

Chapter 700

(House Bill 1365)

AN ACT concerning

Nonpublic Special Education Schools – State Contribution – Increase

FOR the purpose of requiring the State contribution to the cost of educating children with disabilities in nonpublic programs to be increased by certain amounts in a certain fiscal year for certain purposes; and generally relating to an increase in the State contribution to the cost of educating children with disabilities in nonpublic programs.

BY repealing and reenacting, without amendments,
Article – Education
Section 8–406(b) and (c) and 8–415(d)
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)

Preamble

WHEREAS, The enrollment of the State’s nonpublic special education schools consists primarily of public school students who are assigned to a nonpublic school due to their need for specialized services that cannot be offered by their local school system; and

WHEREAS, During the 2020 Legislative Session, the General Assembly charged the State Department of Education with reviewing compensation data and qualifications for public and nonpublic school special education teachers and with identifying and analyzing wage and compensation disparities between public and nonpublic school special education teachers; and

WHEREAS, The State Department of Education submitted its report to the General Assembly on December 16, 2020, finding that salaries of nonpublic school special education teachers were between 7.3% and 25% less than the salaries of similarly situated special education teachers in public schools; and

WHEREAS, The State Department of Education also found that, when accounting for total paid hours, the wage disparity between similarly situated special education teachers in public schools and in nonpublic schools increased to between 23.3% and 40.7%; and

WHEREAS, Chapter 36 of the Acts of the General Assembly of 2021 will add \$4 billion in annual State and local spending above current spending projections by fiscal year 2030; and

WHEREAS, Chapter 36 of the Acts of the General Assembly of 2021 mandates minimum salary increases for certain accomplishments in amounts not more than \$17,000 annually for public school teachers beginning in fiscal year 2022; now, therefore,

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

Article – Education

8–406.

(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 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 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 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 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.

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 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

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- B. For fiscal year 2010 and each subsequent fiscal year thereafter, 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.

(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.

SECTION 2. AND BE IT FURTHER ENACTED, That for fiscal year 2023, in addition to the State contribution required under § 8–415(d)(4) of the Education Article ~~shall include~~, the Governor shall include in the annual budget bill an appropriation from the unexpended appropriation for Aid to Education, Nonpublic Placements Program (R00A02.07) within the Maryland State Department of Education that was included in the fiscal year 2020 or 2021 operating budget to provide:

(1) an increase of 4% over the amount approved by the State Department of