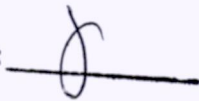




Senate
Office of the Secretary

SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

'17 JAN 19 A11 :00

RECEIVED BY: 

SENATE

S. B. No. 1298

Introduced by Senator JOEL VILLANUEVA

**AN ACT
PROVIDING FREE APPROPRIATE PUBLIC EDUCATION
TO CHILDREN WITH DISABILITIES, APPROPRIATING FUNDS
THEREFOR AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

In a study presented before the 2nd National Convention on Education, Business and Management, it was revealed that most parents, educators and members of local school boards in Region XI have "low knowledge and awareness on learning disabilities. Even their level of knowledge in special education is likewise unimpressive... This predicament if not abated is continuously detrimental both to the individual with [learning disability]; for their self-worth and productivity and to the society for its cost and safety."¹

This bill seeks to address this lack of awareness on learning disabilities. It ensure that (i) all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living, (ii) qualified teachers and professionals are available to meet their special needs and (iii) the public is made aware of learning disabilities to facilitate their early detection and ensure that appropriate measures are undertaken to provide these children with quality education.


Before a similar act was introduced in the United States in 1975, it was estimated that over 4 million children with disabilities were denied appropriate access to education. Over four decades later, more than 6 million school-age children have

¹ The knowledge and perceptions on learning disabilities in the cities of Region XI of the Philippines and a region in New York City, N.Y., U.S.A., Marlyn C. Saludes and Artenita Dante. Available at http://www.jlidd.jp/gtid/acmr_19/pdf/11.pdf. Date last accessed: January 8, 2017.

benefitted from the statue and are recipients of free appropriate public education and special education services.

This bill seeks to achieve the same objectives and follow the example of countries that have successfully provided a free appropriate public education to children with disabilities.

The immediate passage of this bill is earnestly sought.



SENATOR JOEL VILLANUEVA



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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 **Section 1. Title.** This Act shall be known as the "Individuals with Disabilities
2 Education Act of 2016."
3

4 **Section 2. Declaration of Policies.**
5

6 (a) The State recognizes the rights of children with disabilities as integral members
7 of our society;
8

9 (b) The State also recognizes that disability is a natural part of the human
10 experience and in no way diminishes the right of individuals to participate in or
11 contribute to society. Improving educational results for children with disabilities
12 is an essential element of our national policy of ensuring equality of opportunity,
13 full participation, independent living, and economic self-sufficiency for
14 individuals with disabilities;
15

16 (c) The State also recognizes its duty to ensure that all children with disabilities
17 have available to them a free appropriate public education that emphasizes
18 special education and related services designed to meet their unique needs
19 and prepare them for further education, employment and independent living;
20 To this end, the State shall:
21

22 (a) Provide for an integrated and comprehensive approach to their welfare and
23 facilitate their self-development and self reliance and their integration into the
24 mainstream of society;
25

- 1 (b) Ensure that the rights of children with disabilities and parents of such children
2 are protected; and
3
4 (c) Ensure that educators and parents have the necessary tools to improve
5 educational results for children with disabilities by supporting system
6 improvement activities, coordinated research and personnel preparation,
7 coordinated technical assistance, dissemination and support, and technology
8 development and media services.
9

10 **Section 3. Definition of Terms.** The following terms shall have the following
11 meaning within the context of this Act:
12

