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§8–405.

(a) (1) In this section the following words have the meanings indicated.

(2) "Accessible copy" includes a copy of a document provided to an individual in a format as defined in § 8–408 of this subtitle.

(3) "Extenuating circumstance" means:

(i) A death in the family;

(ii) A personal emergency;

(iii) A natural disaster; or

(iv) Any other similar situation defined by the Department.

(4) "Individualized education program" and "individualized family service plan" have the same meaning as provided in the federal Individuals with Disabilities Education Act.

(b) (1) When a team of qualified professionals and the parents meet for the purpose of discussing the identification, evaluation, educational program, or the provision of a free appropriate public education of a child with a disability:

(i) The parents of the child shall be afforded the opportunity to participate and shall be provided reasonable notice in advance of the meeting; and

(ii) Reasonable notice shall be at least 10 calendar days in advance of the meeting, unless an expedited meeting is being conducted to:

1. Address disciplinary issues;

2. Determine the placement of the child with a disability not currently receiving educational services; or

3. Meet other urgent needs of a child with a disability to ensure the provision of a free appropriate public education.

(2) (i) 1. At the initial evaluation meeting, the parents of the child shall be provided:

A. In plain language, an oral and written explanation of the parents' rights and responsibilities in the individualized education program process and a program procedural safeguards notice;

B. Written information that the parents may use to contact early intervention and special education family support services staff members within the local school system and a brief description of the services provided by the staff members;

C. Written information on the Special Education Ombudsman and toll–free telephone number established under Title 6, Subtitle 5 of the State Government Article;

D. Written information about the Access to Attorneys, Advocates, and Consultants for Special Education Program established under § 8–413.1 of this subtitle; and

E. Written informational materials regarding the Maryland ABLE Program provided under § 18–19C–03(a)(2) of this article.

2. At least one time each year at an individualized education program or individualized family service plan team meeting, the parents of the child shall be provided with the written informational materials described under subsubparagraph 1E of this subparagraph.

3. If a parent's native language is not English, the information in subsubparagraph 1B, C, D, and E of this subparagraph shall be provided to the parent in the parent's native language.

(ii) The parents may request the information provided under subparagraph (i) of this paragraph at any subsequent meeting.

(iii) If a child who has an individualized education program developed in another school system moves into a different local school system, that local school system shall provide the information required under subparagraph (i)1B, C, D, and E of this paragraph at the time of the first written communication with the parents regarding the child's individualized education program or special education services.

(iv) A local school system shall publish information that a parent may use to contact early intervention and special education family support

services staff members within the local school system and a brief description of the services provided by the staff members in a prominent place on the section of its website relating to special education services.

(3) Failure to provide the information required under paragraph (2)(i)1B, C, D, and E of this subsection does not constitute grounds for a due process complaint under § 8–413 of this subtitle.

(4) (i) A parent may request an independent educational evaluation at public expense in accordance with regulations adopted by the Department if:

1. The parent disagrees with the educational evaluation of the student that was conducted by the local school system; or

2. The parent submits to the local school system a written request for an educational evaluation conducted by the local school system and the local school system:

A. Does not respond to the request within 30 days as required under subparagraph (ii) of this paragraph; or

B. Approves the request but the educational evaluation meeting does not occur, through no fault of the parent, within:

I. 60 days after the date on which the request was received by the local school system; or

II. If the State is under a state of emergency proclaimed by the Governor, 90 days after the date on which the request was received by the local school system.

(ii) The local school system shall provide a written response approving or denying a request within 30 days of the date the request was made.

(iii) If the local school system approves a request, the written response shall advise the parent of the process for arranging the evaluation at public expense.

(iv) If the local school system denies a request, the local school system shall file a due process complaint under § 8–413 of this subtitle within 30 days of the date of the denial.

(5) (i) If, during an individualized education program team meeting, a parent disagrees with the child's individualized education program or the special education services provided to the child, the individualized education program team shall provide the parent with, in plain language:

1. An oral and a written explanation of the parent's right to request mediation in accordance with § 8–413 of this subtitle;

2. Contact information, including a telephone number that a parent may use to receive more information about the mediation process;

3. Information regarding pro bono representation and other free or low–cost legal and related services available in the area; and

4. Written information about the Access to Attorneys, Advocates, and Consultants for Special Education Program established under § 8–413.1 of this subtitle.

(ii) A parent may request the information provided under subparagraph (i) of this paragraph at any individualized education program team meeting.

(6) (i) If the native language spoken by a parent who requests information under paragraph (5) of this subsection is spoken by more than 1% of the student population in the local school system, the parent may request that the information be translated into the parent's native language.

(ii) If a parent makes a request under subparagraph (i) of this paragraph, the individualized education program team shall provide the parent with the translated document within 30 days after the date of the request.

(c) The individualized education program team shall determine, on at least an annual basis, whether the child requires extended year services in order to ensure that the child is not deprived of a free appropriate public education by virtue of the normal break in the regular school year.

