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By: **Chairman, Ways and Means Committee (Departmental - Education)**

Introduced and read first time: January 24, 2001

Assigned to: Ways and Means

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Committee Report: Favorable

House action: Adopted

Read second time: February 27, 2001

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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)

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:

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

5 (2) The nonpublic school placement of the student is found  
6 inappropriate; or

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

13 (2) BEFORE REMOVING A CHILD FROM THE LOCAL SCHOOL SYSTEM, A  
14 PARENT OF THE CHILD SHALL NOTIFY THE LOCAL SCHOOL SYSTEM OF THE  
15 PARENT'S:

16 (I) DECISION TO REJECT THE LOCAL SCHOOL SYSTEM'S PROPOSED  
17 PLACEMENT;

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

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

22 (3) THE PARENT SHALL PROVIDE NOTICE BY:

23 (I) INFORMING THE INDIVIDUALIZED EDUCATION PROGRAM TEAM  
24 AT THE MOST RECENT MEETING THE PARENT ATTENDED BEFORE THE REMOVAL OF  
25 THE CHILD; OR

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

29 (4) IF THE PARENT DECIDES TO ENROLL THE CHILD IN A NONPUBLIC  
30 SCHOOL WITHOUT THE CONSENT OF OR REFERRAL BY THE LOCAL SCHOOL SYSTEM,  
31 AN IMPARTIAL HEARING OFFICER OR A COURT MAY REQUIRE THE LOCAL SCHOOL  
32 SYSTEM TO REIMBURSE THE PARENT FOR THE REASONABLE COSTS OF THE  
33 PLACEMENT IF THE:

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

36 (II) AN IMPARTIAL HEARING OFFICER OR COURT DETERMINES  
37 THAT THE LOCAL SCHOOL SYSTEM HAD NOT MADE A FREE APPROPRIATE PUBLIC

1 EDUCATION AVAILABLE TO THE CHILD IN A TIMELY MANNER BEFORE THE PARENT  
2 ENROLLED THE CHILD IN THE NONPUBLIC SCHOOL.

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

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

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

8 (III) PARENT FAILED TO MAKE THE CHILD AVAILABLE FOR  
9 ASSESSMENT BEFORE THE CHILD'S REMOVAL AND AFTER THE LOCAL SCHOOL  
10 SYSTEM PROVIDED THE PARENT WITH WRITTEN NOTICE OF ITS INTENTION TO  
11 ASSESS THE CHILD.

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

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

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

18 (III) THE LOCAL SCHOOL SYSTEM PREVENTED THE PARENT FROM  
19 PROVIDING NOTICE; OR

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

23 (7) DISAGREEMENTS BETWEEN A PARENT AND A LOCAL SCHOOL  
24 SYSTEM REGARDING THE AVAILABILITY OF A FREE APPROPRIATE PUBLIC  
25 EDUCATION AND THE QUESTION OF FINANCIAL RESPONSIBILITY ARE SUBJECT TO  
26 THE PROVISIONS OF SUBSECTIONS (C) THROUGH (H) OF THIS SECTION AND COMAR  
27 13A.05.01.15C.

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