

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, 14-8.02, and 14-8.02a 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 Beginning with the 2019-2020 school year, a school board
16 shall post on its Internet website, if any, and incorporate
17 into its student handbook or newsletter notice that students
18 with disabilities who do not qualify for an individualized
19 education program, as required by the federal Individuals with
20 Disabilities Education Act and implementing provisions of this
21 Code, may qualify for services under Section 504 of the
22 federal Rehabilitation Act of 1973 if the child (i) has a
23 physical or mental impairment that substantially limits one or
24 more major life activities, (ii) has a record of a physical or
25 mental impairment, or (iii) is regarded as having a physical
26 or mental impairment. Such notice shall identify the location

1 and phone number of the office or agent of the school district
2 to whom inquiries should be directed regarding the
3 identification, assessment, and placement of such children.
4 The notice shall also state that any parent who is deaf or does
5 not typically communicate using spoken English and who
6 participates in a Section 504 meeting with a representative of
7 a local educational agency shall be entitled to the services
8 of an interpreter.

9 For a school district organized under Article 34 only,
10 beginning with the 2019-2020 school year, the school district
11 shall, in collaboration with its primary office overseeing
12 special education, publish on the school district's publicly
13 available website any proposed changes to its special
14 education policies, directives, guidelines, or procedures that
15 impact the provision of educational or related services to
16 students with disabilities or the procedural safeguards
17 afforded to students with disabilities or their parents or
18 guardians made by the school district or school board. Any
19 policy, directive, guideline, or procedural change that
20 impacts those provisions or safeguards that is authorized by
21 the school district's primary office overseeing special
22 education or any other administrative office of the school
23 district must be published on the school district's publicly
24 available website no later than 45 days before the adoption of
25 that change. Any policy directive, guideline, or procedural
26 change that impacts those provisions or safeguards that is

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

1 receiving special education services.

2 School boards shall immediately provide upon request by
3 any person written materials and other information that
4 indicates the specific policies, procedures, rules and
5 regulations regarding the identification, evaluation or
6 educational placement of children with disabilities under
7 Section 14-8.02 of the School Code. Such information shall
8 include information regarding all rights and entitlements of
9 such children under this Code, and of the opportunity to
10 present complaints with respect to any matter relating to
11 educational placement of the student, or the provision of a
12 free appropriate public education and to have an impartial due
13 process hearing on the complaint. The notice shall inform the
14 parents or guardian in the parents' or guardian's native
15 language, unless it is clearly not feasible to do so, of their
16 rights and all procedures available pursuant to this Act and
17 federal Public Law 94-142; it shall be the responsibility of
18 the State Superintendent to develop uniform notices setting
19 forth the procedures available under this Act and federal
20 Public Law 94-142, as amended, to be used by all school boards.
21 The notice shall also inform the parents or guardian of the
22 availability upon request of a list of free or low-cost legal
23 and other relevant services available locally to assist
24 parents or guardians in exercising rights or entitlements
25 under this Code. For a school district organized under Article
26 34 only, the school district must make the entirety of its

1 special education Procedural Manual and any other guidance
2 documents pertaining to special education publicly available,
3 in print and on the school district's website, in both English
4 and Spanish. Upon request, the school district must make the
5 Procedural Manual and other guidance documents available in
6 print in any other language and accessible for individuals
7 with disabilities.

8 Any parent or guardian who is deaf, or does not normally
9 communicate using spoken English, who participates in a
10 meeting with a representative of a local educational agency
11 for the purposes of developing an individualized educational
12 program shall be entitled to the services of an interpreter.

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

22 Effective July 1, 1966, high school districts are
23 financially responsible for the education of pupils with
24 disabilities who are residents in their districts when such
25 pupils have reached age 15 but may admit children with
26 disabilities into special educational facilities without

1 regard to graduation from the eighth grade after such pupils
2 have reached the age of 14 1/2 years. Upon a pupil with a
3 disability attaining the age of 14 1/2 years, it shall be the
4 duty of the elementary school district in which the pupil
5 resides to notify the high school district in which the pupil
6 resides of the pupil's current eligibility for special
7 education services, of the pupil's current program, and of all
8 evaluation data upon which the current program is based. After
9 an examination of that information the high school district
10 may accept the current placement and all subsequent timelines
11 shall be governed by the current individualized educational
12 program; or the high school district may elect to conduct its
13 own evaluation and multidisciplinary staff conference and
14 formulate its own individualized educational program, in which
15 case the procedures and timelines contained in Section 14-8.02
16 shall apply.

17 (Source: P.A. 100-201, eff. 8-18-17; 100-1112, eff. 8-28-18;
18 101-515, eff. 8-23-19.)