- 13 (a) *Child with a disability* means a child (i) with mental retardation, impairments
14 (including deafness), speech or language impairments, visual impairments
15 (including blindness), serious emotional disturbance), orthopedic impairments,
16 autism, traumatic brain injury or other health impairments, or specific learning
17 disabilities; and (ii) who, by reason thereof, needs special education and
18 related services.
19
20 (b) *Department* means the Department of Education;
21
22 (c) *Individualized Education Programs* (IEP) means a written statement for each
23 child with a disability that is developed, reviewed and revised in accordance
24 with this Act.
25
26 (d) *Office* means the Office of Special Education Programs created by virtue of this
27 Act.
28
29 (e) *Special Education* means specially designed instruction to meet the unique
30 needs of a child with a disability including instruction conducted in the
31 classroom, in the home, in hospitals and institutions and in other settings, and
32 instructions in physical education.
33
34 (f) *Specific Educational Placement* means the unique combination of facilities,
35 personnel, location or equipment necessary to provide instructional services to
36 a child with a disability, as specified in the IEP, in any one or a combination of
37 public, private, home and hospital, or residential settings.
38
39 (g) *Specific learning disability* means a disorder in one or more of the basic
40 psychological processes involved in understanding or in using language,
41 spoken or written, which disorder may manifest itself in the imperfect ability to
42 listen, think, speak, read, write, spell, or do mathematical calculations.
43 (h) *Supplementary aids and services* mean aids, services and other supports that
44 are provided in regular education classes or other education-related settings to
45 enable children with disabilities to be educated with nondisabled children to the
46 maximum extent appropriate.
47
48 (i) *Transition services* means a coordinated set of activities for a child with a
49 disability that —
50

- (i) Is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities including post-secondary education, vocational education, integrated employment (including support employment), continuing and adult education, adult services, independent living or community participation;
- (ii) Is based on the individual child's needs, taking into account the child's strengths, preferences and interests; and
- (iii) Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

Section 4. Establishment of Office of Special Education Programs. There shall be created an Office of Special Education Programs (hereinafter, the "Office") within the Department of Education (hereinafter, the "Department"), which shall be the principal agency in the Department for administering and carrying out this Act and other programs and activities concerning the education of children with disabilities.

The Office shall be headed by a Director who shall be selected by the Secretary of Education.

Section 5. Functions of the Office of Special Education Programs. The Office of Special Education Programs shall have the following functions:

- (a) Provide guidelines and directions in carrying out the provisions of this Act;
- (b) Ensure that all public educational institutions shall have an adequate teaching and other personnel to handle the special needs of children with disabilities;
- (c) In coordination with the concerned public educational institution, determine whether a child is a child with a disability;
- (d) Provide assistance to qualified public educational institutions in order to assist them in addressing the needs of children with disabilities;
- (e) Conduct trainings and educational and awareness campaigns to ensure that children with disabilities are given proper attention in accordance with the provisions of this Act; and
- (f) Such other functions as may be necessary and proper to properly implement the provisions of this Act.

Section 6. Initial Evaluation. The concerned educational institution in coordination with the Office shall conduct a full and individual initial evaluation before the initial provision of special education and related services to a child with a disability under this Act.

1
2 **Section 7. Request for Initial Evaluation.** A parent or teacher, the concerned
3 educational institution or the Office may initiate a request for an initial evaluation to
4 determine if the child is a child with a disability.
5

6 Such initial evaluation shall consist of procedures to determine —
7

8 (a) Whether a child is a child with a disability within a reasonable period from the
9 time of receipt of the consent of the parent for the evaluation; and
10

11 (b) The educational needs of such child.
12

13 **Section 8. Parental Consent.** The person or entity proposing to conduct an initial
14 evaluation to determine if the child qualifies as a child with disability shall obtain
15 informed consent from the parent of such child before conducting the evaluation.
16 Parental consent for evaluation shall not be construed as consent for placement for
17 receipt of special education and related services.
18

19 The educational institution responsible for making a free appropriate public
20 education available to a child with a disability shall seek to obtain informed consent
21 from the parent of such child before providing special education and related services
22 to the child.
23

24 **Section 9. Conduct of Evaluation.** In conducting the evaluation, the concerned
25 educational institution in coordination with the Office shall —
26

27 (a) Use a variety of assessment tools and strategies to gather relevant functional,
28 developmental and academic information, including information provided by the
29 parent, that may assist in determining —
30

