

Department of Legislative Services  
Maryland General Assembly  
2021 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 716  
Ways and Means

(Delegate Griffith)  
Education, Health, and Environmental Affairs

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Special Education – Individualized Education Programs – Educational  
Evaluations

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This bill authorizes a parent to request an *independent* educational evaluation regarding a child’s individualized family service plan (IFSP), individualized education program (IEP), or special education services at public expense if the parent submits to the local school system a written request for an educational evaluation conducted by the local school system, *and* the local school system (1) does not respond within 30 days of receiving the request, or (2) approves the request but the educational evaluation meeting does not occur, through no fault of the parent, within 60 days after receiving the request, or within 90 days if the State is under a state of emergency proclaimed by the Governor. **The bill takes effect July 1, 2021.**

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Fiscal Summary

**State Effect:** Expenditures for translation services increase by \$11,000 in FY 2022, as described below, which can be handled with existing resources.

**Local Effect:** Costs associated with public funding of independent evaluations may increase for some local school systems.

**Small Business Effect:** Small businesses that provide independent educational evaluations may benefit.

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## Analysis

### 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 IFSP or an 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.

An IFSP is similar to an IEP and requires a statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes identified for each child and family. The parent of a child with a disability is a member of the IFSP team that is responsible for developing and reviewing a child's IFSP and for revisions to the IFSP.

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.

#### *Educational Evaluations*

A parent who disagrees with the educational evaluation regarding a child's IFSP, IEP, or special education services may request an independent educational evaluation at public expense in accordance with regulations adopted by the Maryland State Department of

Education (MSDE). The local school system must provide a written response approving or denying a request within 30 days of the date the request was made. If the local school system approves a request, the written response must advise the parent of the process for arranging the evaluation at public expense. If the local school system denies a request, the local school system must file a due process complaint within 30 days of the date of the denial.

### *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.

**State Expenditures:** MSDE will be required to update the Maryland Procedural Safeguards documents, pursuant to IDEA, and translate them into 23 languages, in order to ensure compliance with federal and state mandates, at a cost of approximately \$11,000 in fiscal 2022. The Department of Legislative Services advises that MSDE can likely cover this cost with existing resources.

**Local Expenditures:** Current law requires a local school system to provide a written response approving or denying a request for an IFSP or IEP evaluation within 30 days of the date the request was made. The bill may prompt local schools systems, in order to avoid the expense of independent evaluations, to more often comply with this obligation, and to carry out those evaluations within 60 days (or 90 days if the State is under a proclaimed state of emergency) – to the extent that local school systems do not already in practice adhere to the timelines under the bill. To the extent that local school systems are unable to meet the timelines under the bill, costs associated with public funding of independent evaluations increase.

Some school systems are experiencing backlogs of IFSP and IEP evaluations due to conditions caused by the COVID-19 pandemic. Based on information provided by local school systems, an independent evaluation costs in the range of \$1,100 to \$2,600. Prince George's County Public Schools covered the costs of about 16 independent evaluations per year in the past two school years. Montgomery County Public Schools has averaged about 18 *requests* for independent evaluations in recent school years. It is assumed that considerably smaller school systems field relatively few requests for educational evaluations during a typical school year and therefore may incur little or no additional costs under the bill.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** SB 371 (Senator Peters) - Education, Health, and Environmental Affairs.

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

**Fiscal Note History:** First Reader - February 9, 2021  
rh/rhh Third Reader - April 13, 2021  
Revised - Amendment(s) - April 13, 2021

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