

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

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

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

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

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

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

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

1 in the appropriate special education class. At the child's  
2 initial IEP meeting and at each annual review meeting, the  
3 child's IEP team shall provide the child's parent or guardian  
4 and, if applicable, the Department's Office of Education and  
5 Transition Services with a written notification that informs  
6 the parent or guardian or the Department's Office of Education  
7 and Transition Services that the IEP team is required to  
8 consider whether the child requires assistive technology in  
9 order to receive free, appropriate public education. The  
10 notification must also include a toll-free telephone number  
11 and internet address for the State's assistive technology  
12 program.

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

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

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

11           (2) The need to develop social interaction skills and  
12 proficiencies.

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

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

17           (5) The needs resulting from engagement in repetitive  
18 activities and stereotyped movements.

19           (6) The need for any positive behavioral  
20 interventions, strategies, and supports to address any  
21 behavioral difficulties resulting from autism spectrum  
22 disorder.

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

26 Public Act 95-257 does not create any new entitlement to a

1 service, program, or benefit, but must not affect any  
2 entitlement to a service, program, or benefit created by any  
3 other law.

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

17 (c) In the development of the individualized education  
18 program for a student who is functionally blind, it shall be  
19 presumed that proficiency in Braille reading and writing is  
20 essential for the student's satisfactory educational progress.  
21 For purposes of this subsection, the State Board of Education  
22 shall determine the criteria for a student to be classified as  
23 functionally blind. Students who are not currently identified  
24 as functionally blind who are also entitled to Braille  
25 instruction include: (i) those whose vision loss is so severe  
26 that they are unable to read and write at a level comparable to



1 their peers solely through the use of vision, and (ii) those  
2 who show evidence of progressive vision loss that may result  
3 in functional blindness. Each student who is functionally  
4 blind shall be entitled to Braille reading and writing  
5 instruction that is sufficient to enable the student to  
6 communicate with the same level of proficiency as other  
7 students of comparable ability. Instruction should be provided  
8 to the extent that the student is physically and cognitively  
9 able to use Braille. Braille instruction may be used in  
10 combination with other special education services appropriate  
11 to the student's educational needs. The assessment of each  
12 student who is functionally blind for the purpose of  
13 developing the student's individualized education program  
14 shall include documentation of the student's strengths and  
15 weaknesses in Braille skills. Each person assisting in the  
16 development of the individualized education program for a  
17 student who is functionally blind shall receive information  
18 describing the benefits of Braille instruction. The  
19 individualized education program for each student who is  
20 functionally blind shall specify the appropriate learning  
21 medium or media based on the assessment report.

22 (c-5) In the development of the individualized education  
23 program for a student who is 17 years of age or older, or will  
24 be during that school year, the IEP team shall consider voter  
25 registration as an appropriate goal to be included in the IEP,  
26 and, if appropriate, when and how voter registration shall be

1 accomplished. Any resulting decisions shall be included in the  
2 IEP.

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

1 placement is subject to impartial due process procedures  
2 described in Article 10 of the Rules and Regulations to Govern  
3 the Administration and Operation of Special Education.

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

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

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

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

1 interpreter who attends an individualized education program  
2 meeting under this subsection to assist a parent who has  
3 limited English proficiency.

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

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

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

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

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

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

11         (Source: P.A. 101-124, eff. 1-1-20; 102-199, eff. 7-1-22;  
12         102-264, eff. 8-6-21; 102-558, eff. 8-20-21; 102-813, eff.  
13         5-13-22; 102-1072, eff. 6-10-22.)