

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1275
Judiciary

(Delegate Smith, *et al.*)

Office of Administrative Hearings - Administrative Law Judges - Special
Education Law Training

This bill requires, beginning August 1, 2020, an administrative law judge (ALJ) to complete a training course on special education law before he/she conducts a mediation or presides over a due process hearing related to special education issues. The Office of Administrative Hearings (OAH) must convene a committee to develop and submit a curriculum for the training course by June 1, 2020. OAH must use the submitted curriculum to establish requirements for the training course. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: OAH can convene the required committee with existing resources. Assuming the curriculum developed by the committee is not substantially different from the training that is already required, the bill's training requirements can also be handled with existing resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: "Special education," as defined in the Education Article, is specially designed instruction to meet the unique needs of a child with a disability.

The required course must be at least 12 hours and must cover specified material, including an overview of the federal Individuals with Disabilities Education Act (IDEA) and relevant

State law, best practices in regard to special education matters, recognizing and avoiding implicit bias, perspectives of a parent of a child with a disability navigating the special education process, and conducting a hearing with *pro se* parents.

Current Law/Background:

Individualized Education Program

IDEA requires that a child with a disability 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 a disability may file a due process complaint with OAH and the public agency. Similarly, the public agency may file a due process complaint with OAH

and the parent. OAH appoints an ALJ to conduct a due process hearing. The decision of the ALJ must be made on substantive grounds based on whether a child has received a free appropriate public education.

Continuing Education for Administrative Law Judges

OAH advises that any ALJ, prior to presiding over cases relating to special education issues, must already complete a comprehensive four-day training course on IDEA. Once a year, each ALJ must complete an all-day continuing education course specifically relating to special education issues. In addition, every two years, each ALJ must complete a refresher continuing education course on mediation best practices. OAH advises that only 7 of 56 ALJs have not completed the required training because they are recent hires; they are expected to complete the training with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Department of Education; Department of Budget and Management; Office of Administrative Hearings; Department of Legislative Services

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