challenge, the party who requested the hearing
18 may, with the consent of the non-requesting party or hearing
19 officer, file an amended request. Amendments are permissible
20 for the purpose of raising issues beyond those in the initial
21 hearing request. In addition, the party who requested the
22 hearing may amend the request once as a matter of right by
23 filing the amended request within 5 days after filing the
24 initial request. An amended request, other than an amended
25 request as a matter of right, shall be filed by the date
26 determined by the hearing officer, but in no event any later

1 than 5 days prior to the date of the hearing. If an amended
2 request, other than an amended request as a matter of right,
3 raises issues that were not part of the initial request, the
4 applicable timeline for a hearing, including the timeline
5 under subsection (g-20) of this Section, shall recommence.

6 (g-20) Within 15 days after receiving a request for a
7 hearing from a parent or student (if at least 18 years of age
8 or emancipated) or, in the event that the school district
9 requests a hearing, within 15 days after initiating the
10 request, the school district shall convene a resolution
11 meeting with the parent and relevant members of the IEP team
12 who have specific knowledge of the facts contained in the
13 request for the purpose of resolving the problem that resulted
14 in the request. The resolution meeting shall include a
15 representative of the school district who has decision-making
16 authority on behalf of the school district. Unless the parent
17 is accompanied by an attorney at the resolution meeting, the
18 school district may not include an attorney representing the
19 school district.

20 The resolution meeting may not be waived unless agreed to
21 in writing by the school district and the parent or student (if
22 at least 18 years of age or emancipated) or the parent or
23 student (if at least 18 years of age or emancipated) and the
24 school district agree in writing to utilize mediation in place
25 of the resolution meeting. If either party fails to cooperate
26 in the scheduling or convening of the resolution meeting, the

1 hearing officer may order an extension of the timeline for
2 completion of the resolution meeting or, upon the motion of a
3 party and at least 7 days after ordering the non-cooperating
4 party to cooperate, order the dismissal of the hearing request
5 or the granting of all relief set forth in the request, as
6 appropriate.

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

25 (g-25) If mutually agreed to in writing, the parties to a
26 hearing request may request State-sponsored mediation as a

1 substitute for the resolution process described in subsection
2 (g-20) of this Section or may utilize mediation at the close of
3 the resolution process if all issues underlying the hearing
4 request have not been resolved through the resolution process.

5 (g-30) If mutually agreed to in writing, the parties to a
6 hearing request may waive the resolution process described in
7 subsection (g-20) of this Section. Upon signing a written
8 agreement to waive the resolution process, the parties shall
9 be required to forward the written waiver to the hearing
10 officer appointed to the case within 2 business days following
11 the signing of the waiver by the parties. The timeline for the
12 impartial due process hearing shall commence on the date of
13 the signing of the waiver by the parties.

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

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

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

23 (g-40) The hearing officer shall convene a prehearing
24 conference no later than 14 days before the scheduled date for
25 the due process hearing for the general purpose of aiding in
26 the fair, orderly, and expeditious conduct of the hearing. The

1 hearing officer shall provide the parties with written notice
2 of the prehearing conference at least 7 days in advance of the
3 conference. The written notice shall require the parties to
4 notify the hearing officer by a date certain whether they
5 intend to participate in the prehearing conference. The
6 hearing officer may conduct the prehearing conference in
7 person or by telephone. Each party shall at the prehearing
8 conference (1) disclose whether it is represented by legal
9 counsel or intends to retain legal counsel; (2) clarify
10 matters it believes to be in dispute in the case and the
11 specific relief being sought; (3) disclose whether there are
12 any additional evaluations for the student that it intends to
13 introduce into the hearing record that have not been
14 previously disclosed to the other parties; (4) disclose a list
15 of all documents it intends to introduce into the hearing
16 record, including the date and a brief description of each
17 document; and (5) disclose the names of all witnesses it
18 intends to call to testify at the hearing. The hearing officer
19 shall specify the order of presentation to be used at the
20 hearing. If the prehearing conference is held by telephone,
21 the parties shall transmit the information required in this
22 paragraph in such a manner that it is available to all parties
23 at the time of the prehearing conference. The State Board of
24 Education may, by rule, establish additional procedures for
25 the conduct of prehearing conferences.

26 (g-45) The impartial due process hearing officer shall not

1 initiate or participate in any ex parte communications with
2 the parties, except to arrange the date, time, and location of
3 the prehearing conference, due process hearing, or other
4 status conferences convened at the discretion of the hearing
5 officer and to receive confirmation of whether a party intends
6 to participate in the prehearing conference.

7 (g-50) The parties shall disclose and provide to each
8 other any evidence which they intend to submit into the
9 hearing record no later than 5 days before the hearing. Any
10 party to a hearing has the right to prohibit the introduction
11 of any evidence at the hearing that has not been disclosed to
12 that party at least 5 days before the hearing. The party
13 requesting a hearing shall not be permitted at the hearing to
14 raise issues that were not raised in the party's initial or
15 amended request, unless otherwise permitted in this Section.

