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By: Senator Conway

Introduced and read first time: February 3, 2017

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

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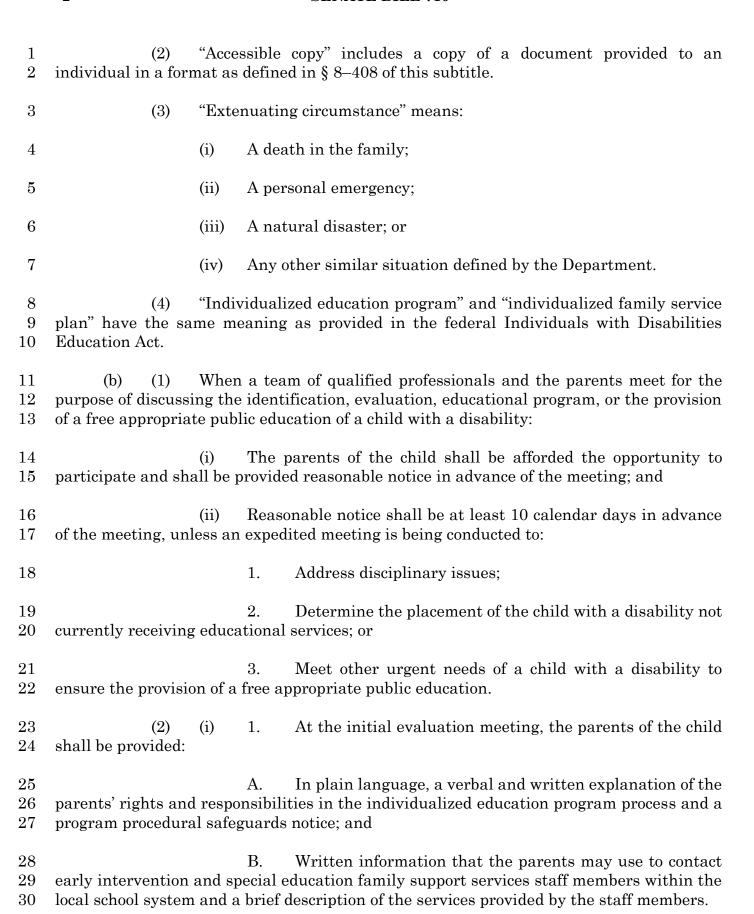
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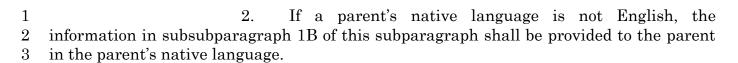
Education – Children With Disabilities – Individualized Education Program Process – Parental Consent

4 FOR the purpose of requiring an individualized education program team to obtain written 5 consent from the parent of a child with a disability if the team proposes certain 6 actions regarding the individualized education program of the child; requiring an 7 individualized education program team, under certain circumstances, to send a 8 parent certain written notice within a certain time frame that informs the parent of 9 certain rights to consent or refuse to consent to certain actions; authorizing an 10 individualized education program team to implement a certain action regarding an 11 individualized education program if a parent does not provide certain written 12 consent or a written refusal to consent to a certain action within a certain time frame; 13 authorizing an individualized education program team to use certain dispute resolution options to resolve a certain matter under certain circumstances; and 14 15 generally relating to parental consent in the individualized education program 16 process.

- 17 BY repealing and reenacting, with amendments,
- 18 Article Education
- 19 Section 8–405
- 20 Annotated Code of Maryland
- 21 (2014 Replacement Volume and 2016 Supplement)
- 22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 23 That the Laws of Maryland read as follows:
- 24 Article Education
- 25 8-405.
- 26 (a) (1) In this section the following words have the meanings indicated.







4 (ii) The parents may request the information provided under 5 subparagraph (i) of this paragraph at any subsequent meeting.

