

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 551
Ways and Means

(Delegate Kaiser, *et al.*)

Education, Health, and Environmental Affairs

Education - Children With Disabilities - Individualized Education Program
Mediation

This bill requires the individualized education program (IEP) team to provide a parent who disagrees with a child's IEP or special education services with, in plain language: (1) an oral and written explanation of the parent's right to mediation; (2) contact information for receiving information on the mediation process; and (3) information regarding *pro bono* representation and other free or low-cost legal and related services available in the area. A parent may request this information at any IEP team meeting. A parent may request that the information be translated into the parent's native language, if that language is spoken by more than 1% of students in the local school system. The IEP team must provide the parent with the translated document within 30 days after the date of the request. The Maryland State Department of Education (MSDE) must make staff available to assist a parent in understanding the mediation process.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: General fund expenditures for MSDE for translation costs increase minimally for students in State care, primarily the Juvenile Services Education Program. MSDE can handle the bill's other requirements with existing resources. Revenues are not affected.

Local Effect: Local school system expenditures increase minimally, most of which will be incurred by Montgomery and Prince George's counties, as discussed below. Local revenues are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: By December 1, 2016, MSDE must report to the Governor; the Senate Education, Health, and Environmental Affairs Committee; and the House Committee on Ways and Means on whether there are economies of scale that can be used to lessen the financial impact of the bill and how the needs of students whose parents speak a native language spoken by less than 1% of the local school system student population can be addressed. By August 1, 2018, each local board must report to MSDE on the number of requests received for translated documents, the costs of these requests, and whether and to what extent it would be feasible for the number of requests to increase; MSDE must submit this information to the Governor and the above named committees by September 1, 2018.

Current Law:

Individualized Education Program

The federal Individuals with Disabilities Education Act (IDEA) requires that a child with disabilities be provided a free appropriate public education in the least restrictive environment from birth through the end of the school year in which the student turns 21 years old, in accordance with an IEP specific to the individual needs of the student. An IEP is a written statement for each child with a disability that, among other things, must indicate the present levels of academic achievement and functional performance of a child, measurable academic and functional goals for the child, how the child's progress toward meeting these goals will be measured, and the special education and related services that are to be provided for the child. The parent of a child with a disability is a member of the IEP team that is responsible for developing and reviewing a child's IEP and for revisions to the IEP.

At the initial evaluation meeting, the parents of a child with a disability must be provided, in plain language, a verbal and written explanation of the parents' rights and responsibilities in the IEP process and a program procedural safeguards notice. The parents may request this information at any subsequent meeting.

Dispute Resolution

Chapter 233 of 2006 established a Maryland process for resolution sessions that can be used to settle disputes about the identification, evaluation, and educational placements of children with disabilities, consistent with IDEA provisions for dispute resolution. Before conducting a due process hearing, the parent must have an opportunity to resolve a due process complaint at a resolution session.

A parent of a child with a disability or a public agency may request mediation to resolve any disagreement regarding the child's special education services or program, including mediation to resolve a due process complaint filed by a parent against a public agency. A parent of a child with disabilities may file a due process complaint with the Maryland Office of Administrative Hearings (OAH) and the public agency. Similarly, the public agency may file a due process complaint with OAH and the parent. OAH appoints an administrative law judge to conduct a due process hearing. The decision of the administrative law judge must be made on substantive grounds based on whether a child has received a free appropriate public education.

Local Expenditures: MSDE estimates translation costs at approximately \$39 per page. MSDE further estimates that approximately 6,610 parents of children receiving early intervention services or special education services are not native English language speakers, and that approximately 75% of these families (or about 4,960) reside in Montgomery County or Prince George's County. Also, of these 6,610 parents, 83% (or about 5,490) will be parents of children for whom an IEP is required.

It is not known what percentage of parents will request translation of the information that must be provided under the bill. Assuming translation costs similar to those estimated by MSDE and assuming that 10% of parents request a translated IEP, the number of IEPs to be translated by local school systems statewide will total about 550 annually. Further assuming an average of two pages to be translated per request, statewide local translation costs increase by approximately \$42,800. At a rate of approximately 75% of this statewide total, the combined annual expenditures for Montgomery and Prince George's counties total approximately \$32,100.

Local school systems may be required to make minor operational changes to their IEP process to implement the bill. However, the effect on local finances is expected to be minimal. The required report can be submitted by local school systems to MSDE with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 24, 2016
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