

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

A BILL ENTITLED

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

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

25 WHEREAS, The State Department of Education also found that, when accounting

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 for total paid hours, the wage disparity between similarly situated special education
2 teachers in public schools and in nonpublic schools increased to between 23.3% and 40.7%;
3 and

4 WHEREAS, Chapter 36 of the Acts of the General Assembly of 2021 will add \$4
5 billion in annual State and local spending above current spending projections by fiscal year
6 2030; and

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

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

12 **Article – Education**

13 8–406.

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

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

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

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

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

27 (2) Subject to availability of funding in the State budget, for a child who
28 qualifies for a nonpublic educational program under subsection (b)(2) of this section and
29 who requires wraparound services in order to receive special education and related services
30 in the least restrictive environment, the cost of providing the services shall be paid by the
31 State and the county in which the child is domiciled in accordance with § 8–415(d) of this
32 subtitle, if a State or local agency documents that the child’s parent or legal guardian is
33 unable to provide the wraparound services.

34 8–415.

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

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

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

11 1. The local share of the basic cost;

12 2. An additional amount equal to 200 percent of the basic
13 cost; and

14 3. A. For fiscal year 2009, an additional amount equal to
15 20 percent of the approved cost or reimbursement in excess of the sum of items 1 and 2 of
16 this subparagraph; and

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

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

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

26 SECTION 2. AND BE IT FURTHER ENACTED, That for fiscal year 2023, the State
27 contribution required under § 8–415(d)(4) of the Education Article shall include:

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

30 (i) direct classroom positions;

31 (ii) related services positions; and

32 (iii) general support positions; and

33 (2) an additional increase of not less than 2% or the Consumer Price Index

1 for All Urban Consumers, whichever is greater, over the amount approved by the State
2 Department of Education in fiscal year 2022 for all categories of expenditure not listed in
3 item (1) of this section.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
5 1, 2021.