

HOUSE BILL 248

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2001 Regular Session  
(11r0098)

**ENROLLED BILL**

-- Ways and Means/Economic and Environmental Affairs --

Introduced by **Chairman, Ways and Means Committee (Departmental - Education)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Education - Special Education**

3 FOR the purpose of altering the conditions under which a county board is not  
4 required to reimburse a parent or guardian for certain tuition or related costs for  
5 enrollment of a student with a disability in a nonpublic school; requiring the  
6 parent of a child with a disability to give certain notice under certain  
7 circumstances; authorizing a hearing officer or court to require reimbursement  
8 under certain circumstances; and generally relating to special education.

9 BY repealing and reenacting, with amendments,  
10 Article - Education  
11 Section 8-413(i)  
12 Annotated Code of Maryland  
13 (1999 Replacement Volume and 2000 Supplement)

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

3 **Article - Education**

4 8-413.

5 (i) (1) [If the parent or guardian of a student with disabilities, eligible to  
6 receive special education and related services from a county board, enrolls the child in  
7 a nonpublic school, the county board is not required to reimburse the parent or  
8 guardian for tuition or related costs associated with the enrollment if:

9 (1) The parent or guardian does not provide to the county board prior  
10 written notice rejecting the program proposed by the county board, including the  
11 reason for the rejection, and stating an intention to enroll the student in a nonpublic  
12 school;

13 (2) The nonpublic school placement of the student is found  
14 inappropriate; or

15 (3) The proposed county board program is found appropriate.] IF A  
16 LOCAL SCHOOL SYSTEM HAS MADE A FREE APPROPRIATE PUBLIC EDUCATION  
17 AVAILABLE TO A CHILD WITH A DISABILITY AND THE PARENT OF THE CHILD  
18 CHOOSES TO PLACE THE CHILD IN A NONPUBLIC SCHOOL, THE LOCAL SCHOOL  
19 SYSTEM IS NOT REQUIRED TO PAY FOR THE CHILD'S EDUCATION AT THE NONPUBLIC  
20 SCHOOL.

21 (2) BEFORE REMOVING A CHILD FROM THE LOCAL SCHOOL SYSTEM, A  
22 PARENT OF THE CHILD SHALL NOTIFY THE LOCAL SCHOOL SYSTEM OF THE  
23 PARENT'S:

24 (I) DECISION TO REJECT THE LOCAL SCHOOL SYSTEM'S PROPOSED  
25 PLACEMENT;

26 (II) CONCERNS LEADING TO THE DECISION TO REMOVE THE CHILD  
27 FROM THE LOCAL SCHOOL SYSTEM; AND

28 (III) INTENTION TO ENROLL THE CHILD IN A NONPUBLIC SCHOOL  
29 AT PUBLIC EXPENSE.

30 (3) THE PARENT SHALL PROVIDE NOTICE BY:

31 (I) INFORMING THE INDIVIDUALIZED EDUCATION PROGRAM TEAM  
32 AT THE MOST RECENT MEETING THE PARENT ATTENDED BEFORE THE REMOVAL OF  
33 THE CHILD; OR

34 (II) PROVIDING THE LOCAL SCHOOL SYSTEM WITH WRITTEN  
35 NOTICE AT LEAST 10 BUSINESS DAYS, INCLUDING HOLIDAYS THAT OCCUR ON  
36 BUSINESS DAYS, BEFORE THE REMOVAL OF THE CHILD.

1 (4) IF THE PARENT DECIDES TO ENROLL THE CHILD IN A NONPUBLIC  
2 SCHOOL WITHOUT THE CONSENT OF OR REFERRAL BY THE LOCAL SCHOOL SYSTEM,  
3 AN IMPARTIAL HEARING OFFICER OR A COURT MAY REQUIRE THE LOCAL SCHOOL  
4 SYSTEM TO REIMBURSE THE PARENT FOR THE ~~REASONABLE~~ COSTS OF THE  
5 PLACEMENT IF THE:

6 (I) CHILD HAD PREVIOUSLY RECEIVED SPECIAL EDUCATION AND  
7 RELATED SERVICES UNDER THE AUTHORITY OF THE LOCAL SCHOOL SYSTEM; AND

8 (II) AN IMPARTIAL HEARING OFFICER OR COURT DETERMINES  
9 THAT THE LOCAL SCHOOL SYSTEM HAD NOT MADE A FREE APPROPRIATE PUBLIC  
10 EDUCATION AVAILABLE TO THE CHILD IN A TIMELY MANNER BEFORE THE PARENT  
11 ENROLLED THE CHILD IN THE NONPUBLIC SCHOOL.

12 (5) REIMBURSEMENT MAY BE REDUCED OR DENIED BY THE IMPARTIAL  
13 HEARING OFFICER OR COURT IF THE:

14 (I) PARENT FAILED TO NOTIFY THE LOCAL SCHOOL SYSTEM OF  
15 THE DECISION AS REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION;

16 (II) PARENT'S ACTIONS WERE UNREASONABLE; OR

17 (III) PARENT FAILED TO MAKE THE CHILD AVAILABLE FOR  
18 ~~ASSESSMENT~~ EVALUATION BEFORE THE CHILD'S REMOVAL AND AFTER THE LOCAL  
19 SCHOOL SYSTEM PROVIDED THE PARENT WITH WRITTEN NOTICE OF ITS INTENTION  
20 TO ~~ASSESS~~ EVALUATE THE CHILD, INCLUDING AN APPROPRIATE AND REASONABLE  
21 STATEMENT OF THE PURPOSE OF THE EVALUATION.

22 (6) AN IMPARTIAL HEARING OFFICER OR COURT MAY NOT REDUCE OR  
23 DENY REIMBURSEMENT FOR FAILURE TO PROVIDE NOTICE AS REQUIRED UNDER  
24 PARAGRAPH (3) OF THIS SUBSECTION IF:

25 (I) THE PARENT IS ILLITERATE AND CANNOT WRITE IN ENGLISH;

26 (II) PROVIDING NOTICE WOULD LIKELY RESULT IN PHYSICAL OR  
27 SERIOUS EMOTIONAL HARM TO THE CHILD;

28 (III) THE LOCAL SCHOOL SYSTEM PREVENTED THE PARENT FROM  
29 PROVIDING NOTICE; OR

30 (IV) THE PARENT WAS NOT PROVIDED WITH A COPY OF THE  
31 PROCEDURAL SAFEGUARDS NOTICE IN ACCORDANCE WITH COMAR 13A.05.01.11A,  
32 INCLUDING THE REQUIREMENTS OF THIS SUBSECTION.

33 (7) DISAGREEMENTS BETWEEN A PARENT AND A LOCAL SCHOOL  
34 SYSTEM REGARDING THE AVAILABILITY OF A FREE APPROPRIATE PUBLIC  
35 EDUCATION AND THE QUESTION OF FINANCIAL RESPONSIBILITY ARE SUBJECT TO  
36 THE PROVISIONS OF SUBSECTIONS (C) THROUGH (H) OF THIS SECTION AND COMAR  
37 13A.05.01.15C.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 July 1, 2001.