19 (105 ILCS 5/14-8.02) (from Ch. 122, par. 14-8.02)

20 (Text of Section before amendment by P.A. 102-199)

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

23 (a) The State Board of Education shall make rules under
24 which local school boards shall determine the eligibility of
25 children to receive special education. Such rules shall ensure

1 that a free appropriate public education be available to all
2 children with disabilities as defined in Section 14-1.02. The
3 State Board of Education shall require local school districts
4 to administer non-discriminatory procedures or tests to
5 English learners coming from homes in which a language other
6 than English is used to determine their eligibility to receive
7 special education. The placement of low English proficiency
8 students in special education programs and facilities shall be
9 made in accordance with the test results reflecting the
10 student's linguistic, cultural and special education needs.
11 For purposes of determining the eligibility of children the
12 State Board of Education shall include in the rules
13 definitions of "case study", "staff conference",
14 "individualized educational program", and "qualified
15 specialist" appropriate to each category of children with
16 disabilities as defined in this Article. For purposes of
17 determining the eligibility of children from homes in which a
18 language other than English is used, the State Board of
19 Education shall include in the rules definitions for
20 "qualified bilingual specialists" and "linguistically and
21 culturally appropriate individualized educational programs".
22 For purposes of this Section, as well as Sections 14-8.02a,
23 14-8.02b, and 14-8.02c of this Code, "parent" means a parent
24 as defined in the federal Individuals with Disabilities
25 Education Act (20 U.S.C. 1401(23)).

26 (b) No child shall be eligible for special education

1 facilities except with a carefully completed case study fully
2 reviewed by professional personnel in a multidisciplinary
3 staff conference and only upon the recommendation of qualified
4 specialists or a qualified bilingual specialist, if available.
5 At the conclusion of the multidisciplinary staff conference,
6 the parent of the child shall be given a copy of the
7 multidisciplinary conference summary report and
8 recommendations, which includes options considered, and be
9 informed of his or her right to obtain an independent
10 educational evaluation if he or she disagrees with the
11 evaluation findings conducted or obtained by the school
12 district. If the school district's evaluation is shown to be
13 inappropriate, the school district shall reimburse the parent
14 for the cost of the independent evaluation. The State Board of
15 Education shall, with advice from the State Advisory Council
16 on Education of Children with Disabilities on the inclusion of
17 specific independent educational evaluators, prepare a list of
18 suggested independent educational evaluators. The State Board
19 of Education shall include on the list clinical psychologists
20 licensed pursuant to the Clinical Psychologist Licensing Act.
21 Such psychologists shall not be paid fees in excess of the
22 amount that would be received by a school psychologist for
23 performing the same services. The State Board of Education
24 shall supply school districts with such list and make the list
25 available to parents at their request. School districts shall
26 make the list available to parents at the time they are

1 informed of their right to obtain an independent educational
2 evaluation. However, the school district may initiate an
3 impartial due process hearing under this Section within 5 days
4 of any written parent request for an independent educational
5 evaluation to show that its evaluation is appropriate. If the
6 final decision is that the evaluation is appropriate, the
7 parent still has a right to an independent educational
8 evaluation, but not at public expense. An independent
9 educational evaluation at public expense must be completed
10 within 30 days of a parent written request unless the school
11 district initiates an impartial due process hearing or the
12 parent or school district offers reasonable grounds to show
13 that such 30-day time period should be extended. If the due
14 process hearing decision indicates that the parent is entitled
15 to an independent educational evaluation, it must be completed
16 within 30 days of the decision unless the parent or the school
17 district offers reasonable grounds to show that such 30-day
18 period should be extended. If a parent disagrees with the
19 summary report or recommendations of the multidisciplinary
20 conference or the findings of any educational evaluation which
21 results therefrom, the school district shall not proceed with
22 a placement based upon such evaluation and the child shall
23 remain in his or her regular classroom setting. No child shall
24 be eligible for admission to a special class for children with
25 a mental disability who are educable or for children with a
26 mental disability who are trainable except with a

1 psychological evaluation and recommendation by a school
2 psychologist. Consent shall be obtained from the parent of a
3 child before any evaluation is conducted. If consent is not
4 given by the parent or if the parent disagrees with the
5 findings of the evaluation, then the school district may
6 initiate an impartial due process hearing under this Section.
7 The school district may evaluate the child if that is the
8 decision resulting from the impartial due process hearing and
9 the decision is not appealed or if the decision is affirmed on
10 appeal. The determination of eligibility shall be made and the
11 IEP meeting shall be completed within 60 school days from the
12 date of written parental consent. In those instances when
13 written parental consent is obtained with fewer than 60 pupil
14 attendance days left in the school year, the eligibility
15 determination shall be made and the IEP meeting shall be
16 completed prior to the first day of the following school year.
17 Special education and related services must be provided in
18 accordance with the student's IEP no later than 10 school
19 attendance days after notice is provided to the parents
20 pursuant to Section 300.503 of Title 34 of the Code of Federal
21 Regulations and implementing rules adopted by the State Board
22 of Education. The appropriate program pursuant to the
23 individualized educational program of students whose native
24 tongue is a language other than English shall reflect the
25 special education, cultural and linguistic needs. No later
26 than September 1, 1993, the State Board of Education shall

1 establish standards for the development, implementation and
2 monitoring of appropriate bilingual special individualized
3 educational programs. The State Board of Education shall
4 further incorporate appropriate monitoring procedures to
5 verify implementation of these standards. The district shall
6 indicate to the parent and the State Board of Education the
7 nature of the services the child will receive for the regular
8 school term while awaiting ~~waiting~~ placement in the
9 appropriate special education class. At the child's initial
10 IEP meeting and at each annual review meeting, the child's IEP
11 team shall provide the child's parent or guardian with a
12 written notification that informs the parent or guardian that
13 the IEP team is required to consider whether the child
14 requires assistive technology in order to receive free,
15 appropriate public education. The notification must also
16 include a toll-free telephone number and internet address for
17 the State's assistive technology program.

