

HB3862



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3862

Introduced 2/17/2023, by Rep. Harry Benton

SYNOPSIS AS INTRODUCED:

105 ILCS 5/14-6.01

from Ch. 122, par. 14-6.01

Amends the Children with Disabilities Article of the School Code. Provides that school boards shall ensure that the Individualized Education Program process is transparent for all students and the families of students. Provides that school boards shall adopt a policy to ensure equitable and clear access to the Individualized Education Program process.

LRB103 30315 RJT 56743 b

A BILL FOR

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 14-6.01 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
17 boards shall accept in part-time attendance children with
18 disabilities of the types described in Sections 14-1.02
19 through 14-1.07 who are enrolled in nonpublic schools. A
20 request for part-time attendance must be submitted by a parent
21 or guardian of the child with a disability and may be made only
22 to those public schools located in the district where the
23 child attending the nonpublic school resides; however, nothing

1 in this Section shall be construed as prohibiting an agreement
2 between the district where the child resides and another
3 public school district to provide special educational services
4 if such an arrangement is deemed more convenient and
5 economical. Special education and related services must be
6 provided in accordance with the student's IEP no later than 10
7 school attendance days after notice is provided to the parents
8 pursuant to Section 300.503 of Title 34 of the Code of Federal
9 Regulations and implementing rules adopted by the State Board
10 of Education. Transportation for students in part time
11 attendance shall be provided only if required in the child's
12 individualized educational program on the basis of the child's
13 disabling condition or as the special education program
14 location may require.

15 School boards shall ensure that the Individualized
16 Education Program process is transparent for all students and
17 the families of students. School boards shall adopt a policy
18 to ensure equitable and clear access to the Individualized
19 Education Program process.

20 Beginning with the 2019-2020 school year, a school board
21 shall post on its Internet website, if any, and incorporate
22 into its student handbook or newsletter notice that students
23 with disabilities who do not qualify for an individualized
24 education program, as required by the federal Individuals with
25 Disabilities Education Act and implementing provisions of this
26 Code, may qualify for services under Section 504 of the

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

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

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

1 changes that impact the provision of educational or related
2 services to students with disabilities or the procedural
3 safeguards afforded to students with disabilities or their
4 parents or guardians if the State Board determines it is in the
5 best interest of the students enrolled in the district
6 receiving special education services.

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

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

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

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

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

22 (Source: P.A. 101-515, eff. 8-23-19; 102-1072, eff. 6-10-22.)