

WAYS AND MEANS COMMITTEE

SPECIAL EDUCATION - INDIVIDUALIZED EDUCATION PROGRAM - NOTIFICATION OF MISSED SERVICES (SHIFRA'S ACT)

March 11, 2026

Position: Favorable

Disability Rights Maryland (DRM), a nonprofit legal advocacy organization, is the federally-mandated Protection and Advocacy agency for the state of Maryland, charged with defending and advancing the rights of individuals with disabilities. Over the past 40 years, DRM has dedicated significant resources to representation of children with disabilities in special education matters, both individual and systemic, and to educational policy work.

DRM supports House Bill 1368 (HB 1368), which would require public schools to give parents a written notice including an explanation when certain special education or related services specified in a student's individualized education program (IEP) are missed, incomplete, or interrupted. HB 1368 would also require notice to parents with information on requesting meetings to address their child's missed services.

Under the Individuals with Disabilities Education Act (IDEA), parents have a right to meaningfully participate in IEP team decisions about their child's special education and related services to ensure the provision of a free appropriate public education. Parents cannot meaningfully participate without knowledge of the status of their child's services. Timely notification ensures that parents can address the impact of missed services on their child's needs and progress; this may allow students to recover or improve skills without changing the timeframe for their existing annual progress goals and objectives.

When students lose opportunities for academic progress or regress, school systems may be required to provide compensatory services. However, compensatory education cannot always remediate the effects of missed services. The provision of these services also imposes an additional burden on parents and students as these services are provided outside of school hours and are often provided outside of the normal school year schedule, making some children perceive make-up services as punishment.

DRM has a long history of securing compensatory services for students, particularly in Baltimore City during the course of the 28 year *Vaughn G.* systemic special education lawsuit. Filed in 1984, the lawsuit was brought as a class action lawsuit behalf of a group of Baltimore

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City students with disabilities who did not receive recommended assessments within required timelines and/or who did not receive timely implementation of their IEPs. The case settled in 1988 with a consent decree containing a number of provisions, including a requirement that Baltimore City Public Schools provide compensatory services to students who had sustained violations of their right to timely assessments and services. Within less than a two year period, the school system amassed a waiting list of thousands of children entitled to compensatory services. The court Monitor worked with the parties to develop a summer compensatory services program to be offered to the families whose students were waiting for their remedy. Well-designed with the University of Maryland's special education department, the program offered instruction, enrichment activities with daily field trips and a no-exclusion policy preventing suspension of students from the program. The Baltimore Urban League and The Parents' Place of Maryland were enlisted to conduct intensive outreach to the families to explain the program and to explain that non-participation would waive their child's entitlement to compensatory services.

Ultimately, only a very small number of eligible students participated in the program; many parents did not know that their child had missed services until they received notice of the compensatory services program, sometimes years after the violation, making compensatory services feel irrelevant. We learned from this experience that the longer the period between the violation and the remedy, the less likely it is that the student will receive and benefit from compensatory services. This lesson was underscored post-pandemic, when for many students, well more than a year passed between the lack of IEP implementation during remote instruction and school systems' consideration of the need for compensatory services. Families need timely notice if their child does not receive IEP-mandated services, and they need a timely remedy. HB 1368 would address this situation.

HB 1368 is also consistent with the General Assembly's commitment to protect the educational rights of students with disabilities. In past years, Maryland has, among other actions, required that families be provided with IEP meeting documents five days prior to the meeting, given parents the ability to refuse to consent to certain proposals by an IEP team, legislated protective requirements when restraint or seclusion is used, and addressed independent educational evaluations. HB 1368 continues these efforts to ensure that parents are able to meaningfully participate in the IEP process and exercise the due process rights guaranteed to them and their children by federal and state special education laws.

For these reasons, DRM supports House Bill 1368 and urges a favorable report.

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