18 If the child is deaf, hard of hearing, blind, or visually
19 impaired or has an orthopedic impairment or physical
20 disability and he or she might be eligible to receive services
21 from the Illinois School for the Deaf, the Illinois School for
22 the Visually Impaired, or the Illinois Center for
23 Rehabilitation and Education-Roosevelt, the school district
24 shall notify the parents, in writing, of the existence of
25 these schools and the services they provide and shall make a
26 reasonable effort to inform the parents of the existence of

1 other, local schools that provide similar services and the
2 services that these other schools provide. This notification
3 shall include without limitation information on school
4 services, school admissions criteria, and school contact
5 information.

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

14 (1) The verbal and nonverbal communication needs of
15 the child.

16 (2) The need to develop social interaction skills and
17 proficiencies.

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

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

22 (5) The needs resulting from engagement in repetitive
23 activities and stereotyped movements.

24 (6) The need for any positive behavioral
25 interventions, strategies, and supports to address any
26 behavioral difficulties resulting from autism spectrum

1 disorder.

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

5 Public Act 95-257 does not create any new entitlement to a
6 service, program, or benefit, but must not affect any
7 entitlement to a service, program, or benefit created by any
8 other law.

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

22 (c) In the development of the individualized education
23 program for a student who is functionally blind, it shall be
24 presumed that proficiency in Braille reading and writing is
25 essential for the student's satisfactory educational progress.
26 For purposes of this subsection, the State Board of Education

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

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

1 the Administration and Operation of Special Education.

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

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

15 (g) School boards or their designee shall provide to the
16 parents of a child prior written notice of any decision (a)
17 proposing to initiate or change, or (b) refusing to initiate
18 or change, the identification, evaluation, or educational
19 placement of the child or the provision of a free appropriate
20 public education to their child, and the reasons therefor.
21 Such written notification shall also inform the parent of the
22 opportunity to present complaints with respect to any matter
23 relating to the educational placement of the student, or the
24 provision of a free appropriate public education and to have
25 an impartial due process hearing on the complaint. The notice
26 shall inform the parents in the parents' native language,

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

26 (g-5) For purposes of this subsection (g-5), "qualified

1 professional" means an individual who holds credentials to
2 evaluate the child in the domain or domains for which an
3 evaluation is sought or an intern working under the direct
4 supervision of a qualified professional, including a master's
5 or doctoral degree candidate.

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

1 (g-5). Visitors shall be required to comply with the
2 requirements of applicable privacy laws, including those laws
3 protecting the confidentiality of education records such as
4 the federal Family Educational Rights and Privacy Act and the
5 Illinois School Student Records Act. The visitor shall not
6 disrupt the educational process.

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

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

1 conducted at a mutually agreed upon time, date, and place
2 that do not interfere with the school employee's school
3 duties. The school district may limit interviews to
4 personnel having information relevant to the child's
5 current educational services, program, or placement or to
6 a proposed educational service, program, or placement.

7 (Source: P.A. 101-124, eff. 1-1-20; 102-264, eff. 8-6-21;
8 102-558, eff. 8-20-21.)

9 (Text of Section after amendment by P.A. 102-199)

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 English learners coming from homes in which a language other
20 than English is used to determine their eligibility to receive
21 special education. The placement of low English proficiency
22 students in special education programs and facilities shall be
23 made in accordance with the test results reflecting the
24 student's linguistic, cultural and special education needs.
25 For purposes of determining the eligibility of children the

1 State Board of Education shall include in the rules
2 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
9 "qualified bilingual specialists" and "linguistically and
10 culturally appropriate individualized educational programs".
11 For purposes of this Section, as well as Sections 14-8.02a,
12 14-8.02b, and 14-8.02c of this Code, "parent" means a parent
13 as defined in the federal Individuals with Disabilities
14 Education Act (20 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 and, if the child is in the legal
22 custody of the Department of Children and Family Services, the
23 Department's Office of Education and Transition Services shall
24 be given a copy of the multidisciplinary conference summary
25 report and recommendations, which includes options considered,
26 and, in the case of the parent, be informed of his or her right

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

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

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

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

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

1 information.

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

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

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

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

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

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

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

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

1 Public Act 95-257 does not create any new entitlement to a
2 service, program, or benefit, but must not affect any
3 entitlement to a service, program, or benefit created by any
4 other law.

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

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

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

23 (d) To the maximum extent appropriate, the placement shall
24 provide the child with the opportunity to be educated with
25 children who do not have a disability; provided that children
26 with disabilities who are recommended to be placed into

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

24 (e) No child who comes from a home in which a language
25 other than English is the principal language used may be
26 assigned to any class or program under this Article until he

1 has been given, in the principal language used by the child and
2 used in his home, tests reasonably related to his cultural
3 environment. All testing and evaluation materials and
4 procedures utilized for evaluation and placement shall not be
5 linguistically, racially or culturally discriminatory.

