

# SENATE BILL 300

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(PRE-FILED)

11r1350  
CF HB 714

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By: **Senator Peters**

Requested: October 30, 2020

Introduced and read first time: January 13, 2021

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2021

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## 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

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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 student that was conducted by the local school system, the parent may request an  
2 independent educational evaluation at public expense in accordance with regulations  
3 adopted by the Department.

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

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

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

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

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

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

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

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

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

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

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

35 (D) (1) IN THIS SUBSECTION, “EMERGENCY CONDITIONS” MEANS A

1 PERIOD OF TIME OF 10 SCHOOL DAYS OR LONGER, DURING WHICH ~~A:~~

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

5 (I) ~~FIRE;~~

6 (II) ~~FLOOD;~~

7 (III) ~~EARTHQUAKE;~~

8 (IV) ~~IMPASSIBLE ROADS;~~

9 (V) ~~PANDEMIC;~~

10 (VI) ~~AN IMMINENT HAZARD DETERMINED BY LOCAL LAW~~  
 11 ~~ENFORCEMENT;~~

12 (VII) ~~A STRIKE IN PUPIL TRANSPORTATION SERVICES PROVIDED~~  
 13 ~~BY A NONSCHOOL ENTITY;~~

14 (VIII) ~~AN EMERGENCY DECLARED BY THE GOVERNOR; OR~~

15 (IX) ~~ANY OTHER EMERGENCY CONDITION THAT CAUSES A~~  
 16 ~~SIGNIFICANT DISRUPTION TO THE ORDINARY DELIVERY OF INSTRUCTION OR~~  
 17 ~~SERVICES.~~

18 (II) THE SCHOOL IS PROVIDING INSTRUCTION IN SOME FORM  
 19 TO ITS STUDENTS.

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

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

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

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

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

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

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

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

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

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

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

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

20                                  ~~(II)   A COMBINATION OF A REMOTE LEARNING MODEL AND~~  
21 ~~IN PERSON LEARNING.~~

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

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

29                                  ~~(II)   CONTENT ALIGNED TO GRADE LEVEL STANDARDS,~~  
30 ~~PROVIDED IN A FORMAT OF SUFFICIENT QUALITY TO BE COMPARABLE WITH~~  
31 ~~IN PERSON INSTRUCTION;~~

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

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

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

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

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

19 ~~(7) (4)~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE  
20 PROVISION OF SERVICES UNDER A LEARNING CONTINUITY PLAN DURING  
21 EMERGENCY CONDITIONS DOES NOT ALTER THE CHILD'S EDUCATIONAL  
22 PLACEMENT FOR PURPOSES OF A DUE PROCESS COMPLAINT BROUGHT UNDER §  
23 8-413 OF THIS SUBTITLE.

24 ~~(8) (5)~~ AN INDIVIDUALIZED EDUCATION PROGRAM TEAM SHALL  
25 PERIODICALLY UPDATE THE EMERGENCY LEARNING CONTINUITY PLAN.

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

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

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

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

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

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

14 (2) If the individualized education program has not been completed by the  
15 5th business day after the meeting, the parents shall be provided with the draft copy of the  
16 individualized education program.

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

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

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

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

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

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

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

35 (2) If the parent does not provide written consent to an action proposed in

1 paragraph (1) of this subsection at the individualized education program team meeting, the  
2 individualized education program team shall send the parent written notice no later than  
3 5 business days after the individualized education program team meeting that informs the  
4 parent that:

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

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

11 (3) If the parent refuses to consent to the action proposed, the  
12 individualized education program team may use the dispute resolution options listed in §  
13 8-413 of this subtitle to resolve the matter.

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

16 (1) Electronic delivery;

17 (2) Home delivery with the student; or

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

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

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

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

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

27 ~~§ 405.1.~~

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

30 ~~(B) BEGINNING OCTOBER 1, 2021, A LOCAL SCHOOL SYSTEM SHALL~~  
31 ~~DEVELOP A LEARNING CONTINUITY PLAN TO IMPLEMENT UNDER EMERGENCY~~  
32 ~~CONDITIONS THAT IS SUBSTANTIALLY SIMILAR TO A LEARNING CONTINUITY PLAN~~

1 ~~REQUIRED UNDER § 8 405 OF THIS SUBTITLE FOR EACH STUDENT WHO:~~

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

4 ~~(2) DOES NOT HAVE AN INDIVIDUALIZED EDUCATION PROGRAM IN~~  
 5 ~~COMPLIANCE WITH THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION~~  
 6 ~~ACT.~~

7 SECTION 2. AND BE IT FURTHER ENACTED, That an individualized education  
 8 program team that had an individualized education program that was in effect during the  
 9 2020–2021 school year may fulfill the requirements of Section 1 of this Act by taking the  
 10 following actions on or before October 1, 2021:

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

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.