

Chapter 648

(House Bill 448)

AN ACT concerning

**Nonpublic Education – ~~Special Education~~ Placements – ~~Renaming and of~~
Children With Disabilities – Teacher Salaries
(Teacher Pay Parity Act)**

FOR the purpose of ~~renaming the nonpublic educational program to be the special education placement program~~; requiring the State and certain counties to pay for costs of salaries ~~and bonuses~~ for teachers at ~~special education placements~~ certain nonpublic schools in a certain amount and proportion; and generally relating to ~~special education nonpublic school~~ placements for children with disabilities and salaries for teachers at ~~special education placements~~ nonpublic schools.

~~BY repealing and reenacting, with amendments,~~
~~Article – Education~~
~~Section 8–406, 8–410(d) and (e), and 8–415(d)~~
~~Annotated Code of Maryland~~
~~(2022 Replacement Volume)~~

BY repealing and reenacting, without amendments,
Article – Education
Section 8–406(b)(1) and 8–415(d)
Annotated Code of Maryland
(2022 Replacement Volume)

BY adding to
Article – Education
Section 8–406(g) and 8–415(e) and (f)
Annotated Code of Maryland
(2022 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Education

8–406.

~~(a) In this section, “wraparound services”:~~

~~(1) Means individualized services, excluding regular school programs or services, that are provided to a child with a disability and the child’s family; and~~

~~(2) Includes the following services:~~

- ~~(i) Behavioral aide in home;~~
- ~~(ii) Education tutoring;~~
- ~~(iii) Family therapy;~~
- ~~(iv) Medication management;~~
- ~~(v) Respite care;~~
- ~~(vi) Vocational mentoring; and~~
- ~~(vii) Environmental accessibility adaptations.~~

~~(b) (1) A child with a disability who needs special education and related services that cannot be provided in a public county, regional, or State program shall be placed in an appropriate [nonpublic educational] SPECIAL EDUCATION PLACEMENT program that offers these services.~~

~~(2) A child with a disability who needs special education and related services is eligible for an appropriate [nonpublic educational] SPECIAL EDUCATION placement under this section if a State or local agency provides documentation that the child cannot attend a public school in the local school system:~~

- ~~(i) Because of the child's home circumstances; or~~
- ~~(ii) Subject to subsection (d)(1) and (2) of this section, because of medical necessity.~~

~~(c) (1) The cost of the [nonpublic educational program] SPECIAL EDUCATION PLACEMENT shall be paid by the State and the county in which the child is domiciled in accordance with § 8-415(d) of this subtitle, as appropriate.~~

~~(2) Subject to availability of funding in the State budget, for a child who qualifies for a [nonpublic educational program] SPECIAL EDUCATION PLACEMENT under subsection (b)(2) of this section and who requires wraparound services in order to receive special education and related services in the least restrictive environment, the cost of providing the services shall be paid by the State and the county in which the child is domiciled in accordance with § 8-415(d) of this subtitle, if a State or local agency documents that the child's parent or legal guardian is unable to provide the wraparound services.~~

~~(3) NOTWITHSTANDING THE USE OF THE TERMS "NONPUBLIC EDUCATIONAL PROGRAM" AND "NONPUBLIC PLACEMENT" IN THIS ARTICLE, THE~~

~~STATE BOARD AND EACH COUNTY BOARD SHALL USE THE TERM "SPECIAL EDUCATION PLACEMENT" IN ALL COMMUNICATIONS.~~

~~(4) "NONPUBLIC EDUCATIONAL PROGRAM", "NONPUBLIC PLACEMENT", AND "SPECIAL EDUCATION PLACEMENT" SHALL BE CONSTRUED AS CONSISTENT WITH THE FEDERAL REQUIREMENTS OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA), 20 U.S.C. SECTION 1400 ET SEQ., AND FEDERAL LAWS AND REGULATIONS.~~

~~(d) (1) Payment or reimbursement for a [nonpublic program] SPECIAL EDUCATION PLACEMENT may not be provided if the payment or reimbursement would require an additional contribution from the State under § 8-415(d)(2) of this subtitle unless the Department approves:~~

~~(i) The [nonpublic program] SPECIAL EDUCATION PLACEMENT;~~

~~(ii) The placement of the child in the [program] SPECIAL EDUCATION PLACEMENT;~~