6 (f) Nothing in this Article shall be construed to require
7 any child to undergo any physical examination or medical
8 treatment whose parents object thereto on the grounds that
9 such examination or treatment conflicts with his religious
10 beliefs.

11 (g) School boards or their designee shall provide to the
12 parents of a child or, if applicable, the Department of
13 Children and Family Services' Office of Education and
14 Transition Services prior written notice of any decision (a)
15 proposing to initiate or change, or (b) refusing to initiate
16 or change, the identification, evaluation, or educational
17 placement of the child or the provision of a free appropriate
18 public education to their child, and the reasons therefor. For
19 a parent, such written notification shall also inform the
20 parent of the opportunity to present complaints with respect
21 to any matter relating to the educational placement of the
22 student, or the provision of a free appropriate public
23 education and to have an impartial due process hearing on the
24 complaint. The notice shall inform the parents in the parents'
25 native language, unless it is clearly not feasible to do so, of
26 their rights and all procedures available pursuant to this Act

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

24 (g-5) For purposes of this subsection (g-5), "qualified
25 professional" means an individual who holds credentials to
26 evaluate the child in the domain or domains for which an

1 evaluation is sought or an intern working under the direct
2 supervision of a qualified professional, including a master's
3 or doctoral degree candidate.

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

1 protecting the confidentiality of education records such as
2 the federal Family Educational Rights and Privacy Act and the
3 Illinois School Student Records Act. The visitor shall not
4 disrupt the educational process.

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

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

1 duties. The school district may limit interviews to
2 personnel having information relevant to the child's
3 current educational services, program, or placement or to
4 a proposed educational service, program, or placement.

5 (Source: P.A. 101-124, eff. 1-1-20; 102-199, eff. 7-1-22;
6 102-264, eff. 8-6-21; 102-558, eff. 8-20-21; revised
7 10-14-21.)

8 (105 ILCS 5/14-8.02a)

9 Sec. 14-8.02a. Impartial due process hearing; civil
10 action.

11 (a) This Section shall apply to all impartial due process
12 hearings requested on or after July 1, 2005. Impartial due
13 process hearings requested before July 1, 2005 shall be
14 governed by the rules described in Public Act 89-652.

15 (a-5) For purposes of this Section and Section 14-8.02b of
16 this Code, days shall be computed in accordance with Section
17 1.11 of the Statute on Statutes.

18 (b) The State Board of Education shall establish an
19 impartial due process hearing system in accordance with this
20 Section and may, with the advice and approval of the Advisory
21 Council on Education of Children with Disabilities, promulgate
22 rules and regulations consistent with this Section to
23 establish the rules and procedures for due process hearings.

24 (c) (Blank).

25 (d) (Blank).

1 (e) (Blank).

2 (f) An impartial due process hearing shall be convened
3 upon the request of a parent, student if at least 18 years of
4 age or emancipated, or a school district. A school district
5 shall make a request in writing to the State Board of Education
6 and promptly mail a copy of the request to the parents or
7 student (if at least 18 years of age or emancipated) at the
8 parent's or student's last known address. A request made by
9 the parent or student shall be made in writing to the
10 superintendent of the school district where the student
11 resides. The superintendent shall forward the request to the
12 State Board of Education within 5 days after receipt of the
13 request. The request shall be filed no more than 2 years
14 following the date the person or school district knew or
15 should have known of the event or events forming the basis for
16 the request. The request shall, at a minimum, contain all of
17 the following:

18 (1) The name of the student, the address of the
19 student's residence, and the name of the school the
20 student is attending.

21 (2) In the case of homeless children (as defined under
22 the federal McKinney-Vento Homeless Assistance Act (42
23 U.S.C. 11434a(2))), available contact information for the
24 student and the name of the school the student is
25 attending.

26 (3) A description of the nature of the problem

1 relating to the actual or proposed placement,
2 identification, services, or evaluation of the student,
3 including facts relating to the problem.

4 (4) A proposed resolution of the problem to the extent
5 known and available to the party at the time.

6 (f-5) Within 3 days after receipt of the hearing request,
7 the State Board of Education shall appoint a due process
8 hearing officer using a rotating appointment system and shall
9 notify the hearing officer of his or her appointment.

10 For a school district other than a school district located
11 in a municipality having a population exceeding 500,000, a
12 hearing officer who is a current resident of the school
13 district, special education cooperative, or other public
14 entity involved in the hearing shall recuse himself or
15 herself. A hearing officer who is a former employee of the
16 school district, special education cooperative, or other
17 public entity involved in the hearing shall immediately
18 disclose the former employment to the parties and shall recuse
19 himself or herself, unless the parties otherwise agree in
20 writing. A hearing officer having a personal or professional
21 interest that may conflict with his or her objectivity in the
22 hearing shall disclose the conflict to the parties and shall
23 recuse himself or herself unless the parties otherwise agree
24 in writing. For purposes of this subsection an assigned
25 hearing officer shall be considered to have a conflict of
26 interest if, at any time prior to the issuance of his or her

1 written decision, he or she knows or should know that he or she
2 may receive remuneration from a party to the hearing within 3
3 years following the conclusion of the due process hearing.

