



Rep. Harry Osterman

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1 AMENDMENT TO HOUSE BILL 628

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 628, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The School Code is amended by changing Section  
6 14-8.02 as follows:

7 (105 ILCS 5/14-8.02) (from Ch. 122, par. 14-8.02)

8 Sec. 14-8.02. Identification, Evaluation and Placement of  
9 Children.

10 (a) The State Board of Education shall make rules under  
11 which local school boards shall determine the eligibility of  
12 children to receive special education. Such rules shall ensure  
13 that a free appropriate public education be available to all  
14 children with disabilities as defined in Section 14-1.02. The  
15 State Board of Education shall require local school districts  
16 to administer non-discriminatory procedures or tests to

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

22 (b) No child shall be eligible for special education  
23 facilities except with a carefully completed case study fully  
24 reviewed by professional personnel in a multidisciplinary  
25 staff conference and only upon the recommendation of qualified  
26 specialists or a qualified bilingual specialist, if available.

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

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

1 initiate an impartial due process hearing under this Section.  
2 The school district may evaluate the child if that is the  
3 decision resulting from the impartial due process hearing and  
4 the decision is not appealed or if the decision is affirmed on  
5 appeal. The determination of eligibility shall be made and the  
6 IEP meeting shall be completed within 60 school days from the  
7 date of written parental consent. In those instances when  
8 written parental consent is obtained with fewer than 60 pupil  
9 attendance days left in the school year, the eligibility  
10 determination shall be made and the IEP meeting shall be  
11 completed prior to the first day of the following school year.  
12 After a child has been determined to be eligible for a special  
13 education class, such child must be placed in the appropriate  
14 program pursuant to the individualized educational program by  
15 or no later than the beginning of the next school semester. The  
16 appropriate program pursuant to the individualized educational  
17 program of students whose native tongue is a language other  
18 than English shall reflect the special education, cultural and  
19 linguistic needs. No later than September 1, 1993, the State  
20 Board of Education shall establish standards for the  
21 development, implementation and monitoring of appropriate  
22 bilingual special individualized educational programs. The  
23 State Board of Education shall further incorporate appropriate  
24 monitoring procedures to verify implementation of these  
25 standards. The district shall indicate to the parent and the  
26 State Board of Education the nature of the services the child

1 will receive for the regular school term while waiting  
2 placement in the appropriate special education class.

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

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

22 (1) The verbal and nonverbal communication needs of the  
23 child.

24 (2) The need to develop social interaction skills and  
25 proficiencies.

26 (3) The needs resulting from the child's unusual

1 responses to sensory experiences.

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

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

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

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

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

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

1 educational services under this Article. The plans developed  
2 under this paragraph shall include specific actions to be taken  
3 by specified individuals, agencies, or officials.

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



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

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

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

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

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

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

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

23 (g-5) To ensure that a parent can participate fully and  
24 effectively with school personnel in the development of  
25 appropriate educational and related services for his or her  
26 child, the parent, an independent educational evaluator, or an

1 expert retained by or on behalf of a parent or child must be  
2 afforded access of sufficient duration and extent to  
3 educational personnel, facilities, classrooms, and buildings  
4 and to the child in order to conduct an evaluation of the  
5 child, the child's performance, the child's current  
6 educational program, placement, or environment, or any  
7 proposed educational program, placement, or environment,  
8 including interviews, observations, assessments, tests, or  
9 assessments of the child's educational program or placement or  
10 any proposed educational program or placement. Interviews of  
11 educational personnel may be limited to personnel having  
12 information relevant to the child's current educational  
13 services, program, or placement or to a proposed educational  
14 service, program, or placement. For purposes of this subsection  
15 (q-5), "expert" includes a therapist, doctorate level educator  
16 or specialist, academician, physician, diagnostician,  
17 educational consultant, certified, licensed, or otherwise  
18 credentialed professional, or student or intern in an  
19 accredited program working under the direct supervision of a  
20 therapist, doctorate level educator or specialist,  
21 academician, physician, diagnostician, educational consultant,  
22 or certified, licensed, or otherwise credentialed  
23 professional. Prior to visiting a school, a school building, or  
24 a school facility, the parent, independent educational  
25 evaluator, or expert may be required to inform the building  
26 principal or supervisor in writing of the proposed visit, the

1 purposes of the visit, and the approximate duration of the  
2 visit and arrange a visit at a mutually agreeable time.  
3 Visitors shall comply with school safety and security policies  
4 and protect students' right of privacy and may not disrupt the  
5 educational process.

6 (h) (Blank).

7 (i) (Blank).

8 (j) (Blank).

9 (k) (Blank).

10 (l) (Blank).

11 (m) (Blank).

12 (n) (Blank).

13 (o) (Blank).

14 (Source: P.A. 94-376, eff. 7-29-05; 94-1100, eff. 2-2-07;  
15 95-257, eff. 1-1-08; 95-876, eff. 8-21-08.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.".