



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5912

by Rep. Emanuel Chris Welch

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/14-7.02

from Ch. 122, par. 14-7.02

Amends the Children with Disabilities Article of the School Code. Provides that an application for initial approval as a nonpublic special education facility shall be approved by the State Board of Education within 60 days after receipt of the application if the applicant has otherwise complied with the State Board's requirements for approval. Effective immediately.

LRB100 22195 AMC 40732 b

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 14-7.02 as follows:

6 (105 ILCS 5/14-7.02) (from Ch. 122, par. 14-7.02)

7 Sec. 14-7.02. Children attending private schools, public  
8 out-of-state schools, public school residential facilities or  
9 private special education facilities. The General Assembly  
10 recognizes that non-public schools or special education  
11 facilities provide an important service in the educational  
12 system in Illinois.

13 If because of his or her disability the special education  
14 program of a district is unable to meet the needs of a child  
15 and the child attends a non-public school or special education  
16 facility, a public out-of-state school or a special education  
17 facility owned and operated by a county government unit that  
18 provides special educational services required by the child and  
19 is in compliance with the appropriate rules and regulations of  
20 the State Superintendent of Education, the school district in  
21 which the child is a resident shall pay the actual cost of  
22 tuition for special education and related services provided  
23 during the regular school term and during the summer school

1 term if the child's educational needs so require, excluding  
2 room, board and transportation costs charged the child by that  
3 non-public school or special education facility, public  
4 out-of-state school or county special education facility, or  
5 \$4,500 per year, whichever is less, and shall provide him any  
6 necessary transportation. "Nonpublic special education  
7 facility" shall include a residential facility, within or  
8 without the State of Illinois, which provides special education  
9 and related services to meet the needs of the child by  
10 utilizing private schools or public schools, whether located on  
11 the site or off the site of the residential facility.

12 The State Board of Education shall promulgate rules and  
13 regulations for determining when placement in a private special  
14 education facility is appropriate. Such rules and regulations  
15 shall take into account the various types of services needed by  
16 a child and the availability of such services to the particular  
17 child in the public school. In developing these rules and  
18 regulations the State Board of Education shall consult with the  
19 Advisory Council on Education of Children with Disabilities and  
20 hold public hearings to secure recommendations from parents,  
21 school personnel, and others concerned about this matter.

22 The State Board of Education shall also promulgate rules  
23 and regulations for transportation to and from a residential  
24 school. Transportation to and from home to a residential school  
25 more than once each school term shall be subject to prior  
26 approval by the State Superintendent in accordance with the

1 rules and regulations of the State Board.

2 A school district making tuition payments pursuant to this  
3 Section is eligible for reimbursement from the State for the  
4 amount of such payments actually made in excess of the district  
5 per capita tuition charge for students not receiving special  
6 education services. Such reimbursement shall be approved in  
7 accordance with Section 14-12.01 and each district shall file  
8 its claims, computed in accordance with rules prescribed by the  
9 State Board of Education, on forms prescribed by the State  
10 Superintendent of Education. Data used as a basis of  
11 reimbursement claims shall be for the preceding regular school  
12 term and summer school term. Each school district shall  
13 transmit its claims to the State Board of Education on or  
14 before August 15. The State Board of Education, before  
15 approving any such claims, shall determine their accuracy and  
16 whether they are based upon services and facilities provided  
17 under approved programs. Upon approval the State Board shall  
18 cause vouchers to be prepared showing the amount due for  
19 payment of reimbursement claims to school districts, for  
20 transmittal to the State Comptroller on the 30th day of  
21 September, December, and March, respectively, and the final  
22 voucher, no later than June 20. If the money appropriated by  
23 the General Assembly for such purpose for any year is  
24 insufficient, it shall be apportioned on the basis of the  
25 claims approved.

