

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 714

(Delegate Guyton)

Ways and Means

Education, Health, and Environmental Affairs

Special Education - Learning Continuity Plan - Requirement

This bill requires, beginning October 1, 2021, an individualized education program (IEP) to include a learning continuity plan to be implemented during emergency conditions, in order to ensure that the IEP is proceeding appropriately. Emergency conditions is defined as 10 or more school days during which a child with a disability cannot be provided with an IEP or special education services at school and the school is providing instruction in some form to its students. The learning plan must be developed by an IEP team at specified times and must be periodically updated. Within 10 days of an IEP team determining that emergency conditions exist, the team must make a reasonable effort to notify the parent or guardian of a child with a disability that a learning continuity plan is in place and seek input from the parent on how best to implement the plan. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: General fund expenditures increase by approximately \$798,000 in FY 2022 to cover one-time costs to the Maryland State Department of Education (MSDE) for online IEP and monitoring database system alterations and IEP translation services. MSDE can implement the bill on an ongoing basis using existing resources, as discussed below.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	798,000	0	0	0	0
Net Effect	(\$798,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Some local school systems incur significant database, translation, and training costs to meet the bill’s requirements. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Small businesses that provide database development and translation services may benefit.

Analysis

Bill Summary: The IEP team must consider any risks associated with the methods for providing required services during emergency conditions and minimize potential harms to the student, service provider, and other associated individuals. The provision of services under a learning continuity plan during emergency conditions does not alter the child's educational placement for purposes of a due process complaint.

The bill specifies that an IEP team that had an IEP that was in existence during the 2020-2021 school year may fulfill the requirements of the bill by taking the following actions on or before October 1, 2021:

- reviewing the successes and failures of the IEP during the 2020-2021 school year with the parent or guardian of the child requiring the IEP; and
- amending the IEP based on the review.

Current Law:

Individualized Education Programs

The federal Individuals with Disabilities Education Act (IDEA) requires that a child with disabilities be provided a free appropriate public education in the least restrictive environment from birth through the end of the school year in which the student turns 21 years old, in accordance with an individualized family service plan (IFSP) or IEP specific to the individual needs of the child. An IFSP is for children with disabilities from birth up to age 3, and up to age 5 under Maryland's Extended IFSP Option if a parent chooses the option. An IEP is for students with disabilities age 3 through 21. Local school systems are required to make a free appropriate public education available to students with disabilities from age 3 through 21. However, the State, under its supervisory authority required by IDEA, has the ultimate responsibility for ensuring that this obligation is met.

An IEP is a written statement for each child with a disability that, among other things, must indicate the present levels of academic achievement and functional performance of a child, measurable academic and functional goals for the child, how the child's progress toward meeting these goals will be measured, and the special education and related services that are to be provided for the child. The parent of a child with a disability is a member of the IEP team that is responsible for developing and reviewing a child's IEP and for revisions to the IEP.

At the initial evaluation meeting, the parents of a child with a disability must be provided, in plain language, a verbal and written explanation of the parents' rights and responsibilities in the process and a program procedural safeguards notice. The parents may request this information at any subsequent meeting and may request the information in their native language if it is spoken by more than 1% of the students in the school system.

Dispute Resolution

Chapter 233 of 2006 established a Maryland process for resolution sessions that can be used to settle disputes about the identification, evaluation, and educational placements of children with disabilities, consistent with IDEA provisions for dispute resolution. Before conducting a due process hearing, the parent must have an opportunity to resolve a due process complaint at a resolution session.

A parent of a child with a disability or a public agency may request mediation to resolve any disagreement regarding the child's special education services or program, including mediation to resolve a due process complaint filed by a parent against a public agency. (Public agencies include MSDE, local school systems, the Maryland School for the Blind, the Maryland School for the Deaf, and any other State agency responsible for providing education to students with disabilities.) A parent of a child with disabilities may file a due process complaint with the Office of Administrative Hearings (OAH) and the public agency. Similarly, the public agency may file a due process complaint with OAH and the parent. OAH appoints an administrative law judge to conduct a due process hearing. The decision of the administrative law judge must be made on substantive grounds based on whether a child has received a free appropriate public education.

