

HOUSE BILL 714

F1

11r1348
CF SB 300

By: **Delegate Guyton**

Introduced and read first time: January 26, 2021

Assigned to: Ways and Means

Committee Report: Favorable with amendments

Committee amendments withdrawn, March 3, 2021

House action: Adopted with substitute committee amendments

Read second time: March 3, 2021

CHAPTER _____

1 AN ACT concerning

2 **Special Education – Learning Continuity Plan – Requirement**

3 FOR the purpose of requiring an individualized education program to include a learning
4 continuity plan to be implemented for certain students for a certain purpose during
5 emergency conditions beginning on a certain date; requiring an individualized
6 education program team to develop a learning continuity plan at certain times and
7 to consider certain risks for a certain purpose; ~~providing for the contents of a learning~~
8 ~~continuity plan; authorizing a local school system to provide certain services by~~
9 ~~certain learning models; requiring an individualized education program team to~~
10 notify certain parents or guardians that a learning continuity plan is in place within
11 a certain number of days of a certain determination; requiring that the team seek
12 input from a parent or guardian on how the learning continuity plan will best operate
13 under a certain circumstance; specifying that the provision of services under a
14 learning continuity plan does not alter a child’s educational placement for a certain
15 purpose; requiring an individualized education program team to periodically update
16 a learning continuity plan; ~~requiring a local school system to develop a certain~~
17 ~~learning continuity plan for certain students on or before a certain date; providing~~
18 that certain individualized education program teams may fulfill certain
19 requirements in a certain manner by a certain date; defining a certain ~~terms~~ term;
20 and generally relating to learning continuity plans for students receiving special
21 education.

22 BY repealing and reenacting, with amendments,

23 Article – Education

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 8-405
 2 Annotated Code of Maryland
 3 (2018 Replacement Volume and 2020 Supplement)

4 ~~BY adding to~~
 5 ~~Article – Education~~
 6 ~~Section 8-405.1~~
 7 ~~Annotated Code of Maryland~~
 8 ~~(2018 Replacement Volume and 2020 Supplement)~~

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

11 **Article – Education**

12 8-405.

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

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

16 (3) “Extenuating circumstance” means:

17 (i) A death in the family;

18 (ii) A personal emergency;

19 (iii) A natural disaster; or

20 (iv) Any other similar situation defined by the Department.

21 (4) “Individualized education program” and “individualized family service
 22 plan” have the same meaning as provided in the federal Individuals with Disabilities
 23 Education Act.

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

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

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

31 1. Address disciplinary issues;

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

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

5 (2) (i) 1. At the initial evaluation meeting, the parents of the child
6 shall be provided:

7 A. In plain language, an oral and written explanation of the
8 parents' rights and responsibilities in the individualized education program process and a
9 program procedural safeguards notice;

10 B. Written information that the parents may use to contact
11 early intervention and special education family support services staff members within the
12 local school system and a brief description of the services provided by the staff members;
13 and

14 C. Written information on the Special Education
15 Ombudsman and toll-free telephone number established under Title 6, Subtitle 5 of the
16 State Government Article.

17 2. If a parent's native language is not English, the
18 information in subparagraph 1B and C of this subparagraph shall be provided to the
19 parent in the parent's native language.

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

22 (iii) If a child who has an individualized education program
23 developed in another school system moves into a different local school system, that local
24 school system shall provide the information required under subparagraph (i)1B and C of
25 this paragraph at the time of the first written communication with the parents regarding
26 the child's individualized education program or special education services.

27 (iv) A local school system shall publish information that a parent
28 may use to contact early intervention and special education family support services staff
29 members within the local school system and a brief description of the services provided by
30 the staff members in a prominent place on the section of its website relating to special
31 education services.

32 (3) Failure to provide the information required under paragraph (2)(i)1B
33 and C of this subsection does not constitute grounds for a due process complaint under §
34 8-413 of this subtitle.

1 (4) (i) If the parent disagrees with the educational evaluation of the
2 student that was conducted by the local school system, the parent may request an
3 independent educational evaluation at public expense in accordance with regulations
4 adopted by the Department.

5 (ii) The local school system shall provide a written response
6 approving or denying a request within 30 days of the date the request was made.

7 (iii) If the local school system approves a request, the written
8 response shall advise the parent of the process for arranging the evaluation at public
9 expense.

10 (iv) If the local school system denies a request, the local school system
11 shall file a due process complaint under § 8–413 of this subtitle within 30 days of the date
12 of the denial.