26 No child shall be placed in a special education program

1 pursuant to this Section if the tuition cost for special  
2 education and related services increases more than 10 percent  
3 over the tuition cost for the previous school year or exceeds  
4 \$4,500 per year unless such costs have been approved by the  
5 Illinois Purchased Care Review Board. The Illinois Purchased  
6 Care Review Board shall consist of the following persons, or  
7 their designees: the Directors of Children and Family Services,  
8 Public Health, Public Aid, and the Governor's Office of  
9 Management and Budget; the Secretary of Human Services; the  
10 State Superintendent of Education; and such other persons as  
11 the Governor may designate. The Review Board shall also consist  
12 of one non-voting member who is an administrator of a private,  
13 nonpublic, special education school. The Review Board shall  
14 establish rules and regulations for its determination of  
15 allowable costs and payments made by local school districts for  
16 special education, room and board, and other related services  
17 provided by non-public schools or special education facilities  
18 and shall establish uniform standards and criteria which it  
19 shall follow. The Review Board shall approve the usual and  
20 customary rate or rates of a special education program that (i)  
21 is offered by an out-of-state, non-public provider of  
22 integrated autism specific educational and autism specific  
23 residential services, (ii) offers 2 or more levels of  
24 residential care, including at least one locked facility, and  
25 (iii) serves 12 or fewer Illinois students.

26 The Review Board shall establish uniform definitions and

1 criteria for accounting separately by special education, room  
2 and board and other related services costs. The Board shall  
3 also establish guidelines for the coordination of services and  
4 financial assistance provided by all State agencies to assure  
5 that no otherwise qualified child with a disability receiving  
6 services under Article 14 shall be excluded from participation  
7 in, be denied the benefits of or be subjected to discrimination  
8 under any program or activity provided by any State agency.

9 The Review Board shall review the costs for special  
10 education and related services provided by non-public schools  
11 or special education facilities and shall approve or disapprove  
12 such facilities in accordance with the rules and regulations  
13 established by it with respect to allowable costs.

14 The State Board of Education shall provide administrative  
15 and staff support for the Review Board as deemed reasonable by  
16 the State Superintendent of Education. This support shall not  
17 include travel expenses or other compensation for any Review  
18 Board member other than the State Superintendent of Education.

19 The Review Board shall seek the advice of the Advisory  
20 Council on Education of Children with Disabilities on the rules  
21 and regulations to be promulgated by it relative to providing  
22 special education services.

23 If a child has been placed in a program in which the actual  
24 per pupil costs of tuition for special education and related  
25 services based on program enrollment, excluding room, board and  
26 transportation costs, exceed \$4,500 and such costs have been

1 approved by the Review Board, the district shall pay such total  
2 costs which exceed \$4,500. A district making such tuition  
3 payments in excess of \$4,500 pursuant to this Section shall be  
4 responsible for an amount in excess of \$4,500 equal to the  
5 district per capita tuition charge and shall be eligible for  
6 reimbursement from the State for the amount of such payments  
7 actually made in excess of the districts per capita tuition  
8 charge for students not receiving special education services.

9 If a child has been placed in an approved individual  
10 program and the tuition costs including room and board costs  
11 have been approved by the Review Board, then such room and  
12 board costs shall be paid by the appropriate State agency  
13 subject to the provisions of Section 14-8.01 of this Act. Room  
14 and board costs not provided by a State agency other than the  
15 State Board of Education shall be provided by the State Board  
16 of Education on a current basis. In no event, however, shall  
17 the State's liability for funding of these tuition costs begin  
18 until after the legal obligations of third party payors have  
19 been subtracted from such costs. If the money appropriated by  
20 the General Assembly for such purpose for any year is  
21 insufficient, it shall be apportioned on the basis of the  
22 claims approved. Each district shall submit estimated claims to  
23 the State Superintendent of Education. Upon approval of such  
24 claims, the State Superintendent of Education shall direct the  
25 State Comptroller to make payments on a monthly basis. The  
26 frequency for submitting estimated claims and the method of

1 determining payment shall be prescribed in rules and  
2 regulations adopted by the State Board of Education. Such  
3 current state reimbursement shall be reduced by an amount equal  
4 to the proceeds which the child or child's parents are eligible  
5 to receive under any public or private insurance or assistance  
6 program. Nothing in this Section shall be construed as  
7 relieving an insurer or similar third party from an otherwise  
8 valid obligation to provide or to pay for services provided to  
9 a child with a disability.

