
By: **Chairman, Ways and Means Committee (Departmental - Education)**
Introduced and read first time: January 24, 2001
Assigned to: Ways and Means

A BILL ENTITLED

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)

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

16 **Article - Education**

17 8-413.

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

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

26 (2) The nonpublic school placement of the student is found
27 inappropriate; or

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

7 (2) BEFORE REMOVING A CHILD FROM THE LOCAL SCHOOL SYSTEM, A
8 PARENT OF THE CHILD SHALL NOTIFY THE LOCAL SCHOOL SYSTEM OF THE
9 PARENT'S:

10 (I) DECISION TO REJECT THE LOCAL SCHOOL SYSTEM'S PROPOSED
11 PLACEMENT;

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

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

16 (3) THE PARENT SHALL PROVIDE NOTICE BY:

17 (I) INFORMING THE INDIVIDUALIZED EDUCATION PROGRAM TEAM
18 AT THE MOST RECENT MEETING THE PARENT ATTENDED BEFORE THE REMOVAL OF
19 THE CHILD; OR

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

23 (4) IF THE PARENT DECIDES TO ENROLL THE CHILD IN A NONPUBLIC
24 SCHOOL WITHOUT THE CONSENT OF OR REFERRAL BY THE LOCAL SCHOOL SYSTEM,
25 AN IMPARTIAL HEARING OFFICER OR A COURT MAY REQUIRE THE LOCAL SCHOOL
26 SYSTEM TO REIMBURSE THE PARENT FOR THE REASONABLE COSTS OF THE
27 PLACEMENT IF THE:

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

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

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

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

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

2 (III) PARENT FAILED TO MAKE THE CHILD AVAILABLE FOR
3 ASSESSMENT BEFORE THE CHILD'S REMOVAL AND AFTER THE LOCAL SCHOOL
4 SYSTEM PROVIDED THE PARENT WITH WRITTEN NOTICE OF ITS INTENTION TO
5 ASSESS THE CHILD.

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

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

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

12 (III) THE LOCAL SCHOOL SYSTEM PREVENTED THE PARENT FROM
13 PROVIDING NOTICE; OR

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

17 (7) DISAGREEMENTS BETWEEN A PARENT AND A LOCAL SCHOOL
18 SYSTEM REGARDING THE AVAILABILITY OF A FREE APPROPRIATE PUBLIC
19 EDUCATION AND THE QUESTION OF FINANCIAL RESPONSIBILITY ARE SUBJECT TO
20 THE PROVISIONS OF SUBSECTIONS (C) THROUGH (H) OF THIS SECTION AND COMAR
21 13A.05.01.15C.

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