

# SENATE BILL 540

F1

(0lr2356)

## ENROLLED BILL

— Education, Health, and Environmental Affairs/Ways and Means —

Introduced by **Senators Harrington, Conway, Kramer, Lenett, Madaleno, Peters, Rosapepe, and Zirkin**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

#### 2 **Child with a Disability – Individualized Education Program**

3 FOR the purpose of requiring appropriate school personnel to provide a copy of certain  
4 documents relating to the development of an individualized education program  
5 for a child with a disability to the parents of the child within a certain period  
6 before a certain meeting, subject to a certain exception; *authorizing certain*  
7 *school personnel to provide the parents of a child with a disability a summary of*  
8 *certain information in a certain manner under certain circumstances; requiring*  
9 *certain school personnel to document certain failures and to ~~include certain~~*  
10 *documentation in certain records* *communicate certain information to the*  
11 *parents of a child with a disability* *under certain circumstances; requiring*  
12 appropriate school personnel to provide a copy of a completed individualized  
13 education program to the parents of a child with a disability within a certain  
14 period after a certain meeting; requiring the parents to be provided with a draft

---

#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



1 copy of the individualized education program under certain circumstances;  
 2 requiring the documents to be in an accessible format; providing that failure to  
 3 comply with this Act does not constitute a certain violation of the requirement  
 4 to provide certain students a free appropriate public education; and generally  
 5 relating to individualized education programs for children with disabilities.

6 BY repealing and reenacting, with amendments,  
 7 Article – Education  
 8 Section 8–405  
 9 Annotated Code of Maryland  
 10 (2008 Replacement Volume and 2009 Supplement)

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

13 **Article – Education**

14 8–405.

15 (a) When a team of qualified professionals and the parents meet for the  
 16 purpose of discussing the identification, evaluation, educational program, or the  
 17 provision of a free appropriate public education of a child with a disability:

18 (1) The parents of the child shall be afforded the opportunity to  
 19 participate and shall be provided reasonable notice in advance of the meeting; and

20 (2) Reasonable notice shall be at least 10 calendar days in advance of  
 21 the meeting, unless an expedited meeting is being conducted to:

22 (i) Address disciplinary issues;

23 (ii) Determine the placement of the child with a disability not  
 24 currently receiving educational services; or

25 (iii) Meet other urgent needs of a child with a disability to  
 26 ensure the provision of a free appropriate public education.

27 (b) The individualized education program team shall determine, on at least  
 28 an annual basis, whether the child requires extended year services in order to ensure  
 29 that the child is not deprived of a free appropriate public education by virtue of the  
 30 normal break in the regular school year.

31 (c) (1) (i) ~~AT~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
 32 SUBSECTION, AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT  
 33 LEAST 5 2 5 BUSINESS DAYS BEFORE A SCHEDULED MEETING OF THE  
 34 INDIVIDUALIZED EDUCATION PROGRAM TEAM OR OTHER MULTIDISCIPLINARY

1 EDUCATION TEAM FOR ANY PURPOSE FOR A CHILD WITH A DISABILITY,  
 2 APPROPRIATE SCHOOL PERSONNEL SHALL PROVIDE THE PARENTS OF THE  
 3 CHILD WITH ~~AN~~ AN ACCESSIBLE COPY OF EACH ASSESSMENT, REPORT, DATA  
 4 CHART, DRAFT INDIVIDUALIZED EDUCATION PROGRAM, OR OTHER DOCUMENT  
 5 THAT EITHER TEAM PLANS TO DISCUSS AT THE MEETING.

6 (II) SUBJECT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH,  
 7 AN ASSESSMENT, REPORT, DATA CHART, OR OTHER DOCUMENT PREPARED BY A  
 8 SCHOOL PSYCHOLOGIST OR OTHER MEDICAL PROFESSIONAL THAT EITHER TEAM  
 9 PLANS TO DISCUSS AT THE MEETING MAY BE PROVIDED TO THE PARENTS OF THE  
 10 CHILD ORALLY AND IN WRITING PRIOR TO THE MEETING.

11 (2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,  
 12 APPROPRIATE SCHOOL PERSONNEL ARE NOT REQUIRED TO COMPLY WITH  
 13 PARAGRAPH (1) OF THIS SUBSECTION IN THE EVENT OF AN EXTENUATING  
 14 CIRCUMSTANCE.

15 (II) IN THE EVENT OF AN EXTENUATING CIRCUMSTANCE,  
 16 APPROPRIATE SCHOOL PERSONNEL WHO FAIL TO COMPLY WITH PARAGRAPH  
 17 (1) OF THIS SUBSECTION SHALL:

18 1. ~~DOCUMENT~~ DOCUMENT THE EXTENUATING  
 19 CIRCUMSTANCE; AND

20 2. ~~INCLUDE WRITTEN DOCUMENTATION RELATING~~  
 21 ~~TO THE EXTENUATING CIRCUMSTANCE IN THE STUDENT'S PERMANENT RECORD~~  
 22 AND COMMUNICATE THAT INFORMATION TO THE PARENTS OF THE CHILD.

23 (D) (1) NOT LATER THAN 5 BUSINESS DAYS AFTER A SCHEDULED  
 24 MEETING OF THE INDIVIDUALIZED EDUCATION PROGRAM TEAM OR OTHER  
 25 MULTIDISCIPLINARY TEAM FOR A CHILD WITH A DISABILITY, APPROPRIATE  
 26 SCHOOL PERSONNEL SHALL PROVIDE THE PARENTS OF THE CHILD WITH A COPY  
 27 OF THE COMPLETED INDIVIDUALIZED EDUCATION PROGRAM.

28 (2) IF THE INDIVIDUALIZED EDUCATION PROGRAM HAS NOT BEEN  
 29 COMPLETED BY THE 5TH BUSINESS DAY AFTER THE MEETING, THE PARENTS  
 30 SHALL BE PROVIDED WITH THE DRAFT COPY OF THE INDIVIDUALIZED  
 31 EDUCATION PROGRAM.

32 (3) THE COMPLETED OR DRAFT INDIVIDUALIZED EDUCATION  
 33 PROGRAM SHALL BE PROVIDED TO THE PARENTS IN AN ACCESSIBLE FORMAT.

34 (E) FAILURE TO COMPLY WITH THIS SECTION DOES NOT CONSTITUTE A  
 35 SUBSTANTIVE VIOLATION OF THE REQUIREMENT TO PROVIDE A STUDENT WITH  
 36 A FREE APPROPRIATE PUBLIC EDUCATION.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 July 1, 2010.

Approved:

---

Governor.

---

President of the Senate.

---

Speaker of the House of Delegates.