16 (g-55) All reasonable efforts must be made by the parties
17 to present their respective cases at the hearing within a
18 cumulative period of 7 days. When scheduling hearing dates,
19 the hearing officer shall schedule the final day of the
20 hearing no more than 30 calendar days after the first day of
21 the hearing unless good cause is shown. This subsection (g-55)
22 shall not be applied in a manner that (i) denies any party to
23 the hearing a fair and reasonable allocation of time and
24 opportunity to present its case in its entirety or (ii)
25 deprives any party to the hearing of the safeguards accorded
26 under the federal Individuals with Disabilities Education

1 Improvement Act of 2004 (Public Law 108-446), regulations
2 promulgated under the Individuals with Disabilities Education
3 Improvement Act of 2004, or any other applicable law. The
4 school district shall present evidence that the special
5 education needs of the child have been appropriately
6 identified and that the special education program and related
7 services proposed to meet the needs of the child are adequate,
8 appropriate, and available. Any party to the hearing shall
9 have the right to (1) be represented by counsel and be
10 accompanied and advised by individuals with special knowledge
11 or training with respect to the problems of children with
12 disabilities, at the party's own expense; (2) present evidence
13 and confront and cross-examine witnesses; (3) move for the
14 exclusion of witnesses from the hearing until they are called
15 to testify, provided, however, that this provision may not be
16 invoked to exclude the individual designated by a party to
17 assist that party or its representative in the presentation of
18 the case; (4) obtain a written or electronic verbatim record
19 of the proceedings within 30 days of receipt of a written
20 request from the parents by the school district; and (5)
21 obtain a written decision, including findings of fact and
22 conclusions of law, within 10 calendar days, excluding
23 Saturday, Sunday, and any State holiday, after the conclusion
24 of the hearing. If at issue, the school district shall present
25 evidence that it has properly identified and evaluated the
26 nature and severity of the student's suspected or identified

1 disability and that, if the student has been or should have
2 been determined eligible for special education and related
3 services, that it is providing or has offered a free
4 appropriate public education to the student in the least
5 restrictive environment, consistent with procedural safeguards
6 and in accordance with an individualized educational program.
7 At any time prior to the conclusion of the hearing, the
8 impartial due process hearing officer shall have the authority
9 to require additional information and order independent
10 evaluations for the student at the expense of the school
11 district. The State Board of Education and the school district
12 shall share equally the costs of providing a written or
13 electronic verbatim record of the proceedings. Any party may
14 request that the due process hearing officer issue a subpoena
15 to compel the testimony of witnesses or the production of
16 documents relevant to the resolution of the hearing. Whenever
17 a person refuses to comply with any subpoena issued under this
18 Section, the circuit court of the county in which that hearing
19 is pending, on application of the impartial hearing officer or
20 the party requesting the issuance of the subpoena, may compel
21 compliance through the contempt powers of the court in the
22 same manner as if the requirements of a subpoena issued by the
23 court had been disobeyed.

24 (h) The impartial hearing officer shall issue a written
25 decision, including findings of fact and conclusions of law,
26 within 10 calendar days, excluding Saturday, Sunday, and any

1 State holiday, after the conclusion of the hearing and send by
2 certified mail a copy of the decision to the parents or student
3 (if the student requests the hearing), the school district,
4 the director of special education, legal representatives of
5 the parties, and the State Board of Education. Unless the
6 hearing officer has granted specific extensions of time at the
7 request of a party, a final decision, including the
8 clarification of a decision requested under this subsection,
9 shall be reached and mailed to the parties named above not
10 later than 45 days after the initiation of the timeline for
11 conducting the hearing, as described in subsection (g-35) of
12 this Section. The decision shall specify the educational and
13 related services that shall be provided to the student in
14 accordance with the student's needs and the timeline for which
15 the school district shall submit evidence to the State Board
16 of Education to demonstrate compliance with the hearing
17 officer's decision in the event that the decision orders the
18 school district to undertake corrective action. The hearing
19 officer shall retain jurisdiction for the sole purpose of
20 considering a request for clarification of the final decision
21 submitted in writing by a party to the impartial hearing
22 officer within 5 days after receipt of the decision. A copy of
23 the request for clarification shall specify the portions of
24 the decision for which clarification is sought and shall be
25 mailed to all parties of record and to the State Board of
26 Education. The request shall operate to stay implementation of

1 those portions of the decision for which clarification is
2 sought, pending action on the request by the hearing officer,
3 unless the parties otherwise agree. The hearing officer shall
4 issue a clarification of the specified portion of the decision
5 or issue a partial or full denial of the request in writing
6 within 10 days of receipt of the request and mail copies to all
7 parties to whom the decision was mailed. This subsection does
8 not permit a party to request, or authorize a hearing officer
9 to entertain, reconsideration of the decision itself. The
10 statute of limitations for seeking review of the decision
11 shall be tolled from the date the request is submitted until
12 the date the hearing officer acts upon the request. The
13 hearing officer's decision shall be binding upon the school
14 district and the parents unless a civil action is commenced.