4 A party to a due process hearing shall be permitted one
5 substitution of hearing officer as a matter of right, in
6 accordance with procedures established by the rules adopted by
7 the State Board of Education under this Section. The State
8 Board of Education shall randomly select and appoint another
9 hearing officer within 3 days after receiving notice that the
10 appointed hearing officer is ineligible to serve or upon
11 receiving a proper request for substitution of hearing
12 officer. If a party withdraws its request for a due process
13 hearing after a hearing officer has been appointed, that
14 hearing officer shall retain jurisdiction over a subsequent
15 hearing that involves the same parties and is requested within
16 one year from the date of withdrawal of the previous request,
17 unless that hearing officer is unavailable.

18 Any party may raise facts that constitute a conflict of
19 interest for the hearing officer at any time before or during
20 the hearing and may move for recusal.

21 (g) Impartial due process hearings shall be conducted
22 pursuant to this Section and any rules and regulations
23 promulgated by the State Board of Education consistent with
24 this Section and other governing laws and regulations. The
25 hearing shall address only those issues properly raised in the
26 hearing request under subsection (f) of this Section or, if

1 applicable, in the amended hearing request under subsection
2 (g-15) of this Section. The hearing shall be closed to the
3 public unless the parents request that the hearing be open to
4 the public. The parents involved in the hearing shall have the
5 right to have the student who is the subject of the hearing
6 present. The hearing shall be held at a time and place which
7 are reasonably convenient to the parties involved. Upon the
8 request of a party, the hearing officer shall hold the hearing
9 at a location neutral to the parties if the hearing officer
10 determines that there is no cost for securing the use of the
11 neutral location. Once appointed, the impartial due process
12 hearing officer shall not communicate with the State Board of
13 Education or its employees concerning the hearing, except
14 that, where circumstances require, communications for
15 administrative purposes that do not deal with substantive or
16 procedural matters or issues on the merits are authorized,
17 provided that the hearing officer promptly notifies all
18 parties of the substance of the communication as a matter of
19 record.

20 (g-5) Unless the school district has previously provided
21 prior written notice to the parent or student (if at least 18
22 years of age or emancipated) regarding the subject matter of
23 the hearing request, the school district shall, within 10 days
24 after receiving a hearing request initiated by a parent or
25 student (if at least 18 years of age or emancipated), provide a
26 written response to the request that shall include all of the

1 following:

2 (1) An explanation of why the school district proposed
3 or refused to take the action or actions described in the
4 hearing request.

5 (2) A description of other options the IEP team
6 considered and the reasons why those options were
7 rejected.

8 (3) A description of each evaluation procedure,
9 assessment, record, report, or other evidence the school
10 district used as the basis for the proposed or refused
11 action or actions.

12 (4) A description of the factors that are or were
13 relevant to the school district's proposed or refused
14 action or actions.

15 (g-10) When the hearing request has been initiated by a
16 school district, within 10 days after receiving the request,
17 the parent or student (if at least 18 years of age or
18 emancipated) shall provide the school district with a response
19 that specifically addresses the issues raised in the school
20 district's hearing request. The parent's or student's response
21 shall be provided in writing, unless he or she is illiterate or
22 has a disability that prevents him or her from providing a
23 written response. The parent's or student's response may be
24 provided in his or her native language, if other than English.
25 In the event that illiteracy or another disabling condition
26 prevents the parent or student from providing a written

1 response, the school district shall assist the parent or
2 student in providing the written response.

3 (g-15) Within 15 days after receiving notice of the
4 hearing request, the non-requesting party may challenge the
5 sufficiency of the request by submitting its challenge in
6 writing to the hearing officer. Within 5 days after receiving
7 the challenge to the sufficiency of the request, the hearing
8 officer shall issue a determination of the challenge in
9 writing to the parties. In the event that the hearing officer
10 upholds the challenge, the party who requested the hearing
11 may, with the consent of the non-requesting party or hearing
12 officer, file an amended request. Amendments are permissible
13 for the purpose of raising issues beyond those in the initial
14 hearing request. In addition, the party who requested the
15 hearing may amend the request once as a matter of right by
16 filing the amended request within 5 days after filing the
17 initial request. An amended request, other than an amended
18 request as a matter of right, shall be filed by the date
19 determined by the hearing officer, but in no event any later
20 than 5 days prior to the date of the hearing. If an amended
21 request, other than an amended request as a matter of right,
22 raises issues that were not part of the initial request, the
23 applicable timeline for a hearing, including the timeline
24 under subsection (g-20) of this Section, shall recommence.

