

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1310

(Delegate Ebersole, *et al.*)

Ways and Means

Education - Ethical Special Education Advocate Certificate Program

This bill requires the Maryland State Department of Education (MSDE) to establish an Ethical Special Education Advocate Certificate Program within MSDE by July 1, 2018, which is a voluntary program for ethical special education advocates to be administered by MSDE. Applicants must apply to MSDE on a form that it requires and must pay an application fee as set by MSDE. The bill specifies qualifications that applicants must meet for certification and a process and requirements for renewal of certification. An individual who receives certification is authorized to represent to the public that the individual is a certified ethical special education advocate, while the certificate is effective.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: General fund expenditures at MSDE increase by \$48,700 in FY 2018. General fund revenues increase by a commensurate amount. Future year revenues and expenditures reflect annualization and the elimination of one-time costs.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
GF Revenue	\$48,700	\$60,300	\$63,300	\$66,400	\$69,700
GF Expenditure	\$48,700	\$60,300	\$63,300	\$66,400	\$69,700
Net Effect	\$0	\$0	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: To qualify for a certificate as an ethical special education advocate, an applicant must be of good moral character and at least 21 years old. The applicant must also have completed an online training module or webinar approved by MSDE that includes training on the ethical guidelines and recommendations of the National Council of Parent Advocates and Attorneys (COPAA) Voluntary Code of Ethics for Special Education Advocates. In addition, the applicant must pass a related online examination approved by the Maryland State Board of Education.

MSDE must issue a certificate to any applicant who meets the requirements of the bill and must renew the certificate of each special education advocate who meets requirements of the bill. An applicant may petition a decision for judicial review. MSDE must adopt regulations to implement the bill.

Current Law/Background: The Family Support and Dispute Resolution Branch within MSDE seeks to foster family engagement and positive family/system partnerships through the provision of technical assistance and support to a statewide network of family support specialists serving families of children with disabilities. Each local school system employs family support specialists.

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 individualized education program (IEP) specific to the individual needs of the student. Local school systems are required to make a free appropriate public education available to students with an IEP. However, the State, under its supervisory authority required by IDEA, has the ultimate responsibility for ensuring that this obligation is met.

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 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.

Special Education Advocacy Standards and Training

According to COPAA, its Voluntary Code of Ethics is intended to (1) serve as an advocate's guide to professional conduct; (2) help parents make informed choices about engaging advocacy services; and (3) instill public confidence in the integrity of advocates and the roles they fill. According to its website, COPAA's training committee provides webinars annually and has an archive of more than 60 webinars; it offers 12-week online courses for a fee of approximately \$1,000 per participant.

State Fiscal Effect: It is assumed that MSDE will set a fee that is sufficient to cover its administrative costs (described below) under the bill, and therefore the bill will not have a net effect on State finances.

The Department of Legislative Services estimates that one half-time position will be sufficient for MSDE to meet requirements of administering the certificate program. General fund expenditures increase by \$48,700 in fiscal 2018. This estimate accounts for a 90-day start-up delay and includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Out-year expenditures, amounting to \$69,700 by fiscal 2022, reflect annualization and the elimination of one-time costs.

Regular Position	0.5
Salary and Fringe Benefits	\$43,786
Other Operating Expenses	<u>4,875</u>
Total FY 2018 State Expenditures	\$48,661

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 - March 6, 2017
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