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- (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 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.
- 11 (iv) A local school system shall publish information that a parent 12 may use to contact early intervention and special education family support services staff 13 members within the local school system and a brief description of the services provided by 14 the staff members in a prominent place on the section of its Web site relating to special 15 education services.
- 16 (3) Failure to provide the information required under paragraph (2)(i)1B of this subsection does not constitute grounds for a due process complaint under § 8–413 of this subtitle.
- 19 (4) (i) If, during an individualized education program team meeting, a 20 parent disagrees with the child's individualized education program or the special education 21 services provided to the child, the individualized education program team shall provide the 22 parent with, in plain language:
- 23 1. An oral and a written explanation of the parent's right to request mediation in accordance with § 8–413 of this subtitle;
- 25 Contact information, including a telephone number that a parent may use to receive more information about the mediation process; and
- 27 3. Information regarding pro bono representation and other free or low–cost legal and related services available in the area.
- 29 (ii) A parent may request the information provided under 30 subparagraph (i) of this paragraph at any individualized education program team meeting.
- 31 (5) (i) If the native language spoken by a parent who requests 32 information under paragraph (4) of this subsection is spoken by more than 1% of the 33 student population in the local school system, the parent may request that the information 34 be translated into the parent's native language.

- 1 (ii) If a parent makes a request under subparagraph (i) of this 2 paragraph, the individualized education program team shall provide the parent with the 3 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) (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 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.
 - (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.
- 19 (iii) The parents of a child may notify appropriate school personnel 20 that they do not want to receive the documents required to be provided under subparagraph 21 (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.
 - (e) (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.
- 35 (3) The completed or draft individualized education program shall be 36 provided to the parents in an accessible format.

- 1 (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 3 plan is spoken by more than 1 percent of the student population in the local school system, 4 the parents may request the document to be translated into the parents' native language.
- 5 (ii) If a parent makes a request under subparagraph (i) of this 6 paragraph, appropriate school personnel shall provide the parents with the translated 7 document within 30 days after the date of the request.
- 8 (F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
 9 AN INDIVIDUALIZED EDUCATION PROGRAM TEAM SHALL OBTAIN WRITTEN CONSENT
 10 FROM A PARENT IF THE TEAM PROPOSES TO:
- 11 (I) ENROLL THE CHILD IN AN ALTERNATIVE EDUCATION 12 PROGRAM THAT DOES NOT ISSUE OR PROVIDE CREDITS TOWARD A MARYLAND HIGH 13 SCHOOL DIPLOMA;
- 14 (II) IDENTIFY THE CHILD FOR THE ALTERNATIVE EDUCATION 15 ASSESSMENT ALIGNED WITH THE STATE'S ALTERNATIVE CURRICULUM;
- 16 (III) INCLUDE RESTRAINT OR SECLUSION IN THE 17 INDIVIDUALIZED EDUCATION PROGRAM TO ADDRESS THE CHILD'S BEHAVIOR AS 18 DESCRIBED IN COMAR 13A.08.04.05; OR
- 19 (IV) Initiate a change in the child's educational 20 placement.
- 21 (2) IF THE PARENT DOES NOT PROVIDE WRITTEN CONSENT TO AN 22 ACTION PROPOSED IN PARAGRAPH (1) OF THIS SUBSECTION AT THE 23 INDIVIDUALIZED EDUCATION PROGRAM TEAM MEETING, THE INDIVIDUALIZED EDUCATION PROGRAM TEAM SHALL SEND THE PARENT WRITTEN NOTICE NO LATER 25 THAN 5 BUSINESS DAYS AFTER THE INDIVIDUALIZED EDUCATION PROGRAM TEAM 26 MEETING THAT INFORMS THE PARENT THAT:
- 27 (I) THE PARENT HAS THE RIGHT TO EITHER CONSENT TO OR 28 REFUSE TO CONSENT TO AN ACTION PROPOSED UNDER PARAGRAPH (1) OF THIS 29 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.

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1	(3)	IF THE PARENT REFUSES TO CONSENT TO THE ACTION PROPOSED,
2	THE INDIVIDUA	LIZED EDUCATION PROGRAM TEAM MAY USE THE DISPUTE
3	RESOLUTION OF	PTIONS LISTED IN \S 8–413 OF THIS SUBTITLE TO RESOLVE THE
4	MATTER.	
5	[(f)] (G)	To fulfill the purposes of this section, school personnel may provide the
6	documents require	ed under this section through:
7	(1)	Electronic delivery;
8	(2)	Home delivery with the student; or
9	(3)	Any other reasonable and legal method of delivery.
10 11	[(g)] (H)	Failure to comply with this section does not constitute a substantive quirement to provide a student with a free appropriate public education.
11	violation of the re	quirement to provide a student with a free appropriate public education.
12	[(h)] (I)	The Department shall adopt:
13	(1)	Regulations that define what information should be provided in the
14 15		cen explanations of the parents' rights and responsibilities in the acation program process; and
16 17	(2) section.	Any other regulations necessary to carry out subsection (b)(2) of this

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