

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 14-1.08 and 14-7.02 and by adding Section 14-1.08a as follows:

6 (105 ILCS 5/14-1.08) (from Ch. 122, par. 14-1.08)

7 Sec. 14-1.08. Special educational facilities and services.

8 "Special educational facilities and services" includes private
9 special schools, separate public special education day
10 schools, special classes, special housing, including
11 residential facilities, special instruction, special reader
12 service, braillists and typists for children with visual
13 disabilities, sign language interpreters, transportation,
14 maintenance, instructional material, therapy, professional
15 consultant services, medical services only for diagnostic and
16 evaluation purposes provided by a physician licensed to
17 practice medicine in all its branches to determine a child's
18 need for special education and related services, psychological
19 services, school social worker services, special
20 administrative services, salaries of all required special
21 personnel, and other special educational services, including
22 special equipment for use in the classroom, required by the
23 child because of his disability if such services or special

1 equipment are approved by the State Superintendent of
2 Education and the child is eligible therefor under this
3 Article and the regulations of the State Board of Education.

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

5 (105 ILCS 5/14-1.08a new)

6 Sec. 14-1.08a. Separate public special education day
7 school. "Separate public special education day school" means a
8 separate special education program or facility that is
9 established by a school district, public school, regional
10 office of education, or special education cooperative
11 exclusively to meet the needs of special education students
12 who cannot be educated in the general school environment and
13 that provides services comparable to a private special
14 education school.

15 (105 ILCS 5/14-7.02) (from Ch. 122, par. 14-7.02)

16 Sec. 14-7.02. Children attending private special education
17 schools, separate public special education day schools, public
18 out-of-state schools, public school residential facilities, or
19 private special education facilities.

20 (a) The General Assembly recognizes that non-public
21 schools or special education facilities provide an important
22 service in the educational system in Illinois.

23 (b) If a student's individualized education program (IEP)
24 team determines that because of his or her disability the

1 special education program of a district is unable to meet the
2 needs of the child and the child attends a non-public school or
3 special education facility, a public out-of-state school or a
4 special education facility owned and operated by a county
5 government unit that provides special educational services
6 required by the child and is in compliance with the
7 appropriate rules and regulations of the State Superintendent
8 of Education, the school district in which the child is a
9 resident shall pay the actual cost of tuition for special
10 education and related services provided during the regular
11 school term and during the summer school term if the child's
12 educational needs so require, excluding room, board and
13 transportation costs charged the child by that non-public
14 school or special education facility, public out-of-state
15 school or county special education facility, or \$4,500 per
16 year, whichever is less, and shall provide him any necessary
17 transportation. "Nonpublic special education facility" shall
18 include a residential facility, within or without the State of
19 Illinois, which provides special education and related
20 services to meet the needs of the child by utilizing private
21 schools or public schools, whether located on the site or off
22 the site of the residential facility. Resident district
23 financial responsibility and reimbursement applies for both
24 nonpublic special education facilities that are approved by
25 the State Board of Education pursuant to 23 Ill. Adm. Code 401
26 or other applicable laws or rules and for emergency

1 residential placements in nonpublic special education
2 facilities that are not approved by the State Board of
3 Education pursuant to 23 Ill. Adm. Code 401 or other
4 applicable laws or rules, subject to the requirements of this
5 Section.

6 (c) Prior to the placement of a child in an out-of-state
7 special education residential facility, the school district
8 must refer to the child or the child's parent or guardian the
9 option to place the child in a special education residential
10 facility located within this State, if any, that provides
11 treatment and services comparable to those provided by the
12 out-of-state special education residential facility. The
13 school district must review annually the placement of a child
14 in an out-of-state special education residential facility. As
15 a part of the review, the school district must refer to the
16 child or the child's parent or guardian the option to place the
17 child in a comparable special education residential facility
18 located within this State, if any.

19 (c-5) Before a provider that operates a nonpublic special
20 education facility terminates a student's placement in that
21 facility, the provider must request an IEP meeting from the
22 contracting school district. If the provider elects to
23 terminate the student's placement following the IEP meeting,
24 the provider must give written notice to this effect to the
25 parent or guardian, the contracting public school district,
26 and the State Board of Education no later than 20 business days

1 before the date of termination, unless the health and safety
2 of any student are endangered. The notice must include the
3 detailed reasons for the termination and any actions taken to
4 address the reason for the termination.

5 (d) Payments shall be made by the resident school district
6 to the entity providing the educational services, whether the
7 entity is the nonpublic special education facility or the
8 school district wherein the facility is located, no less than
9 once per quarter, unless otherwise agreed to in writing by the
10 parties.