25 (g-20) Within 15 days after receiving a request for a
26 hearing from a parent or student (if at least 18 years of age

1 or emancipated) or, in the event that the school district
2 requests a hearing, within 15 days after initiating the
3 request, the school district shall convene a resolution
4 meeting with the parent and relevant members of the IEP team
5 who have specific knowledge of the facts contained in the
6 request for the purpose of resolving the problem that resulted
7 in the request. The resolution meeting shall include a
8 representative of the school district who has decision-making
9 authority on behalf of the school district. Unless the parent
10 is accompanied by an attorney at the resolution meeting, the
11 school district may not include an attorney representing the
12 school district.

13 The resolution meeting may not be waived unless agreed to
14 in writing by the school district and the parent or student (if
15 at least 18 years of age or emancipated) or the parent or
16 student (if at least 18 years of age or emancipated) and the
17 school district agree in writing to utilize mediation in place
18 of the resolution meeting. If either party fails to cooperate
19 in the scheduling or convening of the resolution meeting, the
20 hearing officer may order an extension of the timeline for
21 completion of the resolution meeting or, upon the motion of a
22 party and at least 7 days after ordering the non-cooperating
23 party to cooperate, order the dismissal of the hearing request
24 or the granting of all relief set forth in the request, as
25 appropriate.

26 In the event that the school district and the parent or

1 student (if at least 18 years of age or emancipated) agree to a
2 resolution of the problem that resulted in the hearing
3 request, the terms of the resolution shall be committed to
4 writing and signed by the parent or student (if at least 18
5 years of age or emancipated) and the representative of the
6 school district with decision-making authority. The agreement
7 shall be legally binding and shall be enforceable in any State
8 or federal court of competent jurisdiction. In the event that
9 the parties utilize the resolution meeting process, the
10 process shall continue until no later than the 30th day
11 following the receipt of the hearing request by the
12 non-requesting party (or as properly extended by order of the
13 hearing officer) to resolve the issues underlying the request,
14 at which time the timeline for completion of the impartial due
15 process hearing shall commence. The State Board of Education
16 may, by rule, establish additional procedures for the conduct
17 of resolution meetings.

18 (g-25) If mutually agreed to in writing, the parties to a
19 hearing request may request State-sponsored mediation as a
20 substitute for the resolution process described in subsection
21 (g-20) of this Section or may utilize mediation at the close of
22 the resolution process if all issues underlying the hearing
23 request have not been resolved through the resolution process.

24 (g-30) If mutually agreed to in writing, the parties to a
25 hearing request may waive the resolution process described in
26 subsection (g-20) of this Section. Upon signing a written

1 agreement to waive the resolution process, the parties shall
2 be required to forward the written waiver to the hearing
3 officer appointed to the case within 2 business days following
4 the signing of the waiver by the parties. The timeline for the
5 impartial due process hearing shall commence on the date of
6 the signing of the waiver by the parties.

7 (g-35) The timeline for completing the impartial due
8 process hearing, as set forth in subsection (h) of this
9 Section, shall be initiated upon the occurrence of any one of
10 the following events:

11 (1) The unsuccessful completion of the resolution
12 process as described in subsection (g-20) of this Section.

13 (2) The mutual agreement of the parties to waive the
14 resolution process as described in subsection (g-25) or
15 (g-30) of this Section.

16 (g-40) The hearing officer shall convene a prehearing
17 conference no later than 14 days before the scheduled date for
18 the due process hearing for the general purpose of aiding in
19 the fair, orderly, and expeditious conduct of the hearing. The
20 hearing officer shall provide the parties with written notice
21 of the prehearing conference at least 7 days in advance of the
22 conference. The written notice shall require the parties to
23 notify the hearing officer by a date certain whether they
24 intend to participate in the prehearing conference. The
25 hearing officer may conduct the prehearing conference in
26 person or by telephone. Each party shall at the prehearing

1 conference (1) disclose whether it is represented by legal
2 counsel or intends to retain legal counsel; (2) clarify
3 matters it believes to be in dispute in the case and the
4 specific relief being sought; (3) disclose whether there are
5 any additional evaluations for the student that it intends to
6 introduce into the hearing record that have not been
7 previously disclosed to the other parties; (4) disclose a list
8 of all documents it intends to introduce into the hearing
9 record, including the date and a brief description of each
10 document; and (5) disclose the names of all witnesses it
11 intends to call to testify at the hearing. The hearing officer
12 shall specify the order of presentation to be used at the
13 hearing. If the prehearing conference is held by telephone,
14 the parties shall transmit the information required in this
15 paragraph in such a manner that it is available to all parties
16 at the time of the prehearing conference. The State Board of
17 Education may, by rule, establish additional procedures for
18 the conduct of prehearing conferences.

19 (g-45) The impartial due process hearing officer shall not
20 initiate or participate in any ex parte communications with
21 the parties, except to arrange the date, time, and location of
22 the prehearing conference, due process hearing, or other
23 status conferences convened at the discretion of the hearing
24 officer and to receive confirmation of whether a party intends
25 to participate in the prehearing conference.

26 (g-50) The parties shall disclose and provide to each

1 other any evidence which they intend to submit into the
2 hearing record no later than 5 days before the hearing. Any
3 party to a hearing has the right to prohibit the introduction
4 of any evidence at the hearing that has not been disclosed to
5 that party at least 5 days before the hearing. The party
6 requesting a hearing shall not be permitted at the hearing to
7 raise issues that were not raised in the party's initial or
8 amended request, unless otherwise permitted in this Section.

