

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 school attendance days
7 after notice is provided to the parents pursuant to Section
8 300.503 of Title 34 of the Code of Federal Regulations and
9 implementing rules adopted by the State Board of Education.
10 ~~Special educational services shall be provided to such students~~
11 ~~as soon as possible after the identification, evaluation and~~
12 ~~placement procedures provided in Section 14-8.02, but no later~~
13 ~~than the beginning of the next school semester following the~~
14 ~~completion of such procedures.~~ Transportation for students in
15 part time attendance shall be provided only if required in the
16 child's individualized educational program on the basis of the
17 child's 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 school
7 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. ~~After a child has been determined to be eligible~~
11 ~~for a special education class, such child must be placed in the~~
12 ~~appropriate program pursuant to the individualized educational~~
13 ~~program by or no later than the beginning of the next school~~
14 ~~semester.~~ The appropriate program pursuant to the
15 individualized educational program of students whose native
16 tongue is a language other than English shall reflect the
17 special education, cultural and linguistic needs. No later than
18 September 1, 1993, the State Board of Education shall establish
19 standards for the development, implementation and monitoring
20 of appropriate bilingual special individualized educational
21 programs. The State Board of Education shall further
22 incorporate appropriate monitoring procedures to verify
23 implementation of these standards. The district shall indicate
24 to the parent and the State Board of Education the nature of
25 the services the child will receive for the regular school term
26 while waiting placement in the appropriate special education

1 class.

2 If the child is deaf, hard of hearing, blind, or visually
3 impaired and he or she might be eligible to receive services
4 from the Illinois School for the Deaf or the Illinois School
5 for the Visually Impaired, the school district shall notify the
6 parents, in writing, of the existence of these schools and the
7 services they provide and shall make a reasonable effort to
8 inform the parents of the existence of other, local schools
9 that provide similar services and the services that these other
10 schools provide. This notification shall include without
11 limitation information on school services, school admissions
12 criteria, and school contact 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 the
22 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 Mentally Disabled
18 Adults 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 taken
2 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 in
15 functional blindness. Each student who is functionally blind
16 shall be entitled to Braille reading and writing instruction
17 that is sufficient to enable the student to communicate with
18 the same level of proficiency as other students of comparable
19 ability. Instruction should be provided to the extent that the
20 student is physically and cognitively able to use Braille.
21 Braille instruction may be used in combination with other
22 special education services appropriate to the student's
23 educational needs. The assessment of each student who is
24 functionally blind for the purpose of developing the student's
25 individualized education program shall include documentation
26 of the student's strengths and weaknesses in Braille skills.

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

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

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

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

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

19 (g) School boards or their designee shall provide to the
20 parents of a child prior written notice of any decision (a)
21 proposing to initiate or change, or (b) refusing to initiate or
22 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. Such
25 written notification shall also inform the parent of the
26 opportunity to present complaints with respect to any matter

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

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

1 or doctoral degree candidate.

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

1 Student Records Act. The visitor shall not disrupt the
2 educational process.

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

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

1 services, program, or placement or to a proposed
2 educational service, program, or placement.

3 (h) (Blank).

4 (i) (Blank).

5 (j) (Blank).

6 (k) (Blank).

7 (l) (Blank).

8 (m) (Blank).

9 (n) (Blank).

10 (o) (Blank).

11 (Source: P.A. 95-257, eff. 1-1-08; 95-876, eff. 8-21-08;
12 96-657, eff. 8-25-09.)

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