

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Thirteenth Congress
Second Regular Session

HOUSE BILL NO. 5312

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E. Maguila

INDEX DIVISION

Introduced by **Rep. EULOGIO "Amang" R. MAGSAYSAY**

EXPLANATORY NOTE

THE CURRENT Philippine education system is one suited to the capabilities of an average student. Through the years, programs of instruction and the corresponding materials have been fashioned and written respectively, according to the standards of the intellectually blessed, thus, access is not available to those who do not fall within the aforementioned classification. It has been a byline that, "the youth is the hope of our nation," which, in turn is supplemented by the concrete provision enshrined in the 1987 Philippine Constitution, to wit:

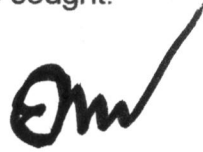
"Art. II, Sec. 13. The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs."

Nothing could be gleaned in the abovementioned provision as to who shall be qualified as "youth". Save for the age bracket of 18 – 30, existing laws do not mention any specific standard, against which, one should be gauged in order to be counted as youth. There is but one precept obvious in the fundamental law of the land — that there should be parity amongst individuals in terms of access to education, whether or not one belongs to the marginalized sector. In consonance with Article II, Sec. 13 of the 1987 Constitution, Republic Act 7277 or the Magna Carta for Disabled Persons regarding accessible education for persons with disabilities and special education for special children with disabilities, was also enacted. Relevantly, if one would refer to the United Nation's Convention on the Rights of a Child, one will find that a child is defined as one who is aged seventeen and below and/or one who, although having attained the age of majority, has a mindset equal or inferior to those within the bracket of infancy (0-12 months) and puberty (11-15 years old). It can, therefore, be said that the present education system should not content itself to quenching the thirst for knowledge of those who belong to the average block. Attention should also be given to those who have the physique of a mature individual yet possess the mind of an innocent child.

It is a well-settled legal tenet that one should not assume something which is not expressly indicated. The existing laws on education left a vacuum on how to resolve the rising incidence of children, unattended in terms of appropriate education. Instead of suppressing the said fact, it is highly recommended that a well-defined legislation on this rarely explored arena be enacted. We should not

dwel on the belief that said children are individuals destined to be pampered all through their lives. The principle of self-sufficiency is all encompassing. We should allow these people to discover themselves, their capabilities, their fate, and seek for themselves a life of guided independence.

Early passage of this bill is therefore sought.

A handwritten signature in black ink, appearing to be 'Em' followed by a long, sweeping diagonal stroke.

Rep. EULOGIO "Amang" R. MAGSAYSAY

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Introduced by **Rep. EULOGIO "Amang" R. MAGSAYSAY**

AN ACT
GOVERNING SPECIAL EDUCATION FOR CHILDREN WITH SPECIAL NEEDS
OR INDIVIDUALS WITH DISABILITIES, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES

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

Section 1. Short Title. – This Act shall be known as "*Individuals with Disabilities Education Act (IDEA) of 2005.*"

Sec. 2. Declaration of Policy. – It is hereby declared the policy of the State to recognize the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being.

The State shall also protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible to all.

Along these lines, to ensure equal protection of the law, the State shall give full support to the improvement and development of the total well-being of individuals or children with disabilities and their integration into the mainstream of society. It shall also develop their skills and potentials and teach them to live freely and as independently as possible.

Sec. 3. Purposes and Objectives. - The purposes and objectives of this Act are:

- a) To ensure that all children with disabilities are afforded a free 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;
- b) To ensure that the rights of children or individuals with disabilities and parents of such children are protected;

- c) To assess and ensure the effectiveness of efforts to educate children with disabilities; and
- d) To ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activity, coordinated research and personnel preparation, coordinated technical assistance, dissemination and support, and technology development and media services.

