

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 121
Ways and Means

(Delegate Lafferty, *et al.*)

Education - Special Education Services - Children in a Home School Setting

This bill requires that a child with a disability who is in a home-school setting be given the same consideration as a child with a disability who is in a private school setting for the purpose of passing through federal funds for the provision of special education services under the federal Individuals with Disabilities Education Act (IDEA).

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: Federal fund revenues could increase beginning in FY 2010 due to the inclusion of home-schooled students with disabilities in the counts sent to the federal government for the calculation of IDEA grants. Federal fund expenditures would increase to distribute the majority of the added revenues to local school systems. The net impact on State finances would be negligible, as almost all of the additional federal funds would simply pass through the State budget to local school systems.

Local Effect: Local school expenditures could increase by approximately \$250,000 to \$300,000 in FY 2009 to provide special education services to home-schooled students with disabilities. Beginning in FY 2010, additional federal IDEA revenues would offset the cost of serving home-schooled students with disabilities.

Small Business Effect: None.

Analysis

Current Law: IDEA requires local school systems to identify and evaluate all children in the district who are in need of special education and related services and to make special education services available to students in public and private schools.

Background: The Office of the Attorney General has been asked on at least two occasions to comment on the State's obligations under IDEA with respect to students who are educated at home. Although the office has not provided a formal opinion on the matter, it has suggested that local school systems in Maryland are not required to provide special education services to home-schooled students with disabilities. According to the federal Office of Special Education Programs, as well as two court cases and an opinion of the Arizona Attorney General, the determination of a state's obligations hinges on whether the state recognizes home-school situations as private schools. Maryland does not recognize home-school settings as private schools and therefore is not required to provide special education services to home-schooled students.

IDEA funding for parentally placed private school students is determined on a "proportionate share" basis. For each school system, a share of federal IDEA funds equal to the share of students with disabilities who attend private schools in the system must be used to support special education and related services for private school students. The local school system holds the funds and provides the services to the private school students. Although school systems may choose to provide services for home-schooled students with disabilities, they are not required to do so. Early identification of children with disabilities, as required by IDEA, enables parents to choose whether to provide home instruction or enroll their children in public or private schools with an understanding about what services their children are eligible to receive in each setting.

The Maryland State Department of Education (MSDE) reports that 15,226 families and 24,329 students in Maryland were involved in home instruction in the 2005-2006 school year, including 186 identified students with disabilities. The number of home-schooled students is equivalent to less than 3% of the public school enrollment, and identified home-schooled students with disabilities make up less than 0.2% of the public school students with disabilities. At least four states – Arkansas, Minnesota, Missouri, and Nevada – have laws that enable students with disabilities who receive home instruction to qualify for special education and related services funded through IDEA.

In fiscal 2006, Maryland's public school systems spent nearly \$1.4 billion on special education, including approximately \$179 million in federal IDEA funds. In fiscal 2008, total funding for public school systems in Maryland amounts to \$10.9 billion.

State Fiscal Effect: Beginning in fiscal 2010, federal fund revenues and expenditures would increase, with additional federal IDEA funds passing through the State budget for distribution to the local school systems. IDEA funds are distributed to states based in part on the count of students with disabilities in each state. If home-schooled students are included in Maryland's count, the State should receive additional IDEA funds. The majority of the new federal funds would be distributed to local school systems as federal aid to education. There would be little or no net impact on State finances.

Local Fiscal Effect: School expenditures could increase by approximately \$250,000 to \$300,000 in fiscal 2009 to replace federal IDEA funds that would be spent in support of home-schooled students with disabilities. This estimate is based on the information and assumptions described below.

- Including home-schooled students with disabilities in the count that is used to determine how much federal IDEA funding must be set aside to serve private school students will result in slightly higher "proportionate share" calculations for local school systems. Local school systems would be required to use the proportionate share funding to make special education services available to both private and home-school students.
- Data from MSDE suggest that, if home-schooled students with disabilities were included in the local proportionate share calculations in fiscal 2008, the additional proportionate share contributions would have amounted to approximately \$250,000 to \$300,000 statewide. This total would go up or down with any major changes in federal IDEA funding or with any dramatic shifts in the number of home-schooled students with disabilities. It is assumed, however, that the additional federal funds diverted to local proportionate share accounts in fiscal 2009 would remain close to the projected fiscal 2008 level.
- In order to replace the IDEA funds diverted to local proportionate share accounts, local school expenditures could increase by an estimated \$250,000 to \$300,000.

After fiscal 2009, the additional expenditures will be offset by additional federal IDEA funding that would presumably result from the slightly higher special education count sent to the federal government.

Additional Information

Prior Introductions: An identical bill, SB 116, was passed last year by the Senate. The bill received a hearing in the House Committee on Ways and Means, but the committee took no further action on the bill.

Cross File: SB 50 (Senator Brochin) – Education, Health, and Environmental Affairs.

Information Source(s): Maryland State Department of Education, Department of Disabilities, Department of Legislative Services

Fiscal Note History: First Reader - January 22, 2008
ncs/rhh

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