Annual Public School Days and Hours Minimum Requirements

Public schools must be open for at least 180 days *and* 1,080 school hours at elementary and middle schools or 1,170 hours at high schools during a 10-month period. However, a local board of education may apply to the State Board of Education for a waiver from these provisions of State law; the application must describe a demonstrated effort by the local board to comply with State law and that the school system calendar included from 3 to 10 days to be used to make up days lost. In response, the State board may permit:

- increases or decreases in the length of the school year;
- exceptions from the 10-month period requirement;
- adjustments in the length of the school day; and
- schools to be open on holidays.

These adjustments may be granted only if normal school attendance is prevented because of natural disaster, civil disaster, or severe weather conditions. After any school system closure, the local school system must notify the State board, within 10 days of reopening, of its plan to make up the missed school days, including the dates of the make-up days. Education funding from the State or local sources may not be reduced if there are fewer than 180 school days in any year because of an approved application to the State Board of Education for a decrease in the length of the school year.

The local school boards for Baltimore City and Allegany, Anne Arundel, Calvert, Howard, Montgomery, and Prince George's counties may elect to operate one or more schools on a year-round basis if the 180-day and minimum hour requirements are met. Again, State and local education funding may not be reduced if there are fewer than 180 days in any year and a State board waiver was granted allowing for a decrease in the length of the school year.

Chapter 13 of 2019 requires each local board of education to set start and end dates each year for public schools in the county, effectively repealing any law prohibiting a local board from beginning or ending its school year before or after a certain date.

State Expenditures: General fund expenditures increase by approximately \$798,000 in fiscal 2022 to cover one-time costs to MSDE. This estimate includes \$750,000, as MSDE advises, in contractual services to make significant alterations to the Maryland Online IEP (MDOIEP) data system, which houses special education records for participating local school systems and public agencies, and provides MSDE with the ability to efficiently and accurately collect data necessary for operation of the IDEA program in Maryland and to produce required data submissions required by the U.S. Department of Education. The estimate also includes \$25,000 for revisions to the Elevate Maryland electronic database system that is used to facilitate MSDE's monitoring of IDEA implementation by local school systems and State agencies. Finally, the estimate includes \$23,000 for translation into 23 languages of necessary changes to the IEP template used by local school systems.

While the Department of Legislative Services assumes the bill will not necessitate additional State agency staff positions, the bill will require MSDE to reprioritize or delay planned database projects, as well as training and professional development activities.

Local Expenditures: MSDE advises that four local school systems do not use MDOIEP. Thus, these local school systems will bear the cost of redesigning its IEP systems and translating its IEP forms. Local school systems may also incur training to ensure staff members are educated on requirements under the bill.

Anne Arundel County Public Schools advises that it may incur stipend payment costs to complete additional IEP documentation and potential increased Internet access costs to

provide educational services during emergency conditions. Frederick County Public Schools anticipates costs associated with reconfiguration of electronic platforms for developing IEPs to document required decisions under the bill, as well as related ongoing costs. Prince George's County Public Schools notes that its IEPs have already been amended to meet students' needs during the current COVID-19 pandemic, yet anticipates that the bill will increase documentation and staff time demands to develop continuity plans and alter IEPs. Baltimore City Public Schools, however, anticipates no additional costs, noting that it currently documents continuity of services in the student's IEP that address virtual and in-person instruction.

While the bill relates to services provided to specified students during emergency conditions, the bill does not alter the minimum requirements for school days or hours during a school year. Thus it is assumed that the bill does not generate costs that would be associated with an extension of the school year.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 300 (Senator Peters) - Education, Health, and Environmental Affairs.

Information Source(s): Baltimore City Public Schools; Anne Arundel County Public Schools; Frederick County Public Schools; Prince George's County Public Schools; Maryland State Department of Education; Department of Legislative Services

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