15 (i) Any party to an impartial due process hearing
16 aggrieved by the final written decision of the impartial due
17 process hearing officer shall have the right to commence a
18 civil action with respect to the issues presented in the
19 impartial due process hearing. That civil action shall be
20 brought in any court of competent jurisdiction within 120 days
21 after a copy of the decision of the impartial due process
22 hearing officer is mailed to the party as provided in
23 subsection (h). The civil action authorized by this subsection
24 shall not be exclusive of any rights or causes of action
25 otherwise available. The commencement of a civil action under
26 this subsection shall operate as a supersedeas. In any action

1 brought under this subsection the Court shall receive the
2 records of the impartial due process hearing, shall hear
3 additional evidence at the request of a party, and, basing its
4 decision on the preponderance of the evidence, shall grant
5 such relief as the court determines is appropriate. In any
6 instance where a school district willfully disregards
7 applicable regulations or statutes regarding a child covered
8 by this Article, and which disregard has been detrimental to
9 the child, the school district shall be liable for any
10 reasonable attorney's fees incurred by the parent in
11 connection with proceedings under this Section.

12 (j) During the pendency of any administrative or judicial
13 proceeding conducted pursuant to this Section, including
14 mediation (if the school district or other public entity
15 voluntarily agrees to participate in mediation), unless the
16 school district and the parents or student (if at least 18
17 years of age or emancipated) otherwise agree, the student
18 shall remain in his or her present educational placement and
19 continue in his or her present eligibility status and special
20 education and related services, if any. If mediation fails to
21 resolve the dispute between the parties, or if the parties do
22 not agree to use mediation, the parent (or student if 18 years
23 of age or older or emancipated) shall have 10 days after the
24 mediation concludes, or after a party declines to use
25 mediation, to file a request for a due process hearing in order
26 to continue to invoke the "stay-put" provisions of this

1 subsection (j). If applying for initial admission to the
2 school district, the student shall, with the consent of the
3 parents (if the student is not at least 18 years of age or
4 emancipated), be placed in the school district program until
5 all such proceedings have been completed. The costs for any
6 special education and related services or placement incurred
7 following 60 school days after the initial request for
8 evaluation shall be borne by the school district if the
9 services or placement is in accordance with the final
10 determination as to the special education and related services
11 or placement that must be provided to the child, provided that
12 during that 60-day period there have been no delays caused by
13 the child's parent. The requirements and procedures of this
14 subsection (j) shall be included in the uniform notices
15 developed by the State Superintendent under subsection (g) of
16 Section 14-8.02 of this Code.

17 (k) Whenever the parents of a child of the type described
18 in Section 14-1.02 are not known or are unavailable or the
19 child is a youth in care as defined in Section 4d of the
20 Children and Family Services Act, a person shall be assigned
21 to serve as surrogate parent for the child in matters relating
22 to the identification, evaluation, and educational placement
23 of the child and the provision of a free appropriate public
24 education to the child. Persons shall be assigned as surrogate
25 parents by the State Superintendent of Education. The State
26 Board of Education shall promulgate rules and regulations

1 establishing qualifications of those persons and their
2 responsibilities and the procedures to be followed in making
3 assignments of persons as surrogate parents. Surrogate parents
4 shall not be employees of the school district, an agency
5 created by joint agreement under Section 10-22.31, an agency
6 involved in the education or care of the student, or the State
7 Board of Education. Services of any person assigned as
8 surrogate parent shall terminate if the parent becomes
9 available unless otherwise requested by the parents. The
10 assignment of a person as surrogate parent at no time
11 supersedes, terminates, or suspends the parents' legal
12 authority relative to the child. Any person participating in
13 good faith as surrogate parent on behalf of the child before
14 school officials or a hearing officer shall have immunity from
15 civil or criminal liability that otherwise might result by
16 reason of that participation, except in cases of willful and
17 wanton misconduct.

18 (l) At all stages of the hearing or mediation, the hearing
19 officer or mediator shall require that interpreters licensed
20 pursuant to the Interpreter for the Deaf Licensure Act of 2007
21 be made available by the school district for persons who are
22 deaf or qualified interpreters be made available by the school
23 district for persons whose normally spoken language is other
24 than English.

25 (m) If any provision of this Section or its application to
26 any person or circumstance is held invalid, the invalidity of

1 that provision or application does not affect other provisions
2 or applications of the Section that can be given effect
3 without the invalid application or provision, and to this end
4 the provisions of this Section are severable, unless otherwise
5 provided by this Section.

6 (Source: P.A. 100-122, eff. 8-18-17; 100-159, eff. 8-18-17;
7 100-849, eff. 8-14-18; 100-863, eff. 8-14-18.)

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

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."