9 (g-55) All reasonable efforts must be made by the parties
10 to present their respective cases at the hearing within a
11 cumulative period of 7 days. When scheduling hearing dates,
12 the hearing officer shall schedule the final day of the
13 hearing no more than 30 calendar days after the first day of
14 the hearing unless good cause is shown. This subsection (g-55)
15 shall not be applied in a manner that (i) denies any party to
16 the hearing a fair and reasonable allocation of time and
17 opportunity to present its case in its entirety or (ii)
18 deprives any party to the hearing of the safeguards accorded
19 under the federal Individuals with Disabilities Education
20 Improvement Act of 2004 (Public Law 108-446), regulations
21 promulgated under the Individuals with Disabilities Education
22 Improvement Act of 2004, or any other applicable law. The
23 school district shall present evidence that the special
24 education needs of the child have been appropriately
25 identified and that the special education program and related
26 services proposed to meet the needs of the child are adequate,

1 appropriate, and available. Any party to the hearing shall
2 have the right to (1) be represented by counsel and be
3 accompanied and advised by individuals with special knowledge
4 or training with respect to the problems of children with
5 disabilities, at the party's own expense; (2) present evidence
6 and confront and cross-examine witnesses; (3) move for the
7 exclusion of witnesses from the hearing until they are called
8 to testify, provided, however, that this provision may not be
9 invoked to exclude the individual designated by a party to
10 assist that party or its representative in the presentation of
11 the case; (4) obtain a written or electronic verbatim record
12 of the proceedings within 30 days of receipt of a written
13 request from the parents by the school district; and (5)
14 obtain a written decision, including findings of fact and
15 conclusions of law, within 10 calendar days, excluding
16 Saturday, Sunday, and any State holiday, after the conclusion
17 of the hearing. If at issue, the school district shall present
18 evidence that it has properly identified and evaluated the
19 nature and severity of the student's suspected or identified
20 disability and that, if the student has been or should have
21 been determined eligible for special education and related
22 services, that it is providing or has offered a free
23 appropriate public education to the student in the least
24 restrictive environment, consistent with procedural safeguards
25 and in accordance with an individualized educational program.
26 At any time prior to the conclusion of the hearing, the

1 impartial due process hearing officer shall have the authority
2 to require additional information and order independent
3 evaluations for the student at the expense of the school
4 district. The State Board of Education and the school district
5 shall share equally the costs of providing a written or
6 electronic verbatim record of the proceedings. Any party may
7 request that the due process hearing officer issue a subpoena
8 to compel the testimony of witnesses or the production of
9 documents relevant to the resolution of the hearing. Whenever
10 a person refuses to comply with any subpoena issued under this
11 Section, the circuit court of the county in which that hearing
12 is pending, on application of the impartial hearing officer or
13 the party requesting the issuance of the subpoena, may compel
14 compliance through the contempt powers of the court in the
15 same manner as if the requirements of a subpoena issued by the
16 court had been disobeyed.

17 (h) The impartial hearing officer shall issue a written
18 decision, including findings of fact and conclusions of law,
19 within 10 calendar days, excluding Saturday, Sunday, and any
20 State holiday, after the conclusion of the hearing and send by
21 certified mail a copy of the decision to the parents or student
22 (if the student requests the hearing), the school district,
23 the director of special education, legal representatives of
24 the parties, and the State Board of Education. Unless the
25 hearing officer has granted specific extensions of time at the
26 request of a party, a final decision, including the

1 clarification of a decision requested under this subsection,
2 shall be reached and mailed to the parties named above not
3 later than 45 days after the initiation of the timeline for
4 conducting the hearing, as described in subsection (g-35) of
5 this Section. The decision shall specify the educational and
6 related services that shall be provided to the student in
7 accordance with the student's needs and the timeline for which
8 the school district shall submit evidence to the State Board
9 of Education to demonstrate compliance with the hearing
10 officer's decision in the event that the decision orders the
11 school district to undertake corrective action. The hearing
12 officer shall retain jurisdiction for the sole purpose of
13 considering a request for clarification of the final decision
14 submitted in writing by a party to the impartial hearing
15 officer within 5 days after receipt of the decision. A copy of
16 the request for clarification shall specify the portions of
17 the decision for which clarification is sought and shall be
18 mailed to all parties of record and to the State Board of
19 Education. The request shall operate to stay implementation of
20 those portions of the decision for which clarification is
21 sought, pending action on the request by the hearing officer,
22 unless the parties otherwise agree. The hearing officer shall
23 issue a clarification of the specified portion of the decision
24 or issue a partial or full denial of the request in writing
25 within 10 days of receipt of the request and mail copies to all
26 parties to whom the decision was mailed. This subsection does

1 not permit a party to request, or authorize a hearing officer
2 to entertain, reconsideration of the decision itself. The
3 statute of limitations for seeking review of the decision
4 shall be tolled from the date the request is submitted until
5 the date the hearing officer acts upon the request. The
6 hearing officer's decision shall be binding upon the school
7 district and the parents unless a civil action is commenced.

