

SENATE BILL 371

F1

11r1730
CF 11r1729

By: **Senator Peters**

Introduced and read first time: January 15, 2021

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Special Education – Individualized Education Programs – Educational**
3 **Evaluations**

4 FOR the purpose of altering the circumstances under which a parent may request an
5 independent educational evaluation of a child with a disability at public expense to
6 include a parent who submits a certain request to a local school system and the local
7 school system does not respond within a certain period of time or, on approval, the
8 educational evaluation meeting does not occur within a certain period of time under
9 certain circumstances; making conforming changes; and generally relating to
10 educational evaluations in individualized education programs.

11 BY repealing and reenacting, with amendments,
12 Article – Education
13 Section 8–405
14 Annotated Code of Maryland
15 (2018 Replacement Volume and 2020 Supplement)

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

18 **Article – Education**

19 8–405.

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

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

23 (3) “Extenuating circumstance” means:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (i) A death in the family;
- 2 (ii) A personal emergency;
- 3 (iii) A natural disaster; or
- 4 (iv) Any other similar situation defined by the Department.

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

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

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

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

15 1. Address disciplinary issues;

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

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

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

22 A. In plain language, an oral and written explanation of the
23 parents’ rights and responsibilities in the individualized education program process and a
24 program procedural safeguards notice;

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

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

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

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

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

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

16 (3) Failure to provide the information required under paragraph (2)(i)1B
17 and C of this subsection does not constitute grounds for a due process complaint under §
18 8-413 of this subtitle.

19 (4) (i) [If the parent disagrees with the educational evaluation of the
20 student that was conducted by the local school system, the] A parent may request an
21 independent educational evaluation at public expense in accordance with regulations
22 adopted by the Department IF:

23 **1. THE PARENT DISAGREES WITH THE EDUCATIONAL**
24 **EVALUATION OF THE STUDENT THAT WAS CONDUCTED BY THE LOCAL SCHOOL**
25 **SYSTEM; OR**

26 **2. THE PARENT SUBMITS TO THE LOCAL SCHOOL**
27 **SYSTEM A WRITTEN REQUEST FOR AN EDUCATIONAL EVALUATION CONDUCTED BY**
28 **THE LOCAL SCHOOL SYSTEM AND THE LOCAL SCHOOL SYSTEM:**

29 **A. DOES NOT RESPOND TO THE REQUEST WITHIN 30**
30 **DAYS AFTER THE DATE ON WHICH THE REQUEST WAS RECEIVED BY THE LOCAL**
31 **SCHOOL SYSTEM; OR**

32 **B. APPROVES THE REQUEST BUT THE EDUCATIONAL**
33 **EVALUATION MEETING DOES NOT OCCUR, THROUGH NO FAULT OF THE PARENT,**
34 **WITHIN 60 DAYS AFTER THE DATE ON WHICH THE REQUEST WAS RECEIVED BY THE**
35 **LOCAL SCHOOL SYSTEM.**

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

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

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

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

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

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

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

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

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

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

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

32 (d) (1) (i) Except as provided in paragraph (2) of this subsection, and
33 subject to subparagraphs (ii) and (iii) of this paragraph, at least 5 business days before a
34 scheduled meeting of the individualized education program team or other multidisciplinary
35 education team for any purpose for a child with a disability, appropriate school personnel
36 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) (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) (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) 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) Failure to comply with this section does not constitute a substantive violation
25 of the requirement to provide a student with a free appropriate public education.

26 (i) 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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2021.