

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 694
Ways and Means

(Delegate Lafferty)

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, 2009.

Fiscal Summary

State Effect: Federal fund revenues may increase beginning in FY 2011 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 increase to distribute the majority of the added revenues to local school systems. The net impact on State finances is negligible, as almost all of the additional federal funds simply pass through the State budget to local school systems.

Local Effect: Local school expenditures may increase by approximately \$250,000 to \$300,000 in FY 2010 to provide special education services to home-schooled students with disabilities. Beginning in FY 2011, additional federal IDEA revenues offset the cost of serving home-schooled students with disabilities. **This bill may impose a mandate on a unit of local government in FY 2010 only.**

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 2007, Maryland's public school systems spent nearly \$1.5 billion on special education, including approximately \$176 million in federal IDEA funds. The American Recovery and Reinvestment Act of 2009 (ARRA) includes an additional \$208 million in IDEA funds for Maryland to be used in fiscal 2010 and 2011. In fiscal 2009, total funding for public school systems in Maryland amounts to \$11.4 billion.

State Fiscal Effect: Beginning in fiscal 2011, federal fund revenues and expenditures 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 may increase by approximately \$250,000 to \$300,000 in fiscal 2010 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 will be required to use the proportionate share funding to make special education services available to both private and home-school students.
- Data from MSDE suggests 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 (and therefore may go up in fiscal 2010 due to ARRA) 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 2010 would be fairly 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 2010, the additional expenditures will be offset by additional federal IDEA funding that will presumably result from the slightly higher special education count sent to the federal government.

Additional Information

Prior Introductions: HB 121 of 2008 received a hearing in the House Ways and Means Committee, but no further action was taken by the committee. Its cross file, SB 50, passed the Senate and had a hearing in the House Ways and Means Committee, which took no further action. An identical bill as amended, SB 116 of 2007, was passed by the Senate. The bill received a hearing in the House Ways and Means Committee, but the committee took no further action on the bill.

Cross File: None.

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

Fiscal Note History: First Reader - March 3, 2009
mam/mwc

Analysis by: Caroline L. Boice

Direct Inquiries to:
(410) 946-5510
(301) 970-5510