

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 11
Ways and Means

(Delegate Sophocleus, *et al.*)
Education, Health, and Environmental Affairs

Student Stigma Act

This bill changes references to “emotional disturbance” to “emotional disability” within the definition of a child with a disability. Documents reflecting the new terminology may not be used until all printed documents using “emotional disturbance” have been used. The bill specifies that it is not intended to result in a reduction of federal funds available to the State.

Fiscal Summary

State Effect: Any costs incurred to redesign documents to use “emotional disability” rather than “emotional disturbance” are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: Any costs incurred by local school systems to redesign documents are assumed to be minimal and absorbable within existing budgeted resources.

Small Business Effect: None.

Analysis

Current Law: A “child with a disability” means a child who has been determined through appropriate assessment as having autism; deaf-blindness; hearing impairment, including deafness; emotional disturbance; intellectual disability; multiple disabilities; orthopedic impairment; other health impairment; specific learning disability; speech or language impairment; traumatic brain injury; visual impairment, including blindness; and who, because of that impairment, needs special education and related services.

“Emotional disturbance” is defined in the Code of Maryland Regulations (COMAR) as a condition exhibiting one or more of the following characteristics, over a long period of time and to a marked degree, that adversely affects a student’s performance:

- an inability to learn that cannot be explained by intellectual, sensory, or health factors;
- an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- inappropriate types of behavior or feelings under normal circumstances;
- a general, pervasive mood of unhappiness or depression; or
- a tendency to develop physical symptoms or fears associated with personal or school problems.

“Emotional disturbance” includes schizophrenia but does not include a student who is socially maladjusted without other determinations of an emotional disturbance.

The federal Individuals with Disabilities Education Act (IDEA) requires local school systems to identify and evaluate all children in the district who are in need of special education and related services (including children with learning disabilities) and to make special education services available to students in public and private schools.

The federal regulations define a child with a disability to include a child with an emotional disturbance. Emotional disturbance is defined as it is defined in COMAR. Children who are determined to have an emotional disturbance may receive services under IDEA.

Background: During the 2008-2009 academic year approximately 8,400 children in Maryland were identified as being emotionally disturbed to the degree of having a disability. This represents about 8.1% of children with disabilities and is the most prevalent disability after specific learning disabilities, speech and language impairments, and other health impairments. An emotional disturbance is more likely to be identified in high school students than in children in the lower grades.

In fiscal 2008, Maryland’s public school systems spent nearly \$1.4 billion on special education, including approximately \$175 million in federal IDEA funds. The federal 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.

State Effect: General fund expenditures may increase minimally to redesign documents to use “emotional disability” rather than “emotional disturbance.” It is unknown how

many documents will have to be redesigned, but the operational impact is expected to be minimal.

This bill will have no effect on federal IDEA funding because states have the authority to evaluate children to determine if they have a disability using a definition that is not inconsistent with federal regulations. Currently, Maryland statute and regulations are consistent with federal regulations. The bill does not change the definition of “emotional disturbance;” it only changes the terminology to “emotional disability.”

Local Expenditures: Local school system expenditures may increase minimally to redesign documents to use “emotional disability” rather than “emotional disturbance.” It is unknown how many documents will have to be redesigned.

Additional Information

Prior Introductions: HB 1558 of 2009 passed in the House but received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

Cross File: None.

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

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mlm/mwc

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