

# HOUSE BILL 1060

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By: **Delegate Luedtke**

Introduced and read first time: February 13, 2015

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Special Education – Individualized Education Program Facilitated Meetings**

3 FOR the purpose of requiring each local school system to offer the services of an  
4 independent facilitator to certain parents and school personnel; authorizing certain  
5 parents and school personnel to request the participation of an independent  
6 facilitator in a certain meeting; requiring certain parents and school personnel to be  
7 offered an opportunity to resolve a certain disagreement in a meeting with an  
8 independent facilitator before a certain mediation or due process hearing; defining a  
9 certain term; and generally relating to special education and individualized  
10 education program facilitated meetings.

11 BY repealing and reenacting, with amendments,  
12 Article – Education  
13 Section 8–405  
14 Annotated Code of Maryland  
15 (2014 Replacement Volume and 2014 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
17 That the Laws of Maryland read as follows:

18 **Article – Education**

19 8–405.

20 (a) (1) In this section the following words have the meanings indicated.

21 (2) “Accessible copy” includes a copy of a document provided to an  
22 individual in a format as defined in § 8–408 of this subtitle.

23 (3) “Extenuating circumstance” means:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (i) A death in the family;
- 2 (ii) A personal emergency;
- 3 (iii) A natural disaster; or
- 4 (iv) Any other similar situation defined by the Department.

5 **(4) "INDEPENDENT FACILITATOR" MEANS AN INDIVIDUAL WHO:**

6 **(I) HAS COMPLETED A 50-HOUR TRAINING COURSE IN**  
7 **MEDIATION SKILLS;**

8 **(II) HAS EXPERIENCE MEDIATING A VARIETY OF DISPUTES;**

9 **(III) HAS COMPLETED A 3-DAY TRAINING IN INDIVIDUALIZED**  
10 **EDUCATION PROGRAM TEAM MEETING FACILITATION;**

11 **(IV) FOCUSES ON THE INDIVIDUALIZED EDUCATION PROGRAM**  
12 **PROCESS; AND**

13 **(V) IS NOT A MEMBER OF AN INDIVIDUALIZED EDUCATION**  
14 **PROGRAM TEAM AND DOES NOT HAVE A RELATIONSHIP WITH THE SCHOOL OR THE**  
15 **PARENTS OTHER THAN TO ASSIST IN AN INDIVIDUALIZED EDUCATION PROGRAM**  
16 **TEAM MEETING.**

17 (b) (1) When a team of qualified professionals and the parents meet for the  
18 purpose of discussing the identification, evaluation, educational program, or the provision  
19 of a free appropriate public education of a child with a disability:

20 (i) The parents of the child shall be afforded the opportunity to  
21 participate and shall be provided reasonable notice in advance of the meeting; and

22 (ii) Reasonable notice shall be at least 10 calendar days in advance  
23 of the meeting, unless an expedited meeting is being conducted to:

24 1. Address disciplinary issues;

25 2. Determine the placement of the child with a disability not  
26 currently receiving educational services; or

27 3. Meet other urgent needs of a child with a disability to  
28 ensure the provision of a free appropriate public education.

29 (2) (i) At the initial evaluation meeting, the parents of the child shall  
30 be provided, in plain language, a verbal and written explanation of the parents' rights and

1 responsibilities in the individualized education program process and a program procedural  
2 safeguards notice.

3 (ii) The parents may request the information provided under  
4 subparagraph (i) of this paragraph at any subsequent meeting.

5 **(C) (1) EACH LOCAL SCHOOL SYSTEM SHALL OFFER THE SERVICES OF AN**  
6 **INDEPENDENT FACILITATOR TO THE PARENTS AND SCHOOL PERSONNEL MEETING**  
7 **TO DISCUSS THE IDENTIFICATION, EVALUATION, OR EDUCATIONAL PROGRAM OR**  
8 **THE PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION OF A CHILD WITH A**  
9 **DISABILITY.**

10 **(2) THE PARENTS OR SCHOOL PERSONNEL MAY REQUEST THE**  
11 **PARTICIPATION OF AN INDEPENDENT FACILITATOR IN ANY TEAM MEETING.**

12 **(3) IF A MEDIATION OR DUE PROCESS HEARING IS SCHEDULED**  
13 **UNDER § 8-413 OF THIS SUBTITLE, THE PARENTS AND SCHOOL PERSONNEL SHALL**  
14 **BE OFFERED AN OPPORTUNITY TO RESOLVE THE DISAGREEMENT IN A MEETING**  
15 **WITH AN INDEPENDENT FACILITATOR BEFORE THE MEDIATION OR HEARING.**

16 **[(c)] (D)** The individualized education program team shall determine, on at least  
17 an annual basis, whether the child requires extended year services in order to ensure that  
18 the child is not deprived of a free appropriate public education by virtue of the normal break  
19 in the regular school year.

20 **[(d)] (E) (1) (i)** Except as provided in paragraph (2) of this subsection, and  
21 subject to subparagraphs (ii) and (iii) of this paragraph, at least 5 business days before a  
22 scheduled meeting of the individualized education program team or other multidisciplinary  
23 education team for any purpose for a child with a disability, appropriate school personnel  
24 shall provide the parents of the child with an accessible copy of each assessment, report,  
25 data chart, draft individualized education program, or other document that either team  
26 plans to discuss at the meeting.

27 (ii) Subject to subparagraph (i) of this paragraph, an assessment,  
28 report, data chart, or other document prepared by a school psychologist or other medical  
29 professional that either team plans to discuss at the meeting may be provided to the parents  
30 of the child orally and in writing prior to the meeting.

31 (iii) The parents of a child may notify appropriate school personnel  
32 that they do not want to receive the documents required to be provided under subparagraph  
33 (i) of this paragraph.

34 (2) (i) Subject to subparagraph (ii) of this paragraph, appropriate  
35 school personnel are not required to comply with paragraph (1) of this subsection in the  
36 event of an extenuating circumstance.

1 (ii) In the event of an extenuating circumstance, appropriate school  
2 personnel who fail to comply with paragraph (1) of this subsection shall document the  
3 extenuating circumstance and communicate that information to the parents of the child.

4 **[(e)] (F)** (1) Not later than 5 business days after a scheduled meeting of the  
5 individualized education program team or other multidisciplinary team for a child with a  
6 disability, appropriate school personnel shall provide the parents of the child with a copy  
7 of the completed individualized education program.

8 (2) If the individualized education program has not been completed by the  
9 5th business day after the meeting, the parents shall be provided with the draft copy of the  
10 individualized education program.

11 (3) The completed or draft individualized education program shall be  
12 provided to the parents in an accessible format.

13 **[(f)] (G)** To fulfill the purposes of this section, school personnel may provide the  
14 documents required under this section through:

15 (1) Electronic delivery;

16 (2) Home delivery with the student; or

17 (3) Any other reasonable and legal method of delivery.

18 **[(g)] (H)** Failure to comply with this section does not constitute a substantive  
19 violation of the requirement to provide a student with a free appropriate public education.

20 **[(h)] (I)** The Department shall adopt:

21 (1) Regulations that define what information should be provided in the  
22 verbal and written explanations of the parents' rights and responsibilities in the  
23 individualized education program process; and

24 (2) Any other regulations necessary to carry out subsection (b)(2) of this  
25 section.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
27 1, 2015.