~~(iii) The cost of the [program] SPECIAL EDUCATION PLACEMENT;~~

~~and~~

~~(iv) The amount of payment or reimbursement.~~

~~(2) For wraparound services, payment or reimbursement may not be provided in accordance with § 8-415(d) of this subtitle if:~~

~~(i) The child is eligible for funding for out of state placement of children under departmental regulations; or~~

~~(ii) Alternative federal, State, or local funding is available.~~

~~(3) Department approval is not required for a [nonpublic program] SPECIAL EDUCATION PLACEMENT if:~~

~~(i) The local school system approves the placement of the child [in the program]; and~~

~~(ii) The local school system makes the payment or reimbursement from local funds.~~

~~(4) The State Board shall adopt regulations that establish standards and guidelines for approvals required by paragraph (3) of this subsection.~~

~~(e) A [nonpublic] SPECIAL EDUCATION placement recommended by a local school system for approval under subsection (d)(1) of this section shall be approved or disapproved pursuant to the regulations of the State Board. However, the Department may not disapprove a [nonpublic] SPECIAL EDUCATION placement recommended by a local school system for a child unless the Department provides an appropriate alternative placement in conformity with the regulations of the State Board and applicable federal laws and regulations. The Department may not terminate funding for the last approved [nonpublic] SPECIAL EDUCATION placement of a child during the pendency of an administrative or judicial review of a recommended placement change.~~

~~(f) In addition to meeting the requirements of this subtitle, a local school system seeking nonpublic tuition payment shall obtain funding approval from the local coordinating council and the State Coordinating Council in accordance with departmental regulations.~~

(b) (1) A child with a disability who needs special education and related services that cannot be provided in a public county, regional, or State program shall be placed in an appropriate nonpublic educational program that offers these services.

(G) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

~~§ 410.~~

~~(d) (1) By July 1 of each year any local school system that has 25 or more children with disabilities [attending nonpublic education facilities] IN SPECIAL EDUCATION PLACEMENTS shall submit to the State Department a detailed report, including any rules and regulations it has adopted since the submission of its last report, which outline the local school system's compliance with the State Department adopted guidelines for the transportation of a child with a disability to [nonpublic special education facilities] SPECIAL EDUCATION PLACEMENTS.~~

~~(2) The State Department shall annually:~~

~~(i) Review each applicable local school system's plan or procedures for transporting children with disabilities to [nonpublic special education facilities] SPECIAL EDUCATION PLACEMENTS for compliance with the State Department's guidelines; and~~

~~(ii) Advise a local school system as to whether its plan or procedures are in compliance.~~

~~(e) In both the adoption of guidelines under subsection (c)(2) of this section and the annual review under subsection (d) of this section of each applicable county's plan or~~

~~procedures for transporting children with disabilities to [nonpublic special education facilities] SPECIAL EDUCATION PLACEMENTS, the State Department shall:~~

~~(1) Take into consideration the particular circumstances and needs of each applicable local school system, including the differences among urban and rural school systems; and~~

~~(2) Recognize the need for flexibility on an individual child basis.~~

8-415.

(d) (1) In this subsection, “basic cost” as to each county, means the average amount spent by the county from county, State, and federal sources for the public education of a nonhandicapped child. “Basic cost” does not include amounts specifically allocated and spent for identifiable compensatory programs for disadvantaged children.

(2) As provided in paragraphs (3) and (4) of this subsection, the State and the counties shall share collectively in the cost of educating children with disabilities in ~~[nonpublic programs] SPECIAL EDUCATION PLACEMENTS~~ under § 8-406 of this subtitle.

(3) (i) Subject to the limitation under subparagraph (ii) of this paragraph, for each of these children domiciled in the county, the county shall contribute for each placement the sum of:

- 1. The local share of the basic cost;
- 2. An additional amount equal to 200 percent of the basic cost; and

3. A. For fiscal year 2009, an additional amount equal to 20 percent of the approved cost or reimbursement in excess of the sum of items 1 and 2 of this subparagraph; ~~[and]~~

B. For ~~EACH OF~~ fiscal ~~[year 2010 and each subsequent fiscal year thereafter]~~ ~~YEARS 2010 THROUGH 2023~~, an additional amount equal to 30 percent of the approved cost or reimbursement in excess of the sum of items 1 and 2 of this subparagraph; ~~AND~~

~~C. FOR FISCAL YEAR 2024 AND EACH FISCAL YEAR THEREAFTER, AN ADDITIONAL AMOUNT EQUAL TO 20 PERCENT OF THE APPROVED COST OR REIMBURSEMENT IN EXCESS OF THE SUM OF ITEMS 1 AND 2 OF THIS SUBPARAGRAPH.~~

(ii) The amount that a county is required to contribute under subparagraph (i) of this paragraph may not exceed the total cost or reimbursement amount approved by the Department.

