Special Education Legal Hot Topics

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Overview

- State of the Union
  - Department of Education / Office of Special Education Programs
  - Federal Case Law and Regulations
- State of the State
  - 104th General Assembly
  - ISBE Updates to Rule and Forms

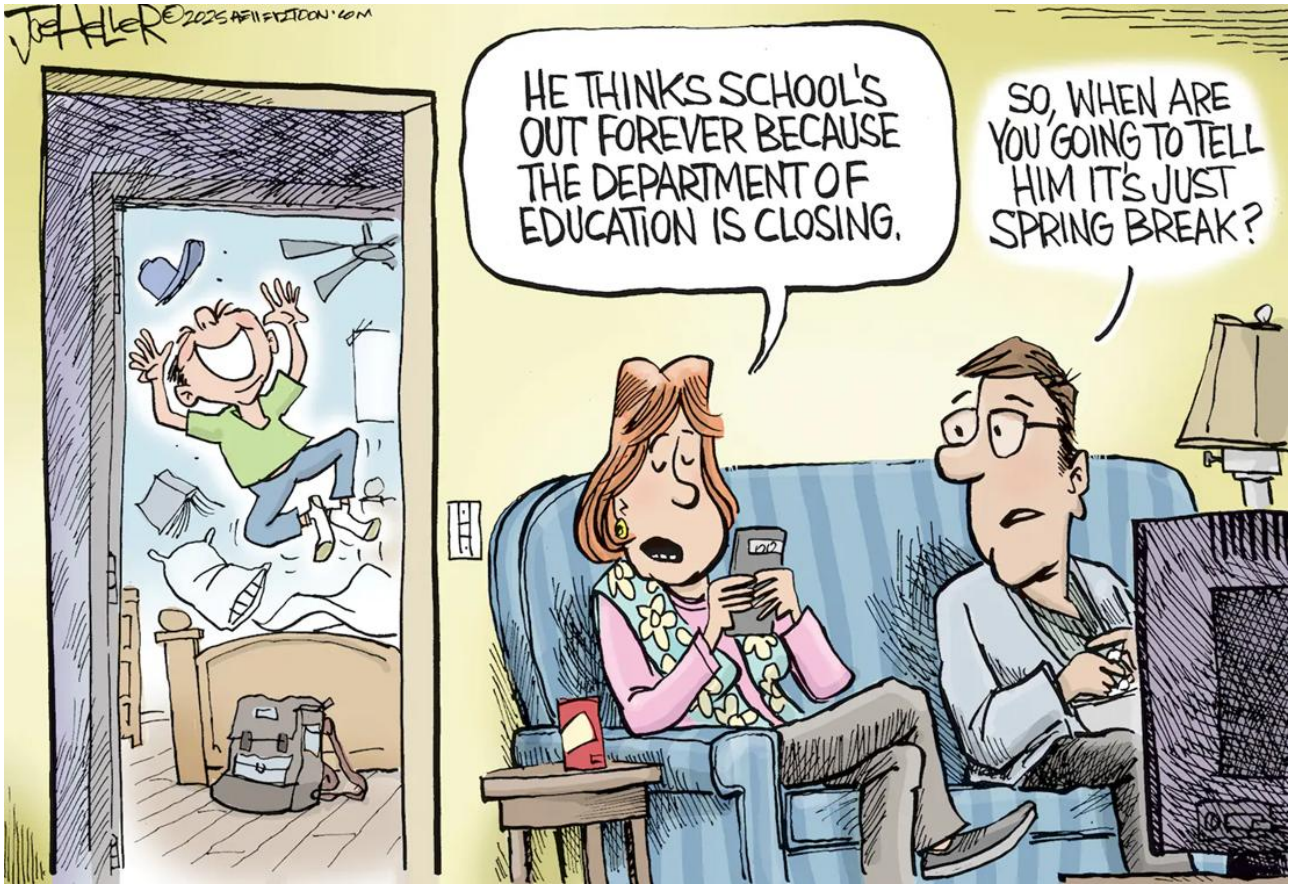
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State of the Union

- What is going on with the Department of Education (ED) and Office of Special Education Programs (OSEP)?
- Notable special education developments in federal case law.

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State of the Union Comic



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What is going on with ED and OSEP?

- Announcements have been made regarding plans to move administration of various ED programs to the Departments of Health and Human Services, Labor, and the Interior.
- Still unclear what is going to happen with OSEP.
- Full closure of ED would require Congress to repeal the 1979 Department of Education Organization Act.
- Trump did not address in his State of the Union.