8 (i) Any party to an impartial due process hearing
9 aggrieved by the final written decision of the impartial due
10 process hearing officer shall have the right to commence a
11 civil action with respect to the issues presented in the
12 impartial due process hearing. That civil action shall be
13 brought in any court of competent jurisdiction within 120 days
14 after a copy of the decision of the impartial due process
15 hearing officer is mailed to the party as provided in
16 subsection (h). The civil action authorized by this subsection
17 shall not be exclusive of any rights or causes of action
18 otherwise available. The commencement of a civil action under
19 this subsection shall operate as a supersedeas. In any action
20 brought under this subsection the Court shall receive the
21 records of the impartial due process hearing, shall hear
22 additional evidence at the request of a party, and, basing its
23 decision on the preponderance of the evidence, shall grant
24 such relief as the court determines is appropriate. In any
25 instance where a school district willfully disregards
26 applicable regulations or statutes regarding a child covered

1 by this Article, and which disregard has been detrimental to
2 the child, the school district shall be liable for any
3 reasonable attorney's fees incurred by the parent in
4 connection with proceedings under this Section.

5 (j) During the pendency of any administrative or judicial
6 proceeding conducted pursuant to this Section, including
7 mediation (if the school district or other public entity
8 voluntarily agrees to participate in mediation), unless the
9 school district and the parents or student (if at least 18
10 years of age or emancipated) otherwise agree, the student
11 shall remain in his or her present educational placement and
12 continue in his or her present eligibility status and special
13 education and related services, if any. If mediation fails to
14 resolve the dispute between the parties, or if the parties do
15 not agree to use mediation, the parent (or student if 18 years
16 of age or older or emancipated) shall have 10 days after the
17 mediation concludes, or after a party declines to use
18 mediation, to file a request for a due process hearing in order
19 to continue to invoke the "stay-put" provisions of this
20 subsection (j). If applying for initial admission to the
21 school district, the student shall, with the consent of the
22 parents (if the student is not at least 18 years of age or
23 emancipated), be placed in the school district program until
24 all such proceedings have been completed. The costs for any
25 special education and related services or placement incurred
26 following 60 school days after the initial request for

1 evaluation shall be borne by the school district if the
2 services or placement is in accordance with the final
3 determination as to the special education and related services
4 or placement that must be provided to the child, provided that
5 during that 60-day period there have been no delays caused by
6 the child's parent. The requirements and procedures of this
7 subsection (j) shall be included in the uniform notices
8 developed by the State Superintendent under subsection (g) of
9 Section 14-8.02 of this Code.

10 (k) Whenever the parents of a child of the type described
11 in Section 14-1.02 are not known or are unavailable or the
12 child is a youth in care as defined in Section 4d of the
13 Children and Family Services Act, a person shall be assigned
14 to serve as surrogate parent for the child in matters relating
15 to the identification, evaluation, and educational placement
16 of the child and the provision of a free appropriate public
17 education to the child. Persons shall be assigned as surrogate
18 parents by the State Superintendent of Education. The State
19 Board of Education shall promulgate rules and regulations
20 establishing qualifications of those persons and their
21 responsibilities and the procedures to be followed in making
22 assignments of persons as surrogate parents. Surrogate parents
23 shall not be employees of the school district, an agency
24 created by joint agreement under Section 10-22.31, an agency
25 involved in the education or care of the student, or the State
26 Board of Education. Services of any person assigned as

1 surrogate parent shall terminate if the parent becomes
2 available unless otherwise requested by the parents. The
3 assignment of a person as surrogate parent at no time
4 supersedes, terminates, or suspends the parents' legal
5 authority relative to the child. Any person participating in
6 good faith as surrogate parent on behalf of the child before
7 school officials or a hearing officer shall have immunity from
8 civil or criminal liability that otherwise might result by
9 reason of that participation, except in cases of willful and
10 wanton misconduct.

11 (l) At all stages of the hearing or mediation, the hearing
12 officer or mediator shall require that interpreters licensed
13 pursuant to the Interpreter for the Deaf Licensure Act of 2007
14 be made available by the school district for persons who are
15 deaf or qualified interpreters be made available by the school
16 district for persons whose normally spoken language is other
17 than English.

18 (m) If any provision of this Section or its application to
19 any person or circumstance is held invalid, the invalidity of
20 that provision or application does not affect other provisions
21 or applications of the Section that can be given effect
22 without the invalid application or provision, and to this end
23 the provisions of this Section are severable, unless otherwise
24 provided by this Section.

25 (Source: P.A. 100-122, eff. 8-18-17; 100-159, eff. 8-18-17;
26 100-849, eff. 8-14-18; 100-863, eff. 8-14-18.)

1 Section 95. No acceleration or delay. Where this Act makes
2 changes in a statute that is represented in this Act by text
3 that is not yet or no longer in effect (for example, a Section
4 represented by multiple versions), the use of that text does
5 not accelerate or delay the taking effect of (i) the changes
6 made by this Act or (ii) provisions derived from any other
7 Public Act.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.