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BILL:	House Bill 714	DATE:	February 10, 2021
SUBJECT:	Special Education – Learning Continuity Plan – Requirement	COMMITTEE:	Ways and Means
POSITION:	Information Only		
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EXPLANATION:

The Maryland State Department of Education (MSDE) is providing information for consideration regarding House Bill (HB) 714 – Special Education – Learning Continuity Plan – Requirement, which specifies that a special education student’s Individualized Education Program (IEP) must include a Learning Continuity Plan (LCP) to be implemented during emergency conditions as defined by the law.

The MSDE recognizes that the unprecedented closure of school buildings due to the COVID-19 pandemic has raised new and unique concerns about the provision of educational services when full face-to-face instruction is no longer a safe or practical instructional method. The shift in instructional method presents additional challenges in educating students with disabilities who are serviced under the Individuals with Disabilities Education Act (IDEA) – a federal law that prescribes requirements for educational plans for students with disabilities. The MSDE writes to ensure that the Education, Health, and Environmental Affairs Committee understands the current process in place to develop these plans as it deliberates HB 714.

IDEA and the IEP

The IDEA and its accompanying regulations require local school systems to provide eligible students with disabilities with a free appropriate public education, also known as “FAPE.” (34 C.F.R. § 300.101). In order to provide FAPE, each student is required to have an Individualized Education Program (IEP). The IEP is the written statement developed, reviewed, and revised for each student with a disability; and it is required to include various components such as the student’s present levels of academic performance, annual goals, and a statement of the special education and related services and supplementary aids and services the student requires in order to be involved in and make progress in the general education curriculum. (34 C.F.R. § 300.320).

During the extended school closures, the FAPE requirement has remained in effect. The MSDE has communicated to the local school systems this expectation, along with the obligation to ensure an appropriately developed IEP is in effect as the local school system's service delivery model changes.¹ During this time, local education agencies have been tasked with reviewing existing IEPs and amending/revising these IEPs as necessary pursuant to processes delineated in federal and State regulations. The MSDE has issued guidance through Technical Assistance Bulletin #20-09, including a procedural facilitator for the amendment or revision of the IEP across varied service delivery models and a monitoring protocol for accountability; this currently allows IEP teams to create contingency plans within the IEP to address FAPE in alignment with the local school system's recovery plan.

HB 714 will require an IEP team to document, in a LCP, how an individual student will receive FAPE in alternative service delivery models (e.g., remote learning or a hybrid models) prior to an emergency circumstance. In operationalizing this additional requirement, the following parts of the process will be impacted: the amount of time the IEP team spends preparing and conducting an IEP team meeting; the added component to develop an IEP for a hypothetical emergency condition that may unfold in any number of ways; and the meaningful family engagement and decision-making across varied service delivery models.

The IDEA regulations specify the individuals, including teachers and service providers, who must participate in an IEP team meeting (34 C.F.R. § 300.321). When a teacher or service provider participates in an IEP meeting, they are unavailable to provide instruction or conduct other necessary functions of their jobs. The inclusion of the LCP in the planning process will necessitate further time spent in IEP team meetings to ensure the student's IEP is compliant with the law.

We respectfully request that you consider this information as you deliberate **HB 714**. For further information, please contact Zachary Hands at 410-767-0504 or Zachary.hands1@maryland.gov.

¹ For more information on the MSDE's guidance to locals, please visit our [technical assistance bulletin webpage](#). Specifically, [TAB #20-09](#) explains the FAPE and IEP amendment/revision process.