11 (e) A school district may residentially place a student in
12 a nonpublic special education facility providing educational
13 services, but not approved by the State Board of Education
14 pursuant to 23 Ill. Adm. Code 401 or other applicable laws or
15 rules, provided that the State Board of Education provides an
16 emergency and student-specific approval for residential
17 placement. The State Board of Education shall promptly, within
18 10 days after the request, approve a request for emergency and
19 student-specific approval for residential placement if the
20 following have been demonstrated to the State Board of
21 Education:

22 (1) the facility demonstrates appropriate licensure of
23 teachers for the student population;

24 (2) the facility demonstrates age-appropriate
25 curriculum;

26 (3) the facility provides enrollment and attendance

1 data;

2 (4) the facility demonstrates the ability to implement
3 the child's IEP; and

4 (5) the school district demonstrates that it made good
5 faith efforts to residentially place the student in an
6 approved facility, but no approved facility has accepted
7 the student or has availability for immediate residential
8 placement of the student.

9 A resident school district may also submit such proof to the
10 State Board of Education as may be required for its student.
11 The State Board of Education may not unreasonably withhold
12 approval once satisfactory proof is provided to the State
13 Board.

14 (f) If an impartial due process hearing officer who is
15 contracted by the State Board of Education pursuant to this
16 Article orders placement of a student with a disability in a
17 residential facility that is not approved by the State Board
18 of Education, then, for purposes of this Section, the facility
19 shall be deemed approved for placement and school district
20 payments and State reimbursements shall be made accordingly.

21 (g) Emergency residential placement in a facility approved
22 pursuant to subsection (e) or (f) may continue to be utilized
23 so long as (i) the student's IEP team determines annually that
24 such placement continues to be appropriate to meet the
25 student's needs and (ii) at least every 3 years following the
26 student's residential placement, the IEP team reviews

1 appropriate placements approved by the State Board of
2 Education pursuant to 23 Ill. Adm. Code 401 or other
3 applicable laws or rules to determine whether there are any
4 approved placements that can meet the student's needs, have
5 accepted the student, and have availability for placement of
6 the student.

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

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

24 (i) A school district making tuition payments pursuant to
25 this Section is eligible for reimbursement from the State for
26 the amount of such payments actually made in excess of the

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

22 (j) No child shall be placed in a special education
23 program pursuant to this Section if the tuition cost for
24 special education and related services increases more than 10
25 percent over the tuition cost for the previous school year or
26 exceeds \$4,500 per year unless such costs have been approved

1 by the Illinois Purchased Care Review Board. The Illinois
2 Purchased Care Review Board shall consist of the following
3 persons, or their designees: the Directors of Children and
4 Family Services, Public Health, Public Aid, and the Governor's
5 Office of Management and Budget; the Secretary of Human
6 Services; the State Superintendent of Education; and such
7 other persons as the Governor may designate. The Review Board
8 shall also consist of one non-voting member who is an
9 administrator of a private, nonpublic, special education
10 school, one non-voting member who is an administrator of a
11 separate public special education day school, and one
12 non-voting member from a State agency that administers and
13 provides early childhood education and care programs and
14 services to children and families. The Review Board shall
15 establish rules and regulations for its determination of
16 allowable costs and payments made by local school districts
17 for special education, room and board, and other related
18 services provided by non-public schools, separate public
19 special education day schools, or special education facilities
20 and shall establish uniform standards and criteria which it
21 shall follow. The Review Board shall approve the usual and
22 customary rate or rates of a special education program that
23 (i) is offered by an out-of-state, non-public provider of
24 integrated autism specific educational and autism specific
25 residential services, (ii) offers 2 or more levels of
26 residential care, including at least one locked facility, and

1 (iii) serves 12 or fewer Illinois students.

2 (k) In determining rates based on allowable costs, the
3 Review Board shall consider any wage increases awarded by the
4 General Assembly to front line personnel defined as direct
5 support persons, aides, front-line supervisors, qualified
6 intellectual disabilities professionals, nurses, and
7 non-administrative support staff working in service settings
8 in community-based settings within the State and adjust
9 customary rates or rates of a special education program to be
10 equitable to the wage increase awarded to similar staff
11 positions in a community residential setting. Any wage
12 increase awarded by the General Assembly to front line
13 personnel defined as direct support persons, aides, front-line
14 supervisors, qualified intellectual disabilities
15 professionals, nurses, and non-administrative support staff
16 working in community-based settings within the State,
17 including the \$0.75 per hour increase contained in Public Act
18 100-23 and the \$0.50 per hour increase included in Public Act
19 100-23, shall also be a basis for any facility covered by this
20 Section to appeal its rate before the Review Board under the
21 process defined in Title 89, Part 900, Section 340 of the
22 Illinois Administrative Code. Illinois Administrative Code
23 Title 89, Part 900, Section 342 shall be updated to recognize
24 wage increases awarded to community-based settings to be a
25 basis for appeal. However, any wage increase that is captured
26 upon appeal from a previous year shall not be counted by the

1 Review Board as revenue for the purpose of calculating a
2 facility's future rate.

3 (l) Any definition used by the Review Board in
4 administrative rule or policy to define "related
5 organizations" shall include any and all exceptions contained
6 in federal law or regulation as it pertains to the federal
7 definition of "related organizations".

8 (m) The Review Board shall establish uniform definitions
9 and criteria for accounting separately by special education,
10 room and board and other related services costs. The Board
11 shall also establish guidelines for the coordination of
12 services and financial assistance provided by all State
13 agencies to assure that no otherwise qualified child with a
14 disability receiving services under Article 14 shall be
15 excluded from participation in, be denied the benefits of or
16 be subjected to discrimination under any program or activity
17 provided by any State agency.

