
By: **Delegate Campbell**

Introduced and read first time: February 9, 2001

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Educational Placement for Handicapped Children - Required Agency**
3 **Response to Parent's Mediation or Hearing Request**

4 FOR the purpose of requiring a public agency to respond with specified information in
5 writing within a certain number of business days from the date of receipt of a
6 request to initiate mediation or a request for a due process hearing concerning
7 the identification, evaluation, or educational placement of a handicapped
8 student; requiring the State Board of Education to develop a model form to
9 assist the public agency in its response to a request for mediation or a request
10 for a due process hearing; and generally relating to educational placement for
11 handicapped children.

12 BY repealing and reenacting, with amendments,
13 Article - Education
14 Section 8-413(b) and (c)
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2000 Supplement)

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

19 **Article - Education**

20 8-413.

21 (b) (1) If a parent seeks review of the decision of a public agency concerning
22 the identification, evaluation, or educational placement of a student or the provision
23 of a free appropriate public education, any party shall be given the opportunity to
24 request mediation of those aspects of the decision subject to dispute.

25 (2) The request for mediation may not be used to deny or delay the
26 parent's rights under federal law or this section.

27 (3) Any party to the mediation has the right to be accompanied and
28 advised by counsel.

1 (4) THE PUBLIC AGENCY SHALL RESPOND IN WRITING TO THE REQUEST
2 TO INITIATE MEDIATION WITHIN 7 BUSINESS DAYS FROM THE DATE OF RECEIPT OF
3 THE REQUEST TO INITIATE MEDIATION. THE RESPONSE SHALL INCLUDE:

4 (I) ANY DEFENSES INTENDED TO BE RAISED;

5 (II) A RESPONSE TO THE PARENT'S FACTUAL ALLEGATIONS
6 CONTAINED IN THE REQUEST TO INITIATE MEDIATION; AND

7 (III) ANY PROPOSED RESOLUTION OF THE ISSUES RAISED BY THE
8 PARENT.

9 (5) THE STATE BOARD SHALL DEVELOP A MODEL FORM TO ASSIST THE
10 PUBLIC AGENCY IN FILING A RESPONSE TO A REQUEST TO INITIATE MEDIATION
11 THAT INCLUDES THE INFORMATION REQUIRED TO BE PROVIDED BY THIS
12 SUBSECTION.

13 (c) (1) A parent or guardian of a student with disabilities or the public
14 agency HAS THE RIGHT TO INITIATE A HEARING WHEN THERE IS A DISPUTE ABOUT
15 [may make a written request to the Office of Administrative Hearings for a review of]
16 the identification, evaluation, or educational placement of the child or the provision of
17 a free appropriate education for the child.

18 (2) A REQUEST TO INITIATE A DUE PROCESS HEARING SHALL BE MADE
19 IN WRITING TO THE PUBLIC AGENCY AND THE PUBLIC AGENCY SHALL FORWARD
20 THE WRITTEN REQUEST FOR A DUE PROCESS HEARING TO THE OFFICE OF
21 ADMINISTRATIVE HEARINGS.

22 (3) IN ADDITION, THE PUBLIC AGENCY SHALL RESPOND IN WRITING TO
23 THE REQUEST TO INITIATE A DUE PROCESS HEARING WITHIN 7 BUSINESS DAYS
24 FROM THE DATE OF RECEIPT OF THE REQUEST TO INITIATE A DUE PROCESS
25 HEARING. THE RESPONSE SHALL INCLUDE:

26 (I) ANY DEFENSES INTENDED TO BE RAISED;

27 (II) A RESPONSE TO THE PARENT'S FACTUAL ALLEGATIONS
28 CONTAINED IN THE REQUEST TO INITIATE A DUE PROCESS HEARING; AND

29 (III) ANY PROPOSED RESOLUTION OF THE ISSUES RAISED BY THE
30 PARENT.

31 (4) THE STATE BOARD SHALL DEVELOP A MODEL FORM TO ASSIST THE
32 PUBLIC AGENCY IN FILING A RESPONSE TO A REQUEST TO INITIATE A DUE PROCESS
33 HEARING THAT INCLUDES THE INFORMATION REQUIRED TO BE PROVIDED BY THIS
34 SUBSECTION.

35 [(2)] (5) In order to conduct a hearing, the Office of Administrative
36 Hearings shall appoint an impartial administrative law judge who:

1 (i) Is an administrative law judge in the Office of Administrative
2 Hearings;

3 (ii) Has received and continues to receive specialized training in
4 matters significant to the educational review of students with disabilities; and

5 (iii) Has no interest that would conflict with the administrative law
6 judge's objectivity in the review.

7 [(3)] (6) The Office of Administrative Hearings shall inform the parent
8 of any free or low cost legal and other relevant services available upon request or
9 whenever a hearing is initiated under this section.

10 [(4)] (7) Unless the parent and the public agency otherwise agree,
11 during the course of any administrative or judicial proceeding, the student must
12 remain in the last approved placement.

13 [(5)] (8) If the hearing concerns the initial admission of a child into a
14 public school, the student with the consent of the parent must be placed in the public
15 school program until the proceedings have been completed.

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