

**Department of Legislative Services**  
Maryland General Assembly  
2014 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 413

(Delegate Luedtke, *et al.*)

Ways and Means

Education, Health, and Environmental Affairs

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**Special Education - Individualized Education Program Parental Notice  
Requirements and Service Models List**

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This bill requires each local board of education to develop and publish on its website a list of all special education service delivery models in the local school system. The local board must clearly state that decisions regarding the placement of a child in a special education delivery model will be made by an individualized education program (IEP) team in consultation with the child's parents and consistent with the least restrictive environment requirements of the federal Individuals with Disabilities Education Act (IDEA). On request, the local board must provide a written copy of the information described above.

At the initial evaluation meeting the parents of a child with a disability must be provided, in plain language, a verbal and written explanation of the parents' rights and responsibilities in the IEP process and a program procedural safeguards notice. The parents may request this information at any subsequent meeting. The Maryland State Department of Education (MSDE) must adopt regulations to implement provisions of the bill regarding information provided to parents.

The bill takes effect July 1, 2014.

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**Fiscal Summary**

**State Effect:** General fund expenditures increase by approximately \$20,900 for MSDE to translate the required document on parents' rights and responsibilities. Revenues are not affected.

**Local Effect:** Some local school systems may incur minimal one-time costs to implement use of the required explanation of parents' rights and responsibilities in the IEP process. Local revenues are not affected.

**Small Business Effect:** None.

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## **Analysis**

**Current Law:** IDEA requires that a student with disabilities be provided a free appropriate public education in the least restrictive environment, in accordance with an IEP specific to the individual needs of the student. An IEP is a written statement for each child with a disability, that among other things must indicate the present levels of academic achievement and functional performance of a child, measurable academic and functional goals for the child, how the child's progress toward meeting these goals will be measured, and the special education and related services that are to be provided for the child. The parent of a child with a disability is a member of the IEP team that is responsible for developing and reviewing a child's IEP and for revisions to the IEP.

Part B of IDEA sets forth requirements for states and local school systems in providing special education and related services to children with disabilities. Federal law requires local school systems to provide parents of children with disabilities with a procedural safeguards notice that describes a parent's rights and responsibilities under Part B. The procedural safeguards notice covers a range of topics including required notice to parents; confidentiality of information; state complaint procedures; due process complaint procedures; due process hearings, decisions, and appeals; disciplining of students with disabilities; and the educational setting placement of students with disabilities. The local school system must provide the notice to parents once each school year, but also (1) upon initial referral or parental request for evaluation; (2) upon receipt of a first state complaint; (3) upon receipt of the first due process hearing complaint in a school year; (4) when a decision is made to take a disciplinary action constituting a change of placement; and (5) upon parent request. Also, a public agency may place a current copy of the procedural safeguards notice on its website.

The parents of the child must be afforded the opportunity to participate in a meeting with qualified professionals to discuss the identification, evaluation, education program, or the provision of a free appropriate public education of a child with a disability. With certain exceptions, parents must be given notice at least 10 calendar days in advance of the meeting. Parents do not have to be given 10 calendar days notice if an expedited meeting is being conducted to address disciplinary issues, determine the placement of a child with a disability not currently receiving educational services, or meet other urgent needs of a child with a disability to ensure the provision of a free appropriate public education.

School personnel must provide the parents of a child with a disability with accessible copies of all documents relating to the development of an IEP at least five business days

before a scheduled meeting, unless the parents have given notice that they do not want to receive certain documents. Documents prepared for the meeting by a school psychologist or other medical professional may be provided to the parents orally and in writing prior to the meeting. In the event of an extenuating circumstance, appropriate school personnel who fail to provide parents with required information prior to the meeting must document the extenuating circumstance and communicate the information to the parents. Not later than five business days after a scheduled meeting, appropriate school personnel must provide the parents of the child with a copy of the completed IEP or, if it has not been completed, a draft copy of the IEP. The completed or draft IEP must be provided to the parents in an accessible format.

Chapter 233 of 2006 established a process for resolution sessions that can be used to settle disputes about the identification, evaluation, and educational placements of children with disabilities, consistent with IDEA provisions for dispute resolution. Before conducting a due process hearing, the parent must have an opportunity to resolve a due process complaint at a resolution session. A parent of a child with a disability or a public agency may request mediation to resolve any disagreement regarding the child's special education services or program, including mediation to resolve a due process complaint filed by a parent against a public agency. The request for mediation may not be used to deny or delay the parent's right under the law. Any party to the mediation has the right to be accompanied and advised by counsel.

A parent of a child with disabilities may file a due process complaint with the Office of Administrative Hearings (OAH) and the public agency. Similarly, the public agency may file a due process complaint with OAH and the parent. OAH appoints an administrative law judge to conduct a due process hearing. The decision of the administrative law judge must be made on substantive grounds based on whether a child has received a free appropriate public education.

Chapter 671 of 2013 established a Commission on Special Education Access and Equity to, among other issues, study the extent to which parents are made aware of their rights under IDEA. The commission must submit a final report by June 30, 2014.

**State Expenditures:** Instead of creating a new document to explain the parents' rights and responsibilities in the IEP process, MSDE indicates that it will translate an existing 17-page document that explains the IEP process into 17 different languages and into Braille, at a total cost of \$20,900 in fiscal 2015.

**Local Expenditures:** Local school systems must already provide the procedural safeguards notice at specified junctures, therefore, local expenditures do not increase to provide this notice on the occasions specified by the bill. Posting a list of special education service models that are available in a county on the local school system website

will not increase local expenditures. Similarly, developing a clear statement on how decisions regarding the placement of a child with a disability are made will not affect local expenditures.

Some local school systems may incur minimal one-time costs to implement use of the required explanation of parents' rights and responsibilities in the IEP process.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Carroll, Harford, Montgomery, and Queen Anne's counties; Maryland State Department of Education; Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2014  
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