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Federal Case Law Developments

- *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (June 28, 2024).
  - U.S. Supreme Court ruled that the Administrative Procedure Act requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts cannot defer to an agency interpretation of the law simply because a statute is ambiguous.
  - This decision overrules *Chevron v. Natural Resources Defense Council, Inc.* , 467 U.S. 837 (U.S. 1984), which ruled that when a federal law is unclear, a court should defer to the reasonable interpretation of the executive agencies charged with implementing that law, even if the court disagrees with that interpretation.

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Federal Case Law Developments 2025

- *Fact Sheet: President Donald J. Trump Directs Repeal of Regulations That Are Unlawful Under 10 Recent Supreme Court Decisions,* The White House (April 9, 2025)

IMPLEMENTING THE LAW FROM RECENT SUPREME COURT DECISIONS: President Trump's memorandum directs departments and agencies to review rules for legality under ten recent watershed Supreme Court decisions:

1. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) overturned the *Chevron* doctrine. Accordingly, agencies are to repeal any regulation that is not consonant with the "single, best meaning" of the statute authorizing it. Agencies are also to repeal any regulation that was promulgated in reliance on the *Chevron* doctrine and that could be defended only by relying on *Chevron* deference.

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Federal Case Law Developments Continued

- So what does this mean for special education?
  - Comparing the IDEA with its implementing regulations (Code of Federal Regulations).
    - Illinois School Code v. Illinois Administrative Code.
  - Regulations fill in the gaps in areas that aren't addressed by the law. This decision calls into question ED's interpretation of IDEA.
  - Still waiting to see how this is applied by courts and the impact on federal regulations moving forward.

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State of the State

- 104th General Assembly
  - New Public Acts from 2025
  - Currently proposed bills for 2026
- Rule Updates
  - 23 Ill. Admin. Code 226
- Revised Notice and Consent and IEP Forms
  - 34-57: Required Notice and Consent forms
  - 34-54: Template IEP forms

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104th General Assembly (2025-2026)



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2025 Bills that Passed- HB 1366

- Public Act 104-0047 (HB 1366)
  - Requires a school to provide notice of the right to be accompanied to an individualized education program (IEP) meeting.
  - Requires ISBE to prepare and distribute written informational material about IEP facilitation process to school districts to be disseminated to parents or guardians going through the IEP process.
  - ISBE IEP Facilitation Fact Sheet

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2025 Bills that Passed- HB 2337

- Public Act 104-0211 (HB 2337)
  - Provides that if a mediation agreement, resolution agreement, or settlement agreement includes, as a condition of settlement, that a parent, a student (if at least 18 or emancipated), the legal guardian of a student, or the designated representative of a student who is at least 18 prospectively waive a legal right or claim, the prospective waiver (i) must be limited to the provision of a free appropriate public education (FAPE) for the student who is the subject of the mediation, resolution meeting, or settlement negotiations and (ii) must be limited in scope and duration and narrowly tailored to the nature and intent of the settlement.

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2025 Bills that Passed- HB 2537

- Public Act 104-0232 (HB 2537)
  - By the school year in which a student turns 16, the transition planning process must include discussions with the student's IEP team regarding the student's graduation status and the implications of high school graduation.
  - Requires the transition planning process to include informing the student, the student's parent or guardian, and the student's designated representative that (i) graduation with a regular high school diploma terminates the student's eligibility for a FAPE and (ii) the student can continue to receive IEP services until the end of the school year in which the student turns 22 when appropriate.

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2025 Bills that Passed- HB 2994

- Public Act 104-0263 (HB 2994)
  - In provisions concerning persons entitled to, upon request, inspect and copy a recipient's record, allows the parent or guardian, regardless of the minor's age, of whom is involved in special education services, or the designated representative to inspect and copy a recipient's record.
  - Clarifies that this shall only for the purpose of inspecting and copying a record of the specific mental health or developmental services that the parent or guardian consented to on the recipient's behalf for special education services.

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2025 Bills that Passed- SB 0408

- Public Act 104-0356 (SB 0408)
  - A “Student Permanent Record“ may include a summary of performance (SOP) for students that received special education.
  - SOP may be excluded from a Student Permanent Record if the student and parent/guardian opt-out after being notified that (i) school districts do not keep special education records beyond 5 years and (ii) if a SOP record is not kept in a student's permanent file, the student may not have the documentation necessary to qualify for State or federal benefits in the future.
  - School student records or information contained therein may be released to the Department of Human Services for the purpose of assessing or evaluating the eligibility for Medicaid waiver benefits consistent with rules adopted by the Department of Human Services.

