

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1533  
Ways and Means

(Delegate Flanagan, *et al.*)

---

Students With a Disability - Brain Injury Screening - Evaluation for  
Individualized Education Program

---

This bill requires the State Board of Education to adopt a standard for the provision of a brain injury screening to a child with a disability during an initial evaluation for an individualized education program (IEP), using a screening developed with the advice of the State Traumatic Brain Injury Advisory Board. **The bill takes effect July 1, 2018.**

---

Fiscal Summary

**State Effect:** The State Board of Education can adopt the required standard using existing resources.

**Local Effect:** Local school system expenditures may increase minimally to include additional screening questions during initial IEP evaluations.

**Small Business Effect:** None.

---

Analysis

**Current Law:** 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 age 21, in accordance with an IEP specific to the individual needs of the student. The State Board of Education must adopt standards for the identification, evaluation, educational placement, and provision of a free appropriate public education for children found to need special education and related services. Among other things, the standards

must include guidelines for curricula; instructional materials; equipment; and the organization, administration, and supervision of the program.

The federal 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. 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.

**Background:** The State Traumatic Brain Injury Advisory Board is charged with (1) investigating the needs of citizens with traumatic brain injuries (TBI); (2) identifying gaps in services to citizens with TBI; (3) facilitating collaboration among State agencies serving individuals with TBI; (4) facilitating collaboration among organizations and entities serving individuals with TBI; (5) encouraging and facilitating community participation in program implementation; (6) and issuing an annual report to the Governor and the General Assembly summarizing the board's actions and containing recommendations.

In its 2016 annual report, the advisory board finds that that there is a significant discrepancy between the number of school-age children being treated in Maryland hospitals who are diagnosed with TBI and the number of Maryland students receiving special education services with a diagnosis of TBI. The advisory board indicates that (1) TBI symptoms overlap with symptoms of other disabilities including emotional disability and learning disability as defined by the IDEA and (2) incorrectly diagnosing students with emotional disturbance or specific learning disability while failing to recognize TBI is likely to lead to inappropriate IEPs because goals and objectives do not address the student's unique needs.

The advisory board recommended:

- requiring local education agencies to add screening questions to existing annual school health forms designed to capture incidents of head injury or loss of consciousness suffered at any time by the student; and
- developing a protocol for responding to positive responses to those questions as part of the screening process for special education services.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Charles and Montgomery counties; Maryland State Department of Education; Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - March 8, 2018  
md/rhh

---

Analysis by: Scott P. Gates

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