

HOUSE BILL 778

F1

6lr2652

By: **Delegates M. Washington and Luedtke**
Introduced and read first time: February 8, 2016
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: April 3, 2016

CHAPTER _____

1 AN ACT concerning

2 ~~Education – Students With Disabilities – Parental Consent for Individualized~~
3 ~~Education Program Content~~
4 Education – Students With Disabilities – Study of Parental Consent in the
5 Individualized Education Program Process

6 FOR the purpose of requiring ~~certain individualized education program teams to obtain a~~
7 ~~certain written consent before implementing certain actions except in certain~~
8 ~~circumstances; requiring a certain individualized education program team to send a~~
9 ~~certain notice to certain parents under certain circumstances; authorizing a certain~~
10 ~~individualized education program team to use certain dispute resolution options in~~
11 ~~certain circumstances; and generally relating to parental consent for individualized~~
12 ~~education program content~~ the State Department of Education to convene a certain
13 workgroup in consultation with certain stakeholders to review certain statutes and
14 regulations, make certain determinations, discuss certain issues, and make certain
15 recommendations on or before a certain date; and generally relating to a study of
16 parental consent in the individualized education program process.

17 ~~BY renumbering~~

18 ~~Article – Education~~

19 ~~Section 8–405(f) through (h), respectively~~

20 ~~to be Section 8–405(g) through (i), respectively~~

21 ~~Annotated Code of Maryland~~

22 ~~(2014 Replacement Volume and 2015 Supplement)~~

23 ~~BY repealing and reenacting, without amendments,~~

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 ~~Article — Education~~
 2 ~~Section 8 — 405(b)~~
 3 ~~Annotated Code of Maryland~~
 4 ~~(2014 Replacement Volume and 2015 Supplement)~~

5 ~~BY adding to~~
 6 ~~Article — Education~~
 7 ~~Section 8 — 405(f)~~
 8 ~~Annotated Code of Maryland~~
 9 ~~(2014 Replacement Volume and 2015 Supplement)~~

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 11 That ~~Section(s) 8 — 405(f) through (h), respectively, of Article — Education of the Annotated~~
 12 ~~Code of Maryland be renumbered to be Section(s) 8 — 405(g) through (i), respectively.~~

13 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read~~
 14 ~~as follows:~~

15 (a) The State Department of Education shall convene a workgroup that consults
 16 with stakeholders that include special education directors and teachers from local school
 17 systems, the Maryland Association of Boards of Education, related service provider
 18 organizations, the Maryland Disability Law Center, the Education Advocacy Coalition,
 19 parents from parent-run disability advocacy organizations, the Maryland State Education
 20 Association, the Public School Superintendents Association of Maryland, and parents of
 21 students with disabilities.

22 (b) On or before November 15, 2016, the workgroup established under subsection
 23 (a) of this section shall:

24 (1) review and make recommendations regarding parental consent and
 25 parental participation provisions of special education statutes and regulations in place in
 26 other states, including data and information regarding the effectiveness of these provisions;

27 (2) determine the definition of “parental consent” in this context and how
 28 it should be effectuated;

29 (3) discuss the legal and policy ramifications for obtaining written parental
 30 consent before an individualized education program (IEP) team may:

31 (i) enroll a student in an alternative education program that does
 32 not issue or provide credits toward a Maryland high school diploma;

33 (ii) identify a student for the alternate assessment aligned to the
 34 State’s alternative curriculum;

1 (iii) include restraint or seclusion in an IEP to address a student's
 2 behavior other than when the student poses an imminent likelihood of serious physical
 3 harm to self or others;

4 (iv) reduce or terminate instructional or related services; and

5 (v) initiate a change in placement;

6 (4) review and make recommendations regarding the feasibility of
 7 authorizing a student with disabilities to attend a public school other than the public school
 8 to which the student is assigned, including a school in another local school system; and

9 (5) report the results of the activities of the workgroup, including
 10 recommendations for legislative changes, in accordance with § 2-1246 of the State
 11 Government Article, to the Senate Education, Health, and Environmental Affairs
 12 Committee and the House Committee on Ways and Means.

13 **~~Article – Education~~**

14 ~~§ 405.~~

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

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

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

22 ~~1. Address disciplinary issues;~~

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

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

27 ~~(2) (i) At the initial evaluation meeting, the parents of the child shall~~
 28 ~~be provided, in plain language, a verbal and written explanation of the parents' rights and~~
 29 ~~responsibilities in the individualized education program process and a program procedural~~
 30 ~~safeguards notice.~~

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

~~(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE INDIVIDUALIZED EDUCATION PROGRAM TEAM SHALL OBTAIN WRITTEN CONSENT FROM A PARENT IF THE TEAM PROPOSES TO:~~

~~(I) ENROLL THE CHILD IN AN ALTERNATIVE EDUCATION PROGRAM THAT DOES NOT ISSUE OR PROVIDE CREDITS TOWARD A MARYLAND HIGH SCHOOL DIPLOMA;~~

~~(II) IDENTIFY THE CHILD FOR THE ALTERNATE ASSESSMENT ALIGNED WITH THE STATE'S ALTERNATE CURRICULUM;~~

~~(III) USE RESTRAINT OR SECLUSION TO CORRECT THE CHILD'S BEHAVIOR;~~

~~(IV) REDUCE OR TERMINATE THE AMOUNT OF INSTRUCTIONAL OR RELATED SERVICES THAT ARE PROVIDED TO THE CHILD; OR~~

~~(V) INITIATE A CHANGE IN THE CHILD'S EDUCATIONAL PLACEMENT.~~

~~(2) IF THE PARENT DOES NOT PROVIDE WRITTEN CONSENT TO AN ACTION PROPOSED IN PARAGRAPH (1) OF THIS SUBSECTION AT THE INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING, THE INDIVIDUALIZED EDUCATION PROGRAM TEAM SHALL SEND THE PARENT WRITTEN NOTICE NO LATER THAN 5 BUSINESS DAYS AFTER THE INDIVIDUALIZED EDUCATION PROGRAM MEETING THAT INFORMS THE PARENT THAT:~~

~~(I) THE PARENT HAS THE RIGHT TO EITHER CONSENT TO OR REFUSE TO CONSENT TO AN ACTION PROPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND~~

~~(II) IF THE PARENT DOES NOT PROVIDE WRITTEN CONSENT OR A WRITTEN REFUSAL TO CONSENT TO AN ACTION PROPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 20 BUSINESS DAYS OF THE INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING, THE INDIVIDUALIZED EDUCATION PROGRAM TEAM MAY IMPLEMENT THE PROPOSED ACTION.~~

~~(3) IF A PARENT REFUSES TO CONSENT TO THE ACTION PROPOSED, THE INDIVIDUALIZED EDUCATION TEAM MAY USE THE DISPUTE RESOLUTION OPTIONS LISTED IN § 8-413 OF THIS SUBTITLE TO RESOLVE THE MATTER.~~

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ June 1, 2016.