(4) For each of these children, the State shall contribute an amount equal to the amount of the approved cost or reimbursement in excess of the amount the county is required to contribute under paragraph (3) of this subsection.

(E) (1) (I) IN THIS SUBSECTION, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) ~~“LOCAL LOCAL SCHOOL SALARIES” MEANS THE SALARIES AND BONUSES RECEIVED BY PUBLIC SCHOOL TEACHERS OF SIMILAR TRAINING AND EXPERIENCE TO TEACHERS AT A SPECIAL EDUCATION PLACEMENT NONPUBLIC SCHOOL IN THE SAME COUNTY IN WHICH THE SCHOOL IS LOCATED.~~

(III) “NONPUBLIC SCHOOL” MEANS A NONPUBLIC SCHOOL IN WHICH A CHILD WITH A DISABILITY IS PLACED UNDER § 8-406 OF THIS SUBTITLE.

~~(2) A SPECIAL EDUCATION PLACEMENT NONPUBLIC SCHOOL SHALL PROVIDE PAY ITS TEACHERS A SALARY THAT IS EQUIVALENT TO THE LOCAL SCHOOL SALARIES, PHASED IN OVER 3 YEARS BEGINNING IN FISCAL YEAR 2024 WITH PARITY ACHIEVED IN THE THIRD YEAR AND PARITY MAINTAINED THEREAFTER IN ACCORDANCE WITH THIS SUBSECTION.~~

~~(3) IN ACCORDANCE WITH THE PHASE IN AND CONTINUING EACH YEAR THEREAFTER UNDER PARAGRAPH (2) OF THIS SUBSECTION, IF THE AMOUNT OF FUNDING PROVIDED UNDER SUBSECTION (D) OF THIS SECTION IS INSUFFICIENT TO PROVIDE LOCAL SCHOOL SALARIES TO TEACHERS AT SPECIAL EDUCATION PLACEMENT SCHOOLS APPROVED UNDER COMAR 13A.09.10, ADDITIONAL FUNDING SHALL BE PROVIDED IN AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE AMOUNT OF FUNDING NEEDED TO PROVIDE LOCAL SCHOOL SALARIES TO TEACHERS AT A SPECIAL EDUCATION PLACEMENT SCHOOL AND THE FUNDING PROVIDED UNDER SUBSECTION (D) OF THIS SECTION~~

~~(I) NOT LATER THAN 30 DAYS BEFORE THE COUNTY BOARD OF EDUCATION IN THE COUNTY IN WHICH THE NONPUBLIC SCHOOL IS LOCATED SUBMITS ITS BUDGET UNDER § 5-102 OF THIS ARTICLE, A NONPUBLIC SCHOOL SHALL SUBMIT TO THE COUNTY BOARD A LIST OF SALARIED TEACHER POSITIONS IN THE NONPUBLIC SCHOOL, INCLUDING FOR EACH POSITION:~~

~~1. THE QUALIFICATIONS NECESSARY; AND~~

~~2. THE ANNUAL SALARY PROVIDED BY THE NONPUBLIC SCHOOL.~~

~~(H) TO DETERMINE THE LOCAL SCHOOL SALARIES, THE COUNTY BOARD SHALL MATCH THE TEACHERS ON THE LIST PROVIDED BY THE NONPUBLIC SCHOOL TO TEACHERS WITH SIMILAR QUALIFICATIONS EMPLOYED BY THE COUNTY BOARD.~~