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2025 Bills that Passed- Public Act 104-0368

- Public Act 104-0368
  - Allows a school district to initiate an impartial due process hearing within 7 school days of any written parent request for an independent educational evaluation to show that its evaluation is appropriate. Changes the independent evaluation timeline from 30 days to 60 days.

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2025 Bills that Passed- SB 1920

- Public Act 104-0399 (SB 1920)
  - In part, discusses American Sign Language (ASL) implementation.
  - ISBE shall encourage school districts to collect teaching resources to support ASL programs. May include, but need not be limited to: (1) the importance and benefits of ASL instruction for early ages and the prevalence of ASL in the United States; (2) information on ways to implement ASL instruction into the kindergarten through grade 8 curriculum; and (3) information on how to properly administer ASL instruction for students in kindergarten through grade 8.

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2025 Bills that Passed- SB 0405 & SB1519

- Public Act 104-0353 (SB 0405)
  - Provides that school counseling services shall address the needs of all students, regardless of citizenship status.
- Public Act 104-0430 (SB1519)
  - A student must not be issued monetary fines or fees, tickets, or citation as a disciplinary consequence or for a municipal code violation on school grounds during school hours.
  - Creates requirements regarding the use of school resource officers and reporting students referred to law enforcement.

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2025 Bills that Passed HB 2986 & HB 3247

- Public Act 104-0261 (HB 2986)
  - Among other things, repeals the Interagency Board for Children who are Deaf or Hard-of-Hearing and have an Emotional or Behavioral Disorder Act.
- Public Act 104-0288 (HB 3247)
  - Prohibits a child from being denied a free public education through secondary school while in the State based on the child's or associated person's perceived or actual citizenship or immigration status. Also, requires schools to develop procedures for reviewing and authorizing requests from law enforcement agents attempting to enter a school or school facility by July 1, 2026

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A Quick Note on Artificial Intelligence

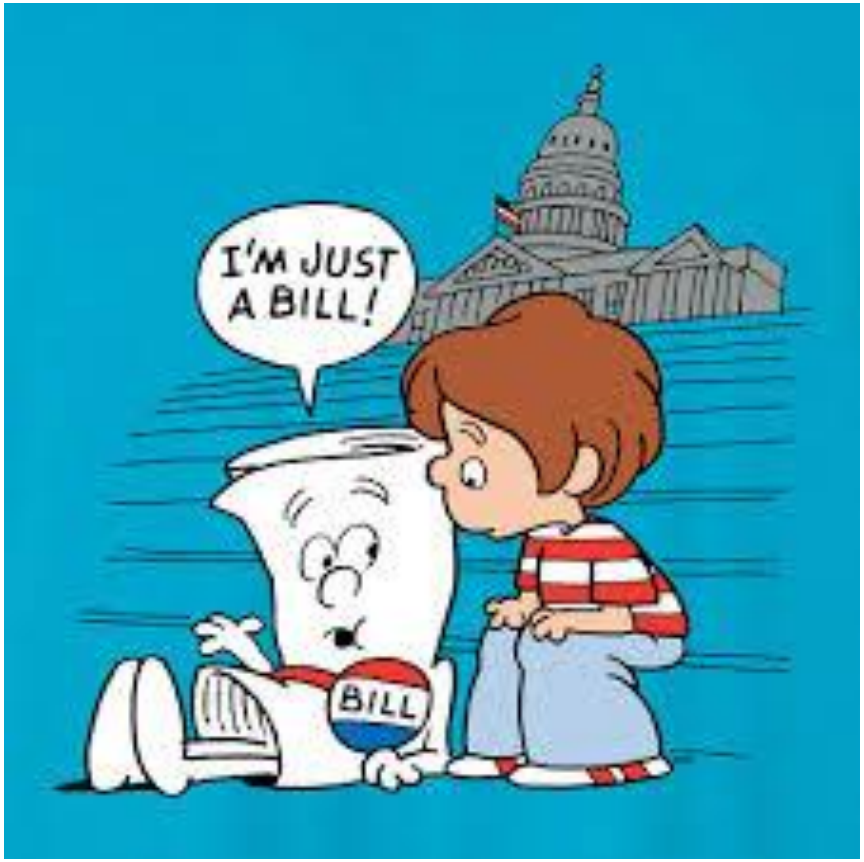
- ISBE Statement on AI in Special Education
  - While Artificial Intelligence (AI) tools may assist you in drafting state complaints, ISBE cautions against relying on them as your sole resource. AI is not a reliable tool for ensuring legal accuracy or determining whether your complaint meets necessary requirements. If you choose to use AI, you should carefully verify all facts and confirm that all required elements are included.
  - ISBE has observed a significant increase in complaints that appear to be AI generated. These submissions often fail to include facts to support a potential violation of special education requirements. If your complaint request is unclear or incomplete, it may be deemed insufficient, requiring a resubmission and potentially delaying the process.
  - Additionally, please be mindful of all privacy implications as any information you enter into AI may not remain confidential.