Sec. 4. Definitions. – As used in this Act, these terms or phrases shall mean or be understood as follows:

- a) *Children with Special Needs (CSNs)* are those who differ from average in mental characteristics, sensory abilities, neuro-muscular or physical characteristics, social multiple handicaps and/or have developmental lags to such extent that they require modified school practices or special education services to develop their maximum capabilities. They include the gifted/talented, the mentally retarded, the visually impaired, the hearing impaired, the orthopedically handicapped, the learning disabled, the speech defectives, the children with behavior problems, the autistic children, and those with health problems.
- b) *Special Education* refers to the education of persons who are physically, mentally, emotionally or culturally different from the so called "normal" individuals to such a degree that they require modification of school practices and services to develop them to their maximum capabilities.
- c) *Handicapped Children* shall mean those who deviate from the normal either psychologically or physiologically to such an extent that special classes, special facilities, or special services are needed for their maximum development. They include educable mentally handicapped, trainable mentally handicapped, emotionally handicapped, hearing handicapped, visually handicapped, orthopedically handicapped, speech handicapped, and those handicapped by learning disabilities.
- d) *Individual or Child with Disability* means a child (i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and (ii) who, by means thereof, needs special education and related services.

- e) *Disability* shall mean 1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual; 2) a record of such an impairment; or 3) being regarded as having such an impairment.
- f) *Assistive Technology Device* means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with disability. It does not include a medical device that is surgically implanted, or the replacement of such device.
- g) *Assistive Technology Service* means any service that directly assists a child with disability in the selection, acquisition, or use of an assistive technology device. It includes evaluation of needs of such child, coordinating and using other therapies, interventions and services such as those associated with existing rehabilitation plans or programs.
- h) *Early Intervention Services* means developmental services that --
- (A) are provided under local government unit supervision;
 - (B) are provided at no cost to the families;
 - (C) are designed to meet the developmental needs of an infant, toddler, or child with disability in any one or more of the following areas: (i) physical development; (ii) cognitive development; (iii) communication development; (iv) social or emotional development; and (v) adaptive development;
 - (D) include -- (i) family training, counseling, and home visits; (ii) special instruction; (iii) speech-language pathology and audiology services; (iv) occupational therapy; (v) physical therapy; (vi) psychological services; (vii) service coordination services; (viii) medical services only for diagnostic or evaluation purposes; (ix) early identification, screening, and assessment services; (x) health services necessary to enable the infant, toddler, or child to benefit from the other early intervention services; (xi) social work services; (xii) vision services; (xiii) assistive technology devices and assistive technology services.
 - (E) are provided by qualified personnel, including -- (i) special educators; (ii) speech-language pathologists and audiologists;

(iii) occupational therapists; (iv) physical therapists; (v) psychologists; (vi) social workers; (vii) nurses; (viii) nutritionists; (ix) family therapists; (x) orientation and mobility specialists; and (xi) pediatricians and other physicians;

(F) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate.

- i) *Individualized Education Program (IEP)* means a written document that describes the special education and related services to be provided to the individual with disability. It states how the child will be involved in the general curriculum and the extent, if any, to which the child will not participate with non-disabled children in regular classes.

Sec. 5. Coverage. – This Act shall cover all individuals with disabilities or children with special needs or related services enrolled in public elementary and secondary schools.

Sec. 6. Creation of Bureau of Special Education (BSpEd). – To attain the objectives of this Act, there shall be established a Bureau in the Department of Education (DepEd) to be named as Bureau of Special Education (BSpEd). The Bureau shall be the principal agency to administer and carry-out the provisions of this Act and shall undertake other programs and activities concerning the education of individuals or children with disabilities. It shall be under the direct supervision of the Secretary of Education and shall be headed by a Director and Assistant Director.

Sec. 7. Eligibility Evaluation. – Upon application by the parent of the child with disability, the school must determine the child's specific disability and assess what his educational needs are.

