

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 469
 Ways and Means

(Delegate Guyton, *et al.*)

Children With Disabilities - Special Education Services - Eligibility

This emergency bill requires the State and each local school system to make a free appropriate public education available to a child with a disability from birth through the later of (1) the end of the school year in which the child turns 21 years old or (2) the end of the child’s sixteenth year of school. The State Board of Education must adopt, as regulations, standards for the identification, evaluation, educational placement, and the provision of a free appropriate public education of each child in this State who has begun the school year under the age of 21 or who is 21 years old and has completed 15 or fewer years of primary and secondary education and is found to need special education and related services, whether or not the child is receiving nonduplicative services from another governmental agency.

Fiscal Summary

State Effect: Under assumptions described below, special fund expenditures increase by \$1.4 million in FY 2024 and by \$3.7 million in FY 2026, and general fund expenditures increase by \$970,000 in FY 2024 and by \$5.1 million in FY 2028. No effect on revenues
This bill increases a mandated appropriation beginning in FY 2025.

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0.97	0.81	0.84	4.68	5.10
SF Expenditure	1.39	3.08	3.71	0	0
Net Effect	(\$2.36)	(\$3.89)	(\$4.56)	(\$4.68)	(\$5.10)

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

Local Effect: Annual county government appropriations to local public school systems increase statewide by approximately \$3.2 million in FY 2024, and by \$3.5 million by FY 2028. Local board of education expenditures increase beginning in FY 2024 by

substantially more than the minimum required increases in State and county government appropriations for special education. **This bill imposes a mandate on a unit of local government.**

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 21 years old, in accordance with an individualized family service plan (IFSP) or an individualized education program (IEP) specific to the individual needs of the child. An IFSP is for children with disabilities from birth up to age 3, and up to age 5 under Maryland's Extended IFSP Option if a parent chooses the option. An IEP is for students with disabilities from age 3 through 21. Local school systems are required to make a free appropriate public education available to students with disabilities from age 3 through 21. However, the State, under its supervisory authority required by IDEA, has the ultimate responsibility for ensuring that this obligation is met. The State Board of Education must adopt, as regulations, standards for the identification, evaluation, educational placement, and the provision of a free appropriate public education of each child in this State who has begun the school year under the age of 21 and is found to need special education and related services, whether or not the child is receiving nonduplicative services from another governmental agency.

State education funding formulas recognize the additional resource needs associated with serving at-risk students including students receiving special education services. The enrollment count of special education students is a key factor in determining State aid through the special education funding formula. Special education students are also counted in determining each public school system's full-time equivalent (FTE) enrollment. In turn, FTE enrollment is a key input for the foundation aid program and is used to determine relative local wealth, which is a component of several education aid programs. County governments (including Baltimore City) must appropriate the greater of the combined local share of several aid programs, after certain local relief provisions are applied, or the per pupil Maintenance of Effort (MOE) result.

State Fiscal Effect: Under assumptions described below, special fund expenditures increase by \$1.4 million in fiscal 2024, and by \$3.7 million in fiscal 2026, and general fund expenditures increase by \$970,000 in fiscal 2024, and by \$5.1 million in fiscal 2028.

The Maryland State Department of Education (MSDE) anticipates one-time costs of \$250,000 to implement updates to the Maryland On-Line IEP System and related databases. This analysis assumes that this cost is covered by general funds at the beginning of fiscal 2024, preceding the 2023-2024 school year.

The bill affects students who receive special education services who reach age 21 without completing 16 years of schooling, and therefore applies to students who begin kindergarten at age 6 or later. MSDE advises that in school year 2021-2022, there were 2,794 public school kindergarten students who turned age 6 by September of 2021. Given that about 13% of students receive special education services, this analysis assumes that approximately 370 additional students will receive special education services each year under the bill. It is further assumed that about 3%, or 10 of these students will be placed in nonpublic placements each year. This does not account for the likelihood that some students and their families will opt out of schooling beyond age 21, but also does not factor in an unknown number of students who enter public school from out-of-state and have received relatively few years of schooling for their age. To some extent these two factors will be offsetting. The additional 370 students are assumed to be distributed among the 24 local public school system in proportion to special education counts under current law.

The increase in the number of public school students under the bill will be reflected in the count of students used to determine special education aid and also will be reflected in the FTE count that is used in determining foundation formula funding and used in determining relative wealth for the purposes of wealth-equalizing several major education aid formulas. The counts used to determine student transportation funding are also increased. **Exhibit 1** shows the anticipated changes in State funding by program, excluding the one-time costs of \$250,000 described above. In some instances, due to the peculiarities of the foundation program, the increased pupil counts stemming from students remaining in school for more time has a greater effect on the local share than on the full program cost, resulting in net decreases in the State share.

Exhibit 1
Change in State Expenditures under the Bill
(\$ in Thousands)

	<u>Fiscal 2024</u>	<u>Fiscal 2025</u>	<u>Fiscal 2026</u>	<u>Fiscal 2027</u>	<u>Fiscal 2028</u>
Foundation Program	-\$74.4	\$1,344.5	\$1,682.4	\$1,735.9	\$1,875.8
Special Education Formula	1,478.8	1,615.9	1,762.4	2,019.4	2,289.4
Nonpublic Placements	379.0	386.6	394.3	402.2	410.2
Comparable Wage Index	-16.9	56.9	64.5	65.1	69.6
Compensatory Education	5.2	114.7	161.4	11.4	11.9
Guaranteed Tax Base	-42.8	39.7	62.1	49.1	47.8
Student Transportation	383.9	385.0	386.1	387.1	388.3
Other ¹	-5.2	-50.7	44.3	8.4	9.8
Total	\$2,107.5	\$3,892.6	\$4,557.6	\$4,678.6	\$5,102.7

¹ Includes State funding of grants for English language learners, concentration of poverty, and the education effort adjustment.

Source: Department of Legislative Services

Blueprint for Maryland’s Future Fund (BMFF) special fund revenues are projected to be sufficient to cover mandated annual increases in expenditures for the Blueprint for Maryland’s Future through fiscal 2026. However, current projections indicate that, under current law, revenues in BMFF, including prior-year fund balances, will be less than the current law required increases to annual expenditures under the Blueprint beginning in fiscal 2027. Thus, the expenditures shown in Exhibit 1 are covered by a combination of special and general funds through fiscal 2026 but are covered entirely by general funds beginning in fiscal 2027.

Local Fiscal Effect: Given the local share and MOE requirements under current law, the addition of students under the bill will increase required local government effort in funding public schools. Annual county government appropriations to local public school systems increase statewide by approximately \$3.2 million in fiscal 2024, and by \$3.5 million by fiscal 2028. In fiscal 2024, increases range from less than \$10,000 in Caroline, Garrett, Kent, and Somerset counties, and more than \$300,000 in Baltimore City and Baltimore, Montgomery, and Prince George’s counties.

Local school systems receive increased State and local funding under the bill. Expenditure of those funds increases accordingly. Further, MSDE advises that federal IDEA funds may not be used to provide special education services to a student who does not meet the

eligibility criteria of the IDEA, and therefore local school systems will be required to make expenditures that exceed the required State and local funding provided for students who under the bill begin a school year after turning 21. Federal IDEA formula grants are expected to amount to over \$237 million in fiscal 2024.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

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