

SENATE BILL 311

F1
SB 706/22 – B&T

3lr1089
CF 3lr1088

By: **Senators Zucker, Elfreth, Guzzone, King, and Salling**

Introduced and read first time: January 27, 2023

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Nonpublic Education – Special Education Placements – Renaming and Teacher**
3 **Salaries**
4 **(Teacher Pay Parity Act)**

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

10 BY repealing and reenacting, with amendments,
11 Article – Education
12 Section 8–406, 8–410(d) and (e), and 8–415(d)
13 Annotated Code of Maryland
14 (2022 Replacement Volume)

15 BY adding to
16 Article – Education
17 Section 8–415(e)
18 Annotated Code of Maryland
19 (2022 Replacement Volume)

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

22 **Article – Education**

23 8–406.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(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.

1 **(3) NOTWITHSTANDING THE USE OF THE TERMS “NONPUBLIC**
2 **EDUCATIONAL PROGRAM” AND “NONPUBLIC PLACEMENT” IN THIS ARTICLE, THE**
3 **STATE BOARD AND EACH COUNTY BOARD SHALL USE THE TERM “SPECIAL**
4 **EDUCATION PLACEMENT” IN ALL COMMUNICATIONS.**

5 **(4) “NONPUBLIC EDUCATIONAL PROGRAM” AND “NONPUBLIC**
6 **PLACEMENT” SHALL BE CONSTRUED AS CONSISTENT WITH THE FEDERAL**
7 **REQUIREMENTS OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA),**
8 **20 U.S.C. SECTION 1400 ET SEQ., AND FEDERAL LAWS AND REGULATIONS.**

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

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

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

16 (iii) The cost of the [program] **SPECIAL EDUCATION PLACEMENT**;
17 and

18 (iv) The amount of payment or reimbursement.

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

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

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

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

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

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

30 (4) The State Board shall adopt regulations that establish standards and
31 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.

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

8–410.

(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) IN THIS SUBSECTION, “LOCAL SCHOOL SALARIES” MEANS THE

1 SALARIES AND BONUSES RECEIVED BY PUBLIC SCHOOL TEACHERS OF SIMILAR
2 TRAINING AND EXPERIENCE TO TEACHERS AT A SPECIAL EDUCATION PLACEMENT
3 IN THE SAME COUNTY IN WHICH THE SCHOOL IS LOCATED.

4 (2) A SPECIAL EDUCATION PLACEMENT SHALL PROVIDE ITS
5 TEACHERS A SALARY THAT IS EQUIVALENT TO THE LOCAL SCHOOL SALARIES,
6 PHASED IN OVER 3 YEARS BEGINNING IN FISCAL YEAR 2024 WITH PARITY ACHIEVED
7 IN THE THIRD YEAR AND PARITY MAINTAINED THEREAFTER.

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

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

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

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
24 1, 2023.