31 (i) Whether a child is a child with disability; and
32

33 (ii) The content of the child's individualized education program (the "IEP") in
34 accordance with Section 10, including information related to enabling the
35 child to be involved in and progress in the general education curriculum,
36 or, for preschool children, to participate in appropriate activities;
37

38 (b) Not use any single measure or assessment as the sole criterion for determining
39 whether a child is a child with a disability or determining an appropriate
40 educational program for the child; and
41

42 (c) Use technically sound instruments that may assess the relative contribution of
43 cognitive and behavioral factors in addition to physical or developmental
44 factors.
45

46 In addition, they shall ensure that —
47

48 (a) Assessments and other evaluation materials used to assess a child under this
49 section are —
50

- (i) Selected and administered so as not be discriminatory;
- (ii) Provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, unless it is not feasible to so provide or administer;
- (iii) Used for purposes for which the assessments or measures are valid and reliable;
- (iv) Administered by trained and knowledgeable personnel; and
- (v) Administered in accordance with any instructions provided by the producer of such assessments;
- (b) The child is assessed in all areas of suspected disability;
- (c) Assessment tools and strategies that provide relevant information that directly assist persons in determining the educational needs of the child are provided; and
- (d) Assessments of children with disabilities who transfer from one school to another are coordinated with such children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

For the avoidance of doubt, a child shall not be determined as a child with a disability if the determinant factor for such determination is —

- (a) Lack of appropriate instruction in reading, including the essential components of reading instruction; or
- (b) Lack of instruction in math.

Section 10. Individualized Education Program (IEP). The IEP shall show a direct relationship between the present levels of performance, the goals and objectives and the specific educational services to be provided. It shall include the following —

- (a) a statement of the child's present levels of academic achievement and functional performance, including —
 - (i) how the child's disability affects the child's involvement and progress in the general education curriculum;
 - (ii) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and
 - (iii) for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

- 1
2 (b) a statement of measurable annual goals, including academic and functional
3 goals, designed to —
4
5 (i) meet the child's needs that result from the child's disability to enable the
6 child to be involved in and make progress in the general education
7 curriculum; and
8
9 (ii) meet each of the child's other educational needs that result from the
10 child's disability;
11
12 (c) a description of how the child's progress toward meeting the annual goals
13 described in (b) above will be measured and when periodic reports on the
14 progress of the child is making toward meeting the annual goals (such as
15 through the use of quarterly or other periodic reports, concurrent with the
16 issuance of report cards) will be provided;
17
18 (d) a statement of the special education and related services and supplementary
19 aids and services, based on peer-reviewed research to the extent practicable,
20 to be provided to the child, or on behalf of the child, and a statement of the
21 program modifications or supports for school personnel that will be provided for
22 the child —
23
24 (i) to advance appropriately toward attaining the annual goals;
25
26 (ii) to be involved in and make progress in the general education curriculum
27 and to participate in extracurricular and other non-academic activities; and
28
29 (iii) to be educated and participate with other children with disabilities and
30 non-disabled children in the activities described in this paragraph.
31
32 (e) An explanation of the extent if any, to which the child will not participate with
33 non-disabled children in the regular class and in the activities described in
34 (d)(iii) above;
35
36 (f) A statement of any individual appropriate accommodations that are necessary
37 to measure the academic achievement and functional performance of the child.
38 If the IEP Team determines that the child shall take an alternate assessment, a
39 statement of why —
40
41 (i) The child cannot participate in the regular assessment; and
42
43 (ii) The particular alternate assessment selected is appropriate for the child;
44
45 (g) The projected date for the beginning of the services and modifications and the
46 anticipated frequency, location and duration of those services and
47 modifications; and
48
49 (h) Beginning not later than the first IEP to be in effect when the child is 16, and
50 updated annually thereafter —

- (i) Appropriate measure postsecondary goals based upon age appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills;
- (ii) The transition services (including courses of study) needed to assist the child in reaching those goals; and
- (iii) Beginning not later than one year before the child reaches the age of majority, a statement that the child has been informed of the child's rights under this Act, if any, that will transfer the child on reaching the age of majority.