(d) (1) In this subsection, "emergency conditions" means a period of time of 10 school days or longer, during which:

(i) A child with a disability cannot be provided with an individualized education program or special education services at school; and

(ii) The school is providing instruction in some form to its students.

(2) (i) Beginning October 1, 2021, an individualized education program shall include a learning continuity plan to implement during emergency conditions in order to ensure that the individualized education program is proceeding appropriately despite the emergency conditions.

(ii) A learning continuity plan required under subparagraph (i) of this paragraph shall be developed by an individualized education program team at the time of:

1. The development of a student's initial individualized education program; or

2. The next scheduled revision of a student's individualized education program.

(3) (i) Within 10 days of an individualized education program team determining that emergency conditions exist, the team shall make a reasonable attempt to notify the parent or guardian of a child who requires an individualized education program that a learning continuity plan is in place.

(ii) In contacting a parent or guardian under this paragraph, the individualized education program team shall seek input from the parent or guardian on how the learning continuity plan will best operate during emergency conditions.

(4) Notwithstanding any other provision of law, the provision of services under a learning continuity plan during emergency conditions does not alter the child's educational placement for purposes of a due process complaint brought under § 8–413 of this subtitle.

(5) An individualized education program team shall periodically update the emergency learning continuity plan.

(e) (1) (i) Except as provided in paragraph (2) of this subsection, and subject to subparagraphs (ii) and (iii) of this paragraph, at least 5 business days before a scheduled meeting of the individualized education program team or other multidisciplinary education team for any purpose for a child with a disability, appropriate school personnel shall provide the parents of the child with:

1. An accessible copy of each assessment, report, data chart, draft individualized education program, or other document that either team plans to discuss at the meeting;

2. Notification of the right of the parent to be accompanied to the meeting by any individual who has knowledge or expertise regarding the student; and

3. Written information about the Access to Attorneys, Advocates, and Consultants for Special Education Program established under § 8–413.1 of this subtitle.

(ii) Subject to subparagraph (i) of this paragraph, an assessment, report, data chart, or other document prepared by a school psychologist or other medical professional that either team plans to discuss at the meeting may be provided to the parents of the child orally and in writing prior to the meeting.

(iii) The parents of a child may notify appropriate school personnel that they do not want to receive the documents required to be provided under subparagraph (i) of this paragraph.

(2) (i) Subject to subparagraph (ii) of this paragraph, appropriate school personnel are not required to comply with paragraph (1) of this subsection in the event of an extenuating circumstance.

(ii) In the event of an extenuating circumstance, appropriate school personnel who fail to comply with paragraph (1) of this subsection shall document the extenuating circumstance and communicate that information to the parents of the child.

(f) (1) Not later than 5 business days after a scheduled meeting of the individualized education program team or other multidisciplinary team for a child with a disability, appropriate school personnel shall provide the parents of the child with a copy of the completed individualized education program.

(2) If the individualized education program has not been completed by the 5th business day after the meeting, the parents shall be provided with the draft copy of the individualized education program.

(3) The completed or draft individualized education program shall be provided to the parents in an accessible format.

(4) (i) If the native language spoken by the parents of a child with a completed individualized education program or a completed individualized family service plan is spoken by more than 1 percent of the student population in the local school system, the parents may request the document to be translated into the parents' native language.

(ii) If a parent makes a request under subparagraph (i) of this paragraph, appropriate school personnel shall provide the parents with the translated document within 30 days after the date of the request.

(g) (1) Except as provided in paragraph (2) of this subsection, an individualized education program team shall obtain written consent from a parent if the team proposes to:

(i) Enroll the child in an alternative education program that does not issue or provide credits toward a Maryland high school diploma;

(ii) Identify the child for the alternative education assessment aligned with the State's alternative curriculum; or

(iii) Include restraint or seclusion in the individualized education program to address the child's behavior as described in COMAR 13A.08.04.05.

(2) If the parent does not provide written consent to an action proposed in paragraph (1) of this subsection at the individualized education program team meeting, the individualized education program team shall send the parent written notice no later than 5 business days after the individualized education program team meeting that informs the parent that:

(i) The parent has the right to either consent to or refuse to consent to an action proposed under paragraph (1) of this subsection; and

(ii) If the parent does not provide written consent or a written refusal to consent to an action proposed under paragraph (1) of this subsection within 15 business days of the individualized education program team meeting, the individualized education program team may implement the proposed action.

(3) If the parent refuses to consent to the action proposed, the individualized education program team may use the dispute resolution options listed in § 8–413 of this subtitle to resolve the matter.

(h) To fulfill the purposes of this section, school personnel may provide the documents required under this section through:

(1) Electronic delivery;

(2) Home delivery with the student; or

(3) Any other reasonable and legal method of delivery.

(i) Failure to comply with this section does not constitute a substantive violation of the requirement to provide a student with a free appropriate public education.

(j) The Department shall adopt:

(1) Regulations that define what information should be provided in the verbal and written explanations of the parents' rights and responsibilities in the individualized education program process; and

(2) Any other regulations necessary to carry out subsection (b)(2) and (4) of this section.

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