



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB1446

by Rep. Michael J. Zalewski

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/14-6.01	from Ch. 122, par. 14-6.01
105 ILCS 5/14-8.02	from Ch. 122, par. 14-8.02

Amends the Children with Disabilities Article of the School Code. Replaces provisions that specify when special education services shall be provided or the child must be placed in the appropriate program with provisions that require that special education and related services shall be provided in accordance with the student's IEP no later than 10 days after notice is provided to the parents pursuant to specified provisions of the Code of Federal Regulations and implementing rules adopted by the State Board of Education. Effective immediately.

LRB098 07744 NHT 37823 b

FISCAL NOTE ACT  
MAY APPLY

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 Sections  
5 14-6.01 and 14-8.02 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 this  
10 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 boards  
17 shall accept in part-time attendance children with  
18 disabilities of the types described in Sections 14-1.02 through  
19 14-1.07 who are enrolled in nonpublic schools. A request for  
20 part-time attendance must be submitted by a parent or guardian  
21 of the disabled child and may be made only to those public  
22 schools located in the district where the child attending the  
23 nonpublic school resides; however, nothing in this Section

1 shall be construed as prohibiting an agreement between the  
2 district where the child resides and another public school  
3 district to provide special educational services if such an  
4 arrangement is deemed more convenient and economical. Special  
5 education and related services must be provided in accordance  
6 with the student's IEP no later than 10 days after notice is  
7 provided to the parents pursuant to Section 300.503 of Title 34  
8 of the Code of Federal Regulations and implementing rules  
9 adopted by the State Board of Education. ~~Special educational~~  
10 ~~services shall be provided to such students as soon as possible~~  
11 ~~after the identification, evaluation and placement procedures~~  
12 ~~provided in Section 14-8.02, but no later than the beginning of~~  
13 ~~the next school semester following the completion of such~~  
14 ~~procedures.~~ Transportation for students in part time  
15 attendance shall be provided only if required in the child's  
16 individualized educational program on the basis of the child's  
17 disabling condition or as the special education program  
18 location may require.

19 A school board shall publish a public notice in its  
20 newsletter of general circulation or in the newsletter of  
21 another governmental entity of general circulation in the  
22 district or if neither is available in the district, then in a  
23 newspaper of general circulation in the district, the right of  
24 all children with disabilities to a free appropriate public  
25 education as provided under this Code. Such notice shall  
26 identify the location and phone number of the office or agent

1 of the school district to whom inquiries should be directed  
2 regarding the identification, assessment and placement of such  
3 children.

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

1 Any parent or guardian who is deaf, or does not normally  
2 communicate using spoken English, who participates in a meeting  
3 with a representative of a local educational agency for the  
4 purposes of developing an individualized educational program  
5 shall be entitled to the services of an interpreter.

6 No disabled student may be denied promotion, graduation or  
7 a general diploma on the basis of failing a minimal competency  
8 test when such failure can be directly related to the disabling  
9 condition of the student. For the purpose of this Act, "minimal  
10 competency testing" is defined as tests which are constructed  
11 to measure the acquisition of skills to or beyond a certain  
12 defined standard.

13 Effective July 1, 1966, high school districts are  
14 financially responsible for the education of pupils with  
15 disabilities who are residents in their districts when such  
16 pupils have reached age 15 but may admit children with  
17 disabilities into special educational facilities without  
18 regard to graduation from the eighth grade after such pupils  
19 have reached the age of 14 1/2 years. Upon a disabled pupil's  
20 attaining the age of 14 1/2 years, it shall be the duty of the  
21 elementary school district in which the pupil resides to notify  
22 the high school district in which the pupil resides of the  
23 pupil's current eligibility for special education services, of  
24 the pupil's current program, and of all evaluation data upon  
25 which the current program is based. After an examination of  
26 that information the high school district may accept the

1 current placement and all subsequent timelines shall be  
2 governed by the current individualized educational program; or  
3 the high school district may elect to conduct its own  
4 evaluation and multidisciplinary staff conference and  
5 formulate its own individualized educational program, in which  
6 case the procedures and timelines contained in Section 14-8.02  
7 shall apply.

8 (Source: P.A. 89-397, eff. 8-20-95.)

9 (105 ILCS 5/14-8.02) (from Ch. 122, par. 14-8.02)

10 Sec. 14-8.02. Identification, Evaluation and Placement of  
11 Children.

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

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

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

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



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

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

1           If the child is deaf, hard of hearing, blind, or visually  
2 impaired and he or she might be eligible to receive services  
3 from the Illinois School for the Deaf or the Illinois School  
4 for the Visually Impaired, the school district shall notify the  
5 parents, in writing, of the existence of these schools and the  
6 services they provide and shall make a reasonable effort to  
7 inform the parents of the existence of other, local schools  
8 that provide similar services and the services that these other  
9 schools provide. This notification shall include without  
10 limitation information on school services, school admissions  
11 criteria, and school contact information.

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

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

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

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

26           (4) The needs resulting from resistance to

1 environmental change or change in daily routines.

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

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

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

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

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

1 by specified individuals, agencies, or officials.

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

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

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

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

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

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

18 (g) School boards or their designee shall provide to the  
19 parents of a child prior written notice of any decision (a)  
20 proposing to initiate or change, or (b) refusing to initiate or  
21 change, the identification, evaluation, or educational  
22 placement of the child or the provision of a free appropriate  
23 public education to their child, and the reasons therefor. Such  
24 written notification shall also inform the parent of the  
25 opportunity to present complaints with respect to any matter  
26 relating to the educational placement of the student, or the

1 provision of a free appropriate public education and to have an  
2 impartial due process hearing on the complaint. The notice  
3 shall inform the parents in the parents' native language,  
4 unless it is clearly not feasible to do so, of their rights and  
5 all procedures available pursuant to this Act and the federal  
6 Individuals with Disabilities Education Improvement Act of  
7 2004 (Public Law 108-446); it shall be the responsibility of  
8 the State Superintendent to develop uniform notices setting  
9 forth the procedures available under this Act and the federal  
10 Individuals with Disabilities Education Improvement Act of  
11 2004 (Public Law 108-446) to be used by all school boards. The  
12 notice shall also inform the parents of the availability upon  
13 request of a list of free or low-cost legal and other relevant  
14 services available locally to assist parents in initiating an  
15 impartial due process hearing. Any parent who is deaf, or does  
16 not normally communicate using spoken English, who  
17 participates in a meeting with a representative of a local  
18 educational agency for the purposes of developing an  
19 individualized educational program shall be entitled to the  
20 services of an interpreter.

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



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

1 educational process.

2 (1) A parent must be afforded reasonable access of  
3 sufficient duration and scope for the purpose of observing  
4 his or her child in the child's current educational  
5 placement, services, or program or for the purpose of  
6 visiting an educational placement or program proposed for  
7 the child.

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

1 educational service, program, or placement.

2 (h) (Blank).

3 (i) (Blank).

4 (j) (Blank).

5 (k) (Blank).

6 (l) (Blank).

7 (m) (Blank).

8 (n) (Blank).

9 (o) (Blank).

10 (Source: P.A. 95-257, eff. 1-1-08; 95-876, eff. 8-21-08;  
11 96-657, eff. 8-25-09.)

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.