Section 11. IEP Team. The IEP Team shall formulate the IEP to be applied to a child determined to be a child with a disability. The IEP Team shall be composed of —

- (a) The parents of a child with a disability;
- (b) Not less than one regular education teacher of such child (if the child is, or may be, participating in the regular education environment);
- (c) Not less than one special education teacher, or where appropriate, not less than one special education provider of such child;
- (d) A representative of the local educational agency who is —
 - (i) Qualified to provide or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (ii) Knowledgeable about the general education curriculum; and
 - (iii) Knowledgeable about the availability of resources of the local educational agency;
- (e) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in (b) to (f);
- (f) At the discretion of the parent, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (g) Whenever appropriate, the child with a disability.

Section 12. Development of IEP. In developing each child's IEP, the IEP Team, subject to Section 13 below, shall consider the following:

- (a) The strengths of the child;
- (b) The concerns of the parents for enhancing the education of their child;

- (c) The results of the initial evaluation or most recent evaluation of the child; and
- (d) The academic, developmental and functional needs of the child.

Section 13. Consideration of Special Factors. The IEP Team shall —

- (a) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies to address that behavior;
- (b) Consider the language needs of the child as such needs relate to the child's IEP;
- (c) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
- (d) Consider the communication needs of the child and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
- (e) Consider whether the child needs assistive technology devices and services.

Section 14. Review and Revision of IEP. The concerned educational institution, in coordination with the Office, shall ensure that the IEP Team —

- (a) Reviews the child's IEP periodically, but not less frequently than annually, to determine whether the annual goals for the child are being achieved; and
- (b) Revises the IEP as appropriate to address —
 - (i) Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;
 - (ii) The results of any reevaluation conducted under this Section;
 - (iii) Information about the child provided to, or by, the parents;
 - (iv) The child's anticipated needs; or
 - (v) Other matters.

1 **Section 15. Review of Existing Evaluation Data.** As part of an initial evaluation
2 and as part of any reevaluation, the IEP Team and other qualified professionals, as
3 appropriate, shall,
4

5 (a) Review existing evaluation data on the child including —
6

7 (i) Evaluations and information provided by the parents of the child;
8

9 (ii) Current classroom-based, local or State-assessments and classroom-
10 based observations; and
11

12 (iii) Observations by teachers and related services providers; and
13

14 (b) on the basis of that review, and input from the child's parents, identify what
15 additional data, if any, are needed to determine —
16

17 (i) whether the child is a child with a disability and the educational needs of
18 the child, or, in case of a reevaluation of a child, whether the child
19 continues to have such a disability and such educational needs;
20

21 (ii) the present levels of academic achievement and related developmental
22 needs of the child;
23

24 (c) whether the child needs special education and related services, or in the case
25 of a reevaluation of a child, whether the child continues to need special
26 education and related services; and
27

28 (d) whether any additions or modifications to the special education and related
29 services are needed to enable the child to meet the measurable annual goals
30 set out in the individualized education program of the child to participate, as
31 appropriate, in the general education curriculum.
32

33 Each concerned educational institution shall obtain informed parental consent prior
34 to conducting any reevaluation of a child with a disability, except that such informed
35 parental consent need not be obtained if the concerned educational institution can
36 demonstrate that it had taken reasonable measures to obtain such consent and the
37 child's parent has failed to respond.
38

39 **Section 16. Requirements if Additional Data are not Needed.** If the IEP Team
40 and other qualified professionals, as appropriate, determine that no additional data
41 are needed to determine whether the child continues to be a child with a disability
42 and to determine the child's educational needs, the concerned educational institution
43 shall —
44