10 If it otherwise qualifies, a school district is eligible  
11 for the transportation reimbursement under Section 14-13.01  
12 and for the reimbursement of tuition payments under this  
13 Section whether the non-public school or special education  
14 facility, public out-of-state school or county special  
15 education facility, attended by a child who resides in that  
16 district and requires special educational services, is within  
17 or outside of the State of Illinois. However, a district is not  
18 eligible to claim transportation reimbursement under this  
19 Section unless the district certifies to the State  
20 Superintendent of Education that the district is unable to  
21 provide special educational services required by the child for  
22 the current school year.

23 Nothing in this Section authorizes the reimbursement of a  
24 school district for the amount paid for tuition of a child  
25 attending a non-public school or special education facility,  
26 public out-of-state school or county special education



1 facility unless the school district certifies to the State  
2 Superintendent of Education that the special education program  
3 of that district is unable to meet the needs of that child  
4 because of his disability and the State Superintendent of  
5 Education finds that the school district is in substantial  
6 compliance with Section 14-4.01. However, if a child is  
7 unilaterally placed by a State agency or any court in a  
8 non-public school or special education facility, public  
9 out-of-state school, or county special education facility, a  
10 school district shall not be required to certify to the State  
11 Superintendent of Education, for the purpose of tuition  
12 reimbursement, that the special education program of that  
13 district is unable to meet the needs of a child because of his  
14 or her disability.

15 Any educational or related services provided, pursuant to  
16 this Section in a non-public school or special education  
17 facility or a special education facility owned and operated by  
18 a county government unit shall be at no cost to the parent or  
19 guardian of the child. However, current law and practices  
20 relative to contributions by parents or guardians for costs  
21 other than educational or related services are not affected by  
22 this amendatory Act of 1978.

23 Reimbursement for children attending public school  
24 residential facilities shall be made in accordance with the  
25 provisions of this Section.

26 Notwithstanding any other provision of law, any school

1 district receiving a payment under this Section or under  
2 Section 14-7.02b, 14-13.01, or 29-5 of this Code may classify  
3 all or a portion of the funds that it receives in a particular  
4 fiscal year or from general State aid pursuant to Section  
5 18-8.05 of this Code as funds received in connection with any  
6 funding program for which it is entitled to receive funds from  
7 the State in that fiscal year (including, without limitation,  
8 any funding program referenced in this Section), regardless of  
9 the source or timing of the receipt. The district may not  
10 classify more funds as funds received in connection with the  
11 funding program than the district is entitled to receive in  
12 that fiscal year for that program. Any classification by a  
13 district must be made by a resolution of its board of  
14 education. The resolution must identify the amount of any  
15 payments or general State aid to be classified under this  
16 paragraph and must specify the funding program to which the  
17 funds are to be treated as received in connection therewith.  
18 This resolution is controlling as to the classification of  
19 funds referenced therein. A certified copy of the resolution  
20 must be sent to the State Superintendent of Education. The  
21 resolution shall still take effect even though a copy of the  
22 resolution has not been sent to the State Superintendent of  
23 Education in a timely manner. No classification under this  
24 paragraph by a district shall affect the total amount or timing  
25 of money the district is entitled to receive under this Code.  
26 No classification under this paragraph by a district shall in

1 any way relieve the district from or affect any requirements  
2 that otherwise would apply with respect to that funding  
3 program, including any accounting of funds by source, reporting  
4 expenditures by original source and purpose, reporting  
5 requirements, or requirements of providing services.

6 An application for initial approval as a nonpublic special  
7 education facility under this Section shall be approved by the  
8 State Board of Education within 60 days after receipt of the  
9 application if the applicant has otherwise complied with the  
10 State Board's requirements for approval.

11 (Source: P.A. 98-636, eff. 6-6-14; 98-1008, eff. 1-1-15; 99-78,  
12 eff. 7-20-15; 99-143, eff. 7-27-15.)

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