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104th General Assembly (2025-2026)

Comic

- 2026 Spring Legislative Session



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2026 Special Education Bills That Passed- HB 4780

- SB 3224 (HB 4780)
  - Changes the name of the Illinois School for the Visually Impaired to the Illinois School for the Blind. Makes conforming changes to the Personnel Code, the School Code, the School Safety Drill Act, the Illinois Educational Labor Relations Act, and the MRSA Prevention, Control, and Reporting Act.

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2026 Special Education Bills That Passed- HB 4582

- SB 3533 (HB 4582)
  - Sets forth what the suggested best practices for addressing the educational and related needs of a twice-exceptional student, as well as any student who (i) is gifted, talented, or accelerated or would benefit from an advanced academic program and (ii) is eligible for a federal Section 504 plan, may include. Allows a school board to adopt a policy to allow for the development of a written education plan to address the advanced abilities or achievement levels of twice-exceptional students through individualized services, goals, accommodations, and objectives for a student, while continuing to provide services and support for the student's disabilities in all educational settings. Effective immediately.

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2026 Special Education Bills That Passed- HB 4581

- HB 4581
  - By January 1, 2027, informational materials on the Work Incentives Planning and Assistance program shall be provided to a student and the student's parent or guardian at the initial transition planning meeting convened for the student by the school district and during the student's final year in high school.

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2026 Special Ed Bills That Did Not Pass- SB 2905 and SB 3112

- SB 2905
  - Creates the Special Education Workload Task Force to develop guidance on the calculation of workload limits for special educators.
- SB 3112
  - Makes updates regarding the inclusion of speech-only students when calculating the percentage of IEP students in a general education classroom.

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2026 Special Ed Bills That Did Not Pass- SB 3669 and HB 4068

- SB 3669
  - Policies and procedures regarding multi-tiered system of support for academic, social-emotional, and behavioral intervention.
- HB 4068
  - Creates procedures and protections for the evaluation of students with 504 Plans similar to those for students with IEPs.

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2026 Special Ed Bills That Did Not Pass- HB 4280

- HB 4280
  - Requires ISBE to send a copy of certain revised uniform notices by July 1 of every even-numbered year to each school district and statewide organization representing school professions involved with IEPs.
  - A third-party software provider that creates a platform for an individualized educational assessment form shall include information on how to contact ISBE and instructions / guidance on completing the form. Prohibits a school district from modifying or customizing its form.
  - Provides that ISBE, in its adoption of rules regarding an IEP, may not include in an individualized educational assessment form a separate section regarding autism consideration.

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2026 Special Ed Bills That Did Not Pass- HB 4406

- HB 4406
  - Provides for dyslexia screening guidelines and rules. Requires ISBE to provide technical assistance for specific learning disabilities to school districts. Beginning with the 2026-2027 school year, each school district must screen students in grades kindergarten through second for the risk factors of dyslexia using a universal screener.

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2026 Special Ed Bills That Did Not Pass- HB 5488 and HB 5575

- HB 5488
  - Creates certain required procedures regarding Section 504 due-process hearings, hearing officer requirements, and training.
- HB 5575
  - Requires school districts to provide transportation to all students with an Individualized Education Program, based solely on the student's eligibility for special education.

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ISBE Rule Updates

- 23 Ill. Admin. Code 226
  - Most recently amended at 49 Ill. Reg. 6901, effective May 5, 2025
  - Various updates due to recently enacted Public Acts.
  - 226.180 amended to allow for the submission of requests for independent educational evaluations to special education administrators.
  - 226.220 updated to amend the timeline for providing a finalized IEP to a parent.
  - 226.300 amended to add clarifying language regarding Home/Hospital Instruction.
  - 226.520 and 226.560 amended to clarify required timelines.

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ISBE Form Updates Continued

- 34-57: Required Notice and Consent Forms
  - Explanation of ISBE 34-57 Form Changes
  - Instructions for Required Notice and Consent Forms
- 34-54: ISBE Template IEP Forms
  - Explanation of ISBE 34-54 Form Changes
  - Instructions for ISBE IEP Forms
- ISBE Responses to Questions Regarding 34-54 and 34-57 Form Updates (January 2026) (Link)

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Questions?



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Thank You!

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