13 (5) (i) If, during an individualized education program team meeting, a
14 parent disagrees with the child’s individualized education program or the special education
15 services provided to the child, the individualized education program team shall provide the
16 parent with, in plain language:

17 1. An oral and a written explanation of the parent’s right to
18 request mediation in accordance with § 8–413 of this subtitle;

19 2. Contact information, including a telephone number that a
20 parent may use to receive more information about the mediation process; and

21 3. Information regarding pro bono representation and other
22 free or low–cost legal and related services available in the area.

23 (ii) A parent may request the information provided under
24 subparagraph (i) of this paragraph at any individualized education program team meeting.

25 (6) (i) If the native language spoken by a parent who requests
26 information under paragraph (5) of this subsection is spoken by more than 1% of the
27 student population in the local school system, the parent may request that the information
28 be translated into the parent’s native language.

29 (ii) If a parent makes a request under subparagraph (i) of this
30 paragraph, the individualized education program team shall provide the parent with the
31 translated document within 30 days after the date of the request.

32 (c) The individualized education program team shall determine, on at least an
33 annual basis, whether the child requires extended year services in order to ensure that the
34 child is not deprived of a free appropriate public education by virtue of the normal break in
35 the regular school year.

1 (D) (1) IN THIS SUBSECTION, "EMERGENCY CONDITIONS" MEANS A
2 PERIOD OF TIME OF 10 SCHOOL DAYS OR LONGER, DURING WHICH ~~A:~~

3 (I) ~~A CHILD WITH A DISABILITY CANNOT BE PROVIDED WITH AN~~
4 ~~INDIVIDUALIZED EDUCATION PROGRAM OR SPECIAL EDUCATION SERVICES IN~~
5 ~~PERSON OR AT SCHOOL BECAUSE OF:~~

6 ~~(I) FIRE;~~

7 ~~(II) FLOOD;~~

8 ~~(III) EARTHQUAKE;~~

9 ~~(IV) IMPASSIBLE ROADS;~~

10 ~~(V) PANDEMIC; AND~~

11 ~~(VI) A CYBERATTACK;~~

12 ~~(VII) AN IMMINENT HAZARD DETERMINED BY LOCAL LAW~~
13 ~~ENFORCEMENT;~~

14 ~~(VIII) A STRIKE IN PUPIL TRANSPORTATION SERVICES PROVIDED~~
15 ~~BY A NONSCHOOL ENTITY;~~

16 ~~(IX) AN EMERGENCY DECLARED BY THE GOVERNOR; OR~~

17 ~~(X) ANY OTHER EMERGENCY CONDITION THAT CAUSES A~~
18 ~~SIGNIFICANT DISRUPTION TO THE ORDINARY DELIVERY OF INSTRUCTION OR~~
19 ~~SERVICES.~~

20 (II) THE SCHOOL IS PROVIDING INSTRUCTION IN SOME FORM
21 TO ITS STUDENTS.

22 (2) (I) BEGINNING OCTOBER 1, 2021, AN INDIVIDUALIZED
23 EDUCATION PROGRAM SHALL INCLUDE A LEARNING CONTINUITY PLAN TO
24 IMPLEMENT DURING EMERGENCY CONDITIONS IN ORDER TO ENSURE THAT THE
25 INDIVIDUALIZED EDUCATION PROGRAM IS PROCEEDING APPROPRIATELY DESPITE
26 THE EMERGENCY CONDITIONS.

27 (II) A LEARNING CONTINUITY PLAN REQUIRED UNDER
28 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DEVELOPED BY AN
29 INDIVIDUALIZED EDUCATION PROGRAM TEAM AT THE TIME OF:

1 1. THE DEVELOPMENT OF A STUDENT'S INITIAL
2 INDIVIDUALIZED EDUCATION PROGRAM; OR

3 2. THE NEXT SCHEDULED REVISION OF A STUDENT'S
4 INDIVIDUALIZED EDUCATION PROGRAM.

5 ~~(3) A LEARNING CONTINUITY PLAN SHALL DESCRIBE THE METHODS
6 THROUGH WHICH THE INDIVIDUALIZED EDUCATION PROGRAM OF A CHILD WITH A
7 DISABILITY WILL BE PROVIDED TO THE CHILD DURING EMERGENCY CONDITIONS,
8 INCLUDING METHODS FOR PROVIDING;~~

9 ~~(I) SPECIAL EDUCATION AND RELATED SERVICES;~~

10 ~~(II) SUPPLEMENTARY AIDS AND SERVICES;~~

11 ~~(III) TRANSITION SERVICES; AND~~

12 ~~(IV) EXTENDED SCHOOL YEAR SERVICES, IF NECESSARY.~~

13 ~~(4) (3)~~ WHEN DEVELOPING A LEARNING CONTINUITY PLAN UNDER
14 ~~PARAGRAPH (3) OF~~ THIS SUBSECTION, THE INDIVIDUALIZED EDUCATION PROGRAM
15 TEAM SHALL CONSIDER ANY RISKS ASSOCIATED WITH THE METHODS FOR
16 PROVIDING REQUIRED SERVICES DURING THE EMERGENCY CONDITIONS AND
17 MINIMIZE POTENTIAL HARMS TO THE STUDENT, SERVICE PROVIDER, AND OTHER
18 ASSOCIATED INDIVIDUALS.

19 ~~(5) A LOCAL SCHOOL SYSTEM MAY PROVIDE THE SERVICES
20 REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION BY:~~

21 ~~(I) A REMOTE LEARNING MODEL ONLY; OR~~

22 ~~(II) A COMBINATION OF A REMOTE LEARNING MODEL AND
23 IN PERSON LEARNING.~~

24 ~~(6) A LEARNING CONTINUITY PLAN SHALL INCLUDE THE FOLLOWING
25 PROVISIONS, IF APPLICABLE, TO ENSURE THAT THE CHILD RECEIVES REQUIRED
26 SERVICES IN ACCORDANCE WITH THE CHILD'S INDIVIDUALIZED EDUCATION
27 PROGRAM:~~

28 ~~(I) INTERNET ACCESS AND ACCESS TO ANY ELECTRONIC
29 DEVICE NECESSARY TO PARTICIPATE IN THE INDIVIDUALIZED EDUCATION
30 PROGRAM AND TO COMPLETE ASSIGNMENTS;~~

~~(H) CONTENT ALIGNED TO GRADE LEVEL STANDARDS, PROVIDED IN A FORMAT OF SUFFICIENT QUALITY TO BE COMPARABLE WITH IN-PERSON INSTRUCTION;~~

~~(HH) ACADEMIC AND BEHAVIORAL HEALTH SUPPORTS DESIGNED TO ADDRESS THE SPECIFIC NEEDS OF THE CHILD;~~

~~(IV) ACCOMMODATIONS THAT ALLOW FOR THE DELIVERY OF REQUIRED SERVICES THROUGH A REMOTE LEARNING MODEL OR A COMBINATION OF A REMOTE LEARNING MODEL AND IN-PERSON INSTRUCTION;~~

~~(V) ACCOMMODATIONS THAT ALLOW FOR THE DELIVERY OF REQUIRED SERVICES IN THE EVENT OF A CYBERATTACK; AND~~

~~(VI) DAILY OR FREQUENT SYNCHRONOUS INTERACTION WITH CERTIFICATED EMPLOYEES AND STUDENT PEERS, WITH THE INTENT THAT THE INTERACTION BE COMPARABLE TO THE TYPES OF INTERACTIONS THE CHILD HAS DURING IN-PERSON INSTRUCTION.~~

(4) (I) WITHIN 10 DAYS OF AN INDIVIDUALIZED EDUCATION PROGRAM TEAM DETERMINING THAT EMERGENCY CONDITIONS EXIST, THE TEAM SHALL MAKE A REASONABLE ATTEMPT TO NOTIFY THE PARENT OR GUARDIAN OF A CHILD WHO REQUIRES AN INDIVIDUALIZED EDUCATION PROGRAM THAT A LEARNING CONTINUITY PLAN IS IN PLACE.

(II) IN CONTACTING A PARENT OR GUARDIAN UNDER THIS PARAGRAPH, THE INDIVIDUALIZED EDUCATION PROGRAM TEAM SHALL SEEK INPUT FROM THE PARENT OR GUARDIAN ON HOW THE LEARNING CONTINUITY PLAN WILL BEST OPERATE DURING EMERGENCY CONDITIONS.

~~(7)~~ (5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE PROVISION OF SERVICES UNDER A LEARNING CONTINUITY PLAN DURING EMERGENCY CONDITIONS DOES NOT ALTER THE CHILD'S EDUCATIONAL PLACEMENT FOR PURPOSES OF A DUE PROCESS COMPLAINT BROUGHT UNDER § 8-413 OF THIS SUBTITLE.

~~(8)~~ (6) AN INDIVIDUALIZED EDUCATION PROGRAM TEAM SHALL PERIODICALLY UPDATE THE EMERGENCY LEARNING CONTINUITY PLAN.

~~[(d)]~~ (E) (1) (i) Except as provided in paragraph (2) of this subsection, and subject to subparagraphs (ii) and (iii) of this paragraph, at least 5 business days before a scheduled meeting of the individualized education program team or other multidisciplinary education team for any purpose for a child with a disability, appropriate school personnel shall provide the parents of the child with an accessible copy of each assessment, report,

1 data chart, draft individualized education program, or other document that either team
2 plans to discuss at the meeting.

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

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

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

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

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

20 (2) If the individualized education program has not been completed by the
21 5th business day after the meeting, the parents shall be provided with the draft copy of the
22 individualized education program.

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

25 (4) (i) If the native language spoken by the parents of a child with a
26 completed individualized education program or a completed individualized family service
27 plan is spoken by more than 1 percent of the student population in the local school system,
28 the parents may request the document to be translated into the parents' native language.

29 (ii) If a parent makes a request under subparagraph (i) of this
30 paragraph, appropriate school personnel shall provide the parents with the translated
31 document within 30 days after the date of the request.

32 **[(f)] (G)** (1) Except as provided in paragraph (2) of this subsection, an
33 individualized education program team shall obtain written consent from a parent if the
34 team proposes to:

35 (i) Enroll the child in an alternative education program that does
36 not issue or provide credits toward a Maryland high school diploma;

1 (ii) Identify the child for the alternative education assessment
2 aligned with the State's alternative curriculum; or

3 (iii) Include restraint or seclusion in the individualized education
4 program to address the child's behavior as described in COMAR 13A.08.04.05.

5 (2) If the parent does not provide written consent to an action proposed in
6 paragraph (1) of this subsection at the individualized education program team meeting, the
7 individualized education program team shall send the parent written notice no later than
8 5 business days after the individualized education program team meeting that informs the
9 parent that:

10 (i) The parent has the right to either consent to or refuse to consent
11 to an action proposed under paragraph (1) of this subsection; and

12 (ii) If the parent does not provide written consent or a written refusal
13 to consent to an action proposed under paragraph (1) of this subsection within 15 business
14 days of the individualized education program team meeting, the individualized education
15 program team may implement the proposed action.

16 (3) If the parent refuses to consent to the action proposed, the
17 individualized education program team may use the dispute resolution options listed in §
18 8-413 of this subtitle to resolve the matter.

19 **[(g)] (H)** To fulfill the purposes of this section, school personnel may provide the
20 documents required under this section through:

21 (1) Electronic delivery;

22 (2) Home delivery with the student; or

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

24 **[(h)] (I)** Failure to comply with this section does not constitute a substantive
25 violation of the requirement to provide a student with a free appropriate public education.

26 **[(i)] (J)** The Department shall adopt:

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

30 (2) Any other regulations necessary to carry out subsection (b)(2) and (4) of
31 this section.

1 ~~(A) IN THIS SECTION, "EMERGENCY CONDITIONS" HAS THE MEANING~~
 2 ~~STATED IN § 8-405 OF THIS SUBTITLE.~~

3 ~~(B) BEGINNING OCTOBER 1, 2021, A LOCAL SCHOOL SYSTEM SHALL~~
 4 ~~DEVELOP A LEARNING CONTINUITY PLAN TO IMPLEMENT UNDER EMERGENCY~~
 5 ~~CONDITIONS THAT IS SUBSTANTIALLY SIMILAR TO A LEARNING CONTINUITY PLAN~~
 6 ~~REQUIRED UNDER § 8-405 OF THIS SUBTITLE FOR EACH STUDENT WHO:~~

7 ~~(1) HAS A PLAN IN COMPLIANCE WITH § 504 OF THE FEDERAL~~
 8 ~~REHABILITATION ACT OF 1973; AND~~

9 ~~(2) DOES NOT HAVE AN INDIVIDUALIZED EDUCATION PROGRAM IN~~
 10 ~~COMPLIANCE WITH THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION~~
 11 ~~ACT.~~

12 SECTION 2. AND BE IT FURTHER ENACTED, That an individualized education
 13 program team that had an individualized education program that was in existence during
 14 the 2020–2021 school year may fulfill the requirements of Section 1 of this Act by taking
 15 the following actions on or before October 1, 2021:

16 (1) reviewing the successes and failures of the individualized education
 17 program during the 2020–2021 school year with the parent or guardian of the child
 18 requiring the individualized education program; and

19 (2) amending the individualized education program based on the review
 20 required in item (1) of this section.

21 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 22 July 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.