~~(HH) SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, IF THE FUNDING PROVIDED TO THE NONPUBLIC SCHOOL UNDER SUBSECTION (D) OF THIS SECTION IS INSUFFICIENT FOR THE NONPUBLIC SCHOOL TO PAY LOCAL SCHOOL SALARIES TO THE TEACHERS AT THE SCHOOL, THE COUNTY BOARD SHALL INCLUDE IN ITS ANNUAL BUDGET FUNDING SUFFICIENT FOR THE NONPUBLIC SCHOOL TO PAY LOCAL SCHOOL SALARIES TO THE TEACHERS AT THE NONPUBLIC SCHOOL.~~

~~(IV) THE COUNTY BOARD SHALL:~~

~~1. CALCULATE THE DIFFERENCE IN FUNDING CURRENTLY PROVIDED BY THE NONPUBLIC SCHOOL FOR THE SALARIES OF ITS TEACHERS AND THE FUNDING NECESSARY FOR THE NONPUBLIC SCHOOL TEACHERS TO MEET THE LOCAL SCHOOL SALARIES; AND~~

~~2. PROVIDE IN ITS ANNUAL BUDGET:~~

~~A. IN FISCAL YEAR 2025, 33% OF THE DIFFERENCE IN FUNDING;~~

~~B. IN FISCAL YEAR 2026, 66% OF THE DIFFERENCE IN FUNDING; AND~~

~~C. IN FISCAL YEAR 2027 AND EACH FISCAL YEAR THEREAFTER, 100% OF THE DIFFERENCE IN FUNDING.~~

~~(4) THE ADDITIONAL FUNDING UNDER PARAGRAPH (3) OF THIS SUBSECTION SHALL BE PAID FOR BY THE STATE AND THE COUNTY IN THE SAME PROPORTION AS THE COSTS PAID UNDER SUBSECTION (D) OF THIS SECTION.~~

~~(5) FUNDING FOR OTHER COMPONENTS OF THE SPECIAL EDUCATION PLACEMENT NONPUBLIC SCHOOL MAY NOT BE REDUCED TO PROVIDE TEACHER SALARIES IN ACCORDANCE WITH THIS SUBSECTION.~~

~~(2) A NONPUBLIC SCHOOL SHALL PROVIDE ITS TEACHERS A SALARY THAT IS EQUIVALENT TO THE LOCAL SCHOOL SALARIES, PHASED IN OVER 3 YEARS BEGINNING IN FISCAL YEAR 2024 WITH PARITY ACHIEVED IN THE THIRD YEAR AND PARITY MAINTAINED THEREAFTER.~~

(3) IN ACCORDANCE WITH THE PHASE-IN AND CONTINUING EACH YEAR THEREAFTER UNDER PARAGRAPH (2) OF THIS SUBSECTION, IF THE AMOUNT OF FUNDING PROVIDED UNDER SUBSECTION (D) OF THIS SECTION IS INSUFFICIENT TO PROVIDE LOCAL SCHOOL SALARIES TO TEACHERS AT NONPUBLIC SCHOOLS APPROVED UNDER COMAR 13A.09.10, ADDITIONAL FUNDING SHALL BE PROVIDED IN AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE AMOUNT OF FUNDING NEEDED TO PROVIDE LOCAL SCHOOL SALARIES TO TEACHERS AT A NONPUBLIC SCHOOL AND THE FUNDING PROVIDED UNDER SUBSECTION (D) OF THIS SECTION.

(4) (I) THE ADDITIONAL FUNDING UNDER PARAGRAPH (3) OF THIS SUBSECTION SHALL BE PAID FOR BY THE STATE AND THE COUNTY IN THE SAME PROPORTION AS THE COSTS PAID UNDER SUBSECTION (D) OF THIS SECTION.

(II) 1. THE AMOUNT PROVIDED BY THE COUNTY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS IN ADDITION TO THE AMOUNT REQUIRED UNDER § 5-235 OF THIS ARTICLE.

2. THE CALCULATIONS UNDER §§ 5-214, 5-235, AND 5-239 OF THIS ARTICLE SHALL BE MADE AS THOUGH THE COUNTY DID NOT PROVIDE THE AMOUNT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(5) FUNDING FOR OTHER COMPONENTS OF THE SPECIAL EDUCATION PLACEMENT MAY NOT BE REDUCED TO PROVIDE TEACHER SALARIES IN ACCORDANCE WITH THIS SUBSECTION.

(F) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023.

Approved by the Governor, May 16, 2023.