18 (n) The Review Board shall review the costs for special
19 education and related services provided by non-public schools,
20 separate public special education day schools, or special
21 education facilities and shall approve or disapprove such
22 facilities in accordance with the rules and regulations
23 established by it with respect to allowable costs.

24 (o) The State Board of Education shall provide
25 administrative and staff support for the Review Board as
26 deemed reasonable by the State Superintendent of Education.

1 This support shall not include travel expenses or other
2 compensation for any Review Board member other than the State
3 Superintendent of Education.

4 (p) The Review Board shall seek the advice of the Advisory
5 Council on Education of Children with Disabilities on the
6 rules and regulations to be promulgated by it relative to
7 providing special education services.

8 (q) If a child has been placed in a program in which the
9 actual per pupil costs of tuition for special education and
10 related services based on program enrollment, excluding room,
11 board and transportation costs, exceed \$4,500 and such costs
12 have been approved by the Review Board, the district shall pay
13 such total costs which exceed \$4,500. A district making such
14 tuition payments in excess of \$4,500 pursuant to this Section
15 shall be responsible for an amount in excess of \$4,500 equal to
16 the district per capita tuition charge and shall be eligible
17 for reimbursement from the State for the amount of such
18 payments actually made in excess of the district's ~~districts~~
19 per capita tuition charge for students not receiving special
20 education services. If a child has been placed in a private
21 special education school, separate public special education
22 day school, or private special education facility, a district
23 making tuition payments in excess of \$4,500 pursuant to this
24 Section shall be responsible for an amount in excess of \$4,500
25 equal to 2 times the district's per capita tuition charge and
26 shall be eligible for reimbursement from the State for the

1 amount of such payments actually made in excess of 2 times the
2 district's per capita tuition charge for students not
3 receiving special education services.

4 (r) If a child has been placed in an approved individual
5 program and the tuition costs including room and board costs
6 have been approved by the Review Board, then such room and
7 board costs shall be paid by the appropriate State agency
8 subject to the provisions of Section 14-8.01 of this Act. Room
9 and board costs not provided by a State agency other than the
10 State Board of Education shall be provided by the State Board
11 of Education on a current basis. In no event, however, shall
12 the State's liability for funding of these tuition costs begin
13 until after the legal obligations of third party payors have
14 been subtracted from such costs. If the money appropriated by
15 the General Assembly for such purpose for any year is
16 insufficient, it shall be apportioned on the basis of the
17 claims approved. Each district shall submit estimated claims
18 to the State Superintendent of Education. Upon approval of
19 such claims, the State Superintendent of Education shall
20 direct the State Comptroller to make payments on a monthly
21 basis. The frequency for submitting estimated claims and the
22 method of determining payment shall be prescribed in rules and
23 regulations adopted by the State Board of Education. Such
24 current state reimbursement shall be reduced by an amount
25 equal to the proceeds which the child or child's parents are
26 eligible to receive under any public or private insurance or

1 assistance program. Nothing in this Section shall be construed
2 as relieving an insurer or similar third party from an
3 otherwise valid obligation to provide or to pay for services
4 provided to a child with a disability.

5 (s) If it otherwise qualifies, a school district is
6 eligible for the transportation reimbursement under Section
7 14-13.01 and for the reimbursement of tuition payments under
8 this Section whether the non-public school or special
9 education facility, public out-of-state school or county
10 special education facility, attended by a child who resides in
11 that district and requires special educational services, is
12 within or outside of the State of Illinois. However, a
13 district is not eligible to claim transportation reimbursement
14 under this Section unless the district certifies to the State
15 Superintendent of Education that the district is unable to
16 provide special educational services required by the child for
17 the current school year.

18 (t) Nothing in this Section authorizes the reimbursement
19 of a school district for the amount paid for tuition of a child
20 attending a non-public school or special education facility, a
21 public special education facility, a public out-of-state
22 school, or a county special education facility unless the
23 school district certifies to the State Superintendent of
24 Education that the special education program of that district
25 is unable to meet the needs of that child because of the
26 child's ~~his~~ disability and the State Superintendent of

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

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

19 (v) Reimbursement for children attending public school
20 residential facilities shall be made in accordance with the
21 provisions of this Section.

22 (w) Notwithstanding any other provision of law, any school
23 district receiving a payment under this Section or under
24 Section 14-7.02b, 14-13.01, or 29-5 of this Code may classify
25 all or a portion of the funds that it receives in a particular
26 fiscal year or from general State aid pursuant to Section

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

1 reporting requirements, or requirements of providing services.

2 (x) The State Board of Education may adopt such rules as
3 may be necessary to implement this Section.

4 (Source: P.A. 102-254, eff. 8-6-21; 102-703, eff. 4-22-22;
5 103-175, eff. 6-30-23; 103-546, eff. 8-11-23; revised
6 8-30-23.)

7 Section 99. Effective date. This Act takes effect July 1,
8 2024.