

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1430
Ways and Means

(Delegate Miller, *et al.*)

Education - Public Schools - Parents' Rights (Education Bill of Rights for Families Act)

This bill specifies (1) the rights of parents of children enrolled in school and (2) the information and access that local school systems must give to parents. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: Local school system expenditures may increase minimally, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary: Except as otherwise prohibited by State or federal law, each parent of a child has the right to (1) enroll the child in a public school or, as an alternative, a private school, including a religious school, a home education program, a charter school, or a virtual school; (2) access all school attendance and academic records relating to the child; (3) review all school health or medical records of the child; and (4) be promptly notified if an employee of a local school system suspects that a criminal offense has been committed against the child.

Each local school system must (1) provide parents of students with opportunities each quarter to improve communication and cooperation between parents and teachers in

specified areas, and learn the student's course of study; (2) inform parents in advance of any instruction or lessons related to family life and human sexuality, comprehensive sexual health education, or HIV prevention education, and of the process necessary to opt their child out of such instruction or lessons; and (3) distribute an annual newsletter to parents describing the nature and purpose of school clubs and activities. A local school system must, if applicable, post specified information on its website, including how to access instructional materials, including curriculum materials.

The bill's provisions may not be construed to (1) authorize a parent of a minor child in the State to engage in conduct that is unlawful or to abuse or neglect the parent's minor child in violation of State law or (2) prohibit an employee of a local school system or nonpublic school from acting in the employee's official capacity within the scope of the employee's authority.

Current Law: A child age 5 to 17 must attend public school regularly unless the child is otherwise receiving regular, thorough instruction at an alternative setting, (*i.e.*, a nonpublic or home school). An individual who has legal custody of a child age 5 to 17 and fails to see that the child attends school is guilty of a misdemeanor. Compulsory attendance does not apply to specified individuals, including, among others, individuals who (1) have obtained a high school diploma or GED; (2) are married or in military service; or (3) are severely ill and require home or hospital instruction.

Public Charter Schools

In Maryland, a charter school is a public school. The general purpose of the Maryland Public Charter School Program is to establish an alternative means within the existing public school system to provide innovative learning opportunities and creative educational approaches to improve the education of students.

Virtual Schools

A "virtual school" is defined as a public school established by a local board or multiple local boards that uses one or more technologies to deliver instruction to its students entirely or primarily online and in which students and instructors participate remotely from separate locations. A student who is eligible for enrollment in a public school in the State may enroll in a virtual school. A virtual school must provide the parents or guardians of enrolled students with instructional materials, including software, information on the closest public facility that offers access to a computer and Internet connection, and information materials on numerous subjects, including, but not limited to school policies; student attendance, conduct, and engagement requirements; access to extracurricular activities and wraparound services; and teacher contact information and office hours.

Family Educational Rights and Privacy Act

The federal Family Educational Rights and Privacy Act (FERPA) of 1974 governs the privacy of student data. FERPA generally prohibits the disclosure by schools that receive federal education funding of personally identifiable information from a student's education record unless the educational institution has obtained signed and dated written consent from a parent or eligible student, or one of FERPA's exceptions applies. An education record includes a range of information about a student.

Review and Inspection of Educational Records

Under Maryland regulations (COMAR 13A.08.02), each local school system or educational institution must give parents or guardians of students in attendance or eligible students in attendance at the local school system or educational institution annual notice informing them of their right to (1) inspect and review the student's records; (2) seek amendment of the student's records that the parent, guardian, or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights; (3) with some exceptions, consent to disclosures of personally identifiable information contained in the student records; and (4) file complaints with the U.S. Department of Education concerning alleged failures by the local school system or educational institution to comply with FERPA.

Except in the case of a specified waiver, a parent, guardian, or eligible student must be given the opportunity to inspect and review the student's records. The local school system or educational agency or institution must comply with a request for access to student records not more than 45 calendar days after the request has been made. The local school system or educational institution must respond to reasonable requests for explanations and interpretations of the student records. If circumstances effectively prevent the parent, guardian, or eligible student from exercising the right to inspect and review the student records, the local school system or educational institution, or State educational agency or its component, must (1) provide the parent, guardian, or eligible student with a copy of the student records requested or (2) make other arrangements for the parent, guardian, or eligible student to inspect and review the requested student records.

Health Insurance Portability and Accountability Act

Under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), covered entities may not use or disclose protected health information except either as the privacy rule permits or as an individual authorizes in writing. Covered entities may disclose protected health information without an individual's authorization for such purposes as treatment, payment, health care operations, and public interest activities. The HIPAA privacy rule defines "covered entities" as health plans, health care clearinghouses, and

health care providers. “Protected health information” is individually identifiable health information that is transmitted or maintained by electronic media or any other form or medium, excluding individually identifiable health information in education records covered by FERPA, student health records for individuals attending an institution of postsecondary education who are at least age 18, and employment records held by a covered entity in its role as employer.

Maryland Family Life and Human Sexuality Instruction and Student Opt-out

Maryland family life and human sexuality instruction must represent all students regardless of ability, sexual orientation, gender identity, and gender expression. Beginning no later than grade 7, teaching must emphasize that refraining from sexual activity is the best method to avoid sexually transmitted infections, including HIV, and unintended pregnancy. The local school system must establish policies, guidelines, and/or procedures for student opt-out regarding instruction related to family life and human sexuality objectives. For students opting out of family life and human sexuality instruction, each school must establish a procedure for providing a student with appropriate alternative learning activities and/or assessments in health education. Each school must make arrangements to permit students opting out of the objectives related to family life and human sexuality to receive instruction concerning menstruation. The local school system must provide an opportunity for parents/guardians to view instructional materials to be used in the teaching of family life and human sexuality objectives.

Local Fiscal Effect: The Maryland State Department of Education advises that to a large degree, the bill is consistent with current law and practice by local school systems. Some local school systems may, beginning in fiscal 2025, incur additional costs related to electronic and other means for providing required notice to parents and/or access to instructional materials under the bill. The effect on school system finances is assumed to be minimal.

Additional Comment: The rights of parents specified in the bill extend to parents of children in nonpublic schools. However, the information disclosure requirements apply only to local public school systems.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

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