Sec. 8. Individualized Education Program (IEP). – On the basis of the evaluation made on the child with disability, an Individualized Education Program (IEP) for the child shall be prepared and it shall include:

- a) a statement of the child's present levels of academic achievement and functional performance;
- b) a statement of measurable goals, including academic and functional goals designed to (i) meet the child's needs that result from his disability to enable him to be involved in and make progress in the general education curriculum, and (ii) meet each of the child's other educational needs that result from the his disability;

- c) a description of how the child's progress toward meeting the annual goals described will be measured;
- d) a statement of the special education and related services and supplementary aids and services to be provided to the child; and
- e) an explanation of the extent, if any, to which the child will not participate in activities with non-disabled children in the regular class.

Sec. 9. *Participants in the IEP Development.* – The IEP shall be developed in a consultative session between the parents; special education teacher; school administrator or principal; regular education teacher, if the child will be participating in the regular education environment; the child when appropriate; and other people involved in the education of the child as may be identified by the school or the parent.

Sec. 10. *Consideration of Special Factors.* – In developing the IEP, to ensure the optimum development of the child with disability, the participants 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 support, and other strategies, to address that behavior;
- b) in the case of a child who is blind or visually impaired, consider if instruction in Braille is needed unless after evaluating the child's reading and writing skills, such instruction in Braille or use of Braille is not appropriate for the child;
- c) in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs;
- d) consider whether the child needs assistive technology devices and services.

Sec. 11. *Least Restrictive Environment (LRE).* – To the maximum extent appropriate, children with disabilities shall be educated with children who are not disabled. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Sec. 12. *Mobility of Children with Disabilities (CWDs).* – The Department of Education shall ensure that children with disabilities (CWDs) can gain access in the buildings and other facilities of all schools implementing this Act. Architectural designs or structural features of school facilities should be responsive to their unique needs.

Sec. 13. *Training and Assignment of Special Education Teachers.* – The Secretary of Education shall ensure that every school implementing the program shall take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services to children with disabilities.

Sec. 14. *Role of Commission on Higher Education (CHED).* – The Commission on Higher Education (CHED) shall require and ensure that all tertiary schools offering education courses integrate special education in their curriculum.

Sec. 15. *Role of Local Government Units (LGUs), Department of Health (DOH) and Department of Social Welfare and Development (DSWD).* – To minimize the need for special education and related services, the Department of Education (DepEd) shall coordinate with every local government unit (LGU), Department of Health (DOH), Department of Social Welfare and Development (DSWD), and other concerned agencies to actively participate in the implementation of this Act in the form of early intervention services to infants, toddlers, or children below six years old with disability.

Sec. 16. *Rewards and Incentives.* – All grants, donations, or bequests of equipment, devices, and other instructional aids and materials necessary to carry out the provisions of this Act and which are received or imported by the school shall be exempt from donor's tax or customs duties.

Sec. 17. *Appropriation.* – The Secretary of Education shall immediately include in the programs of the Department of Education (DepEd) the implementation of this Act, the funding of which shall be included in the Annual General Appropriations Act.

Sec. 18. *Rules and Regulations.* – The Department of Education (DepEd) through the Bureau of Special Education (BSpEd), in coordination with the DILG, DOH, DSWD, Council for Welfare of Children, and the National Council for the Welfare of Disabled Persons, shall promulgate and issue the necessary rules and regulations for the implementation of this Act not more than sixty (60) days from its effectivity.

Sec. 19. *Submission of Report.* – Beginning two (2) years after the implementation of IDEA 2005, the Secretary of Education, through the Bureau of Special Education (BSpEd), shall submit an annual report to the Committee on Basic Education of the House of Representatives and the Senate regarding the effectiveness of the program and any specific legislative proposal for the better implementation of this Act.

Sec. 20. *Separability Clause.* – Should any provision of this Act be declared unconstitutional by the court of law, such provision shall be severed from this Act and shall not affect the enforceability of the other remaining provisions.

Sec. 21. *Repealing Clause.* – All laws, presidential decrees, executive orders, and rules and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 22. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in any two newspapers of general circulation.

Approved: