

HOUSE BILL 1365

F1, O3

1lr3085
CF SB 958

By: **Delegate Korman**

Introduced and read first time: March 1, 2021

Assigned to: Rules and Executive Nominations

Re-referred to: Appropriations, March 3, 2021

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2021

CHAPTER _____

1 AN ACT concerning

2 **Nonpublic Special Education Schools – State Contribution – Increase**

3 FOR the purpose of requiring the State contribution to the cost of educating children with
4 disabilities in nonpublic programs to be increased by certain amounts in a certain
5 fiscal year for certain purposes; and generally relating to an increase in the State
6 contribution to the cost of educating children with disabilities in nonpublic programs.

7 BY repealing and reenacting, without amendments,

8 Article – Education

9 Section 8–406(b) and (c) and 8–415(d)

10 Annotated Code of Maryland

11 (2018 Replacement Volume and 2020 Supplement)

12 Preamble

13 WHEREAS, The enrollment of the State’s nonpublic special education schools
14 consists primarily of public school students who are assigned to a nonpublic school due to
15 their need for specialized services that cannot be offered by their local school system; and

16 WHEREAS, During the 2020 Legislative Session, the General Assembly charged the
17 State Department of Education with reviewing compensation data and qualifications for
18 public and nonpublic school special education teachers and with identifying and analyzing
19 wage and compensation disparities between public and nonpublic school special education
20 teachers; and

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 WHEREAS, The State Department of Education submitted its report to the General
2 Assembly on December 16, 2020, finding that salaries of nonpublic school special education
3 teachers were between 7.3% and 25% less than the salaries of similarly situated special
4 education teachers in public schools; and

5 WHEREAS, The State Department of Education also found that, when accounting
6 for total paid hours, the wage disparity between similarly situated special education
7 teachers in public schools and in nonpublic schools increased to between 23.3% and 40.7%;
8 and

9 WHEREAS, Chapter 36 of the Acts of the General Assembly of 2021 will add \$4
10 billion in annual State and local spending above current spending projections by fiscal year
11 2030; and

12 WHEREAS, Chapter 36 of the Acts of the General Assembly of 2021 mandates
13 minimum salary increases for certain accomplishments in amounts not more than \$17,000
14 annually for public school teachers beginning in fiscal year 2022; now, therefore,

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

17 **Article – Education**

18 8–406.

19 (b) (1) A child with a disability who needs special education and related
20 services that cannot be provided in a public county, regional, or State program shall be
21 placed in an appropriate nonpublic educational program that offers these services.

22 (2) A child with a disability who needs special education and related
23 services is eligible for an appropriate nonpublic educational placement under this section
24 if a State or local agency provides documentation that the child cannot attend a public
25 school in the local school system:

26 (i) Because of the child’s home circumstances; or

27 (ii) Subject to subsection (d)(1) and (2) of this section, because of
28 medical necessity.

29 (c) (1) The cost of the nonpublic educational program shall be paid by the State
30 and the county in which the child is domiciled in accordance with § 8–415(d) of this subtitle,
31 as appropriate.

32 (2) Subject to availability of funding in the State budget, for a child who
33 qualifies for a nonpublic educational program under subsection (b)(2) of this section and
34 who requires wraparound services in order to receive special education and related services

1 in the least restrictive environment, the cost of providing the services shall be paid by the
2 State and the county in which the child is domiciled in accordance with § 8–415(d) of this
3 subtitle, if a State or local agency documents that the child’s parent or legal guardian is
4 unable to provide the wraparound services.

5 8–415.

6 (d) (1) In this subsection, “basic cost” as to each county, means the average
7 amount spent by the county from county, State, and federal sources for the public education
8 of a nonhandicapped child. “Basic cost” does not include amounts specifically allocated and
9 spent for identifiable compensatory programs for disadvantaged children.

10 (2) As provided in paragraphs (3) and (4) of this subsection, the State and
11 the counties shall share collectively in the cost of educating children with disabilities in
12 nonpublic programs under § 8–406 of this subtitle.

13 (3) (i) Subject to the limitation under subparagraph (ii) of this
14 paragraph, for each of these children domiciled in the county, the county shall contribute
15 for each placement the sum of:

16 1. The local share of the basic cost;

17 2. An additional amount equal to 200 percent of the basic
18 cost; and

19 3. A. For fiscal year 2009, an additional amount equal to
20 20 percent of the approved cost or reimbursement in excess of the sum of items 1 and 2 of
21 this subparagraph; and

22 B. For fiscal year 2010 and each subsequent fiscal year
23 thereafter, an additional amount equal to 30 percent of the approved cost or reimbursement
24 in excess of the sum of items 1 and 2 of this subparagraph.

25 (ii) The amount that a county is required to contribute under
26 subparagraph (i) of this paragraph may not exceed the total cost or reimbursement amount
27 approved by the Department.

28 (4) For each of these children, the State shall contribute an amount equal
29 to the amount of the approved cost or reimbursement in excess of the amount the county is
30 required to contribute under paragraph (3) of this subsection.

31 SECTION 2. AND BE IT FURTHER ENACTED, That for fiscal year 2023, in
32 addition to the State contribution required under § 8–415(d)(4) of the Education Article
33 shall include, the Governor shall include in the annual budget bill an appropriation to
34 provide:

1 (1) an increase of 4% over the amount approved by the State Department
2 of Education in fiscal year 2022, exclusively for:

3 (i) direct classroom positions;

4 (ii) related services positions; and

5 (iii) general support positions; and

6 (2) an additional increase of not less than 2% or the Consumer Price Index
7 for All Urban Consumers, whichever is greater, over the amount approved by the State
8 Department of Education in fiscal year 2022 for all categories of expenditure not listed in
9 item (1) of this section.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
11 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.