45 (a) Notify the child's parents of —
46

47 (i) that determination and the reasons for the determination; and
48

1 (ii) the right of such parents to request an assessment to determine whether
2 the child continues to be a child with a disability and to determine the
3 child's educational needs; and
4

5 (b) Not be required to conduct such an assessment unless requested by the child's
6 parents.
7

8 **Section 17. Placement.** The IEP Team shall document its rationale for specific
9 educational placement in other than the child's school and classroom in which the
10 child would otherwise attend if the child were not disabled. The documentation shall
11 indicate why the pupil's disability prevents his/her needs from being met in a less
12 restrictive environment even with the use of supplementary aids and services.
13

14 **Section 18. Extended School Year.** Extended school year services shall be
15 provided for each child with a disability in excess of the regular academic year. Such
16 individuals shall have disabilities which are likely to continue indefinitely or for a
17 prolonged period, and interruption of the pupil's educational programming may cause
18 regression, when coupled with limited recoupment capacity, rendering it impossible
19 or unlikely that the child will attain the level of self-sufficiency and independence that
20 would otherwise be expected in view of his/her disabling condition.
21

22 The lack of clear evidence of such factors may not be used to deny an individual an
23 extended school year program if the IEP Team determines the need for such a
24 program and includes extended school year in the IEP.
25

26 **Section 19. Rights of the Parents of a Child with a Disability.** The parents of a
27 child with a disability shall include, but not be limited to the following rights —
28

29 (a) To be afforded an opportunity to inspect and review all education records and
30 identification, and to participate in meetings, with respect to the evaluation and
31 educational placement of the child and the provision of free appropriate public
32 education to the child with a disability;
33

34 (b) To obtain an independent educational evaluation whenever he/she disagrees
35 with an evaluation that has been conducted by the concerned educational
36 institution. In such a case, the concerned educational institution shall provide,
37 upon request for an independent educational evaluation, information about
38 where an independent educational evaluation may be obtained and all
39 assistance necessary to carry out such independent evaluation;
40

41 (c) To receive prior written notice any time the concerned educational institution (i)
42 plans to evaluate the child, (ii) schedules a meeting where decisions will be
43 made about the child's eligibility or educational placement or (iii) refuses to
44 evaluate or change the child's plan or placement;
45

46 (d) To consent to evaluations and to the provision of special education services;
47

48 (e) To present and resolve a complaint in accordance with the procedures laid
49 down by the Secretary of Education; and
50

1 (f) Such other information as the Secretary of Education may deem proper.
2

3 **Section 20. Appropriations.** For the initial implementation of this Act, an amount
4 Five Hundred Million Pesos (Php500, 000,000.00) is hereby appropriated.
5 Thereafter, funds shall be earmarked in the budget of the Department of Education
6 in the General Appropriations Act.
7

8 **Section 21. Implementing Rules and Regulation and Coordination with Other
9 Government Agencies.** The Secretary of Education, upon consultation with the
10 Department of Social Welfare and Development and other relevant stakeholders,
11 shall promulgate the necessary rules and regulations for the effective implementation
12 of this Act.

13 In carrying out the provisions of this Act, the Department shall also coordinate with
14 other agencies tasked to handle the affairs of persons with disabilities, including, but
15 not limited to, the National Council on Disability Affairs.
16

17 **Section 22. Separability Clause.** If any provision of this Act is declared
18 unconstitutional or invalid, other parts or provisions hereof not affected thereby shall
19 continue to be in full force and effect.
20

21 **Section 23. Repealing Clause.** All laws, decrees, executive orders, rules and
22 regulations or parts thereof, which are contrary to or inconsistent with this Act, are
23 hereby repealed, amended or modified accordingly.
24

25 **Section 24. Effectivity.** This Act shall take effect fifteen (15) days after its
26 publication in this Official Gazette or in any two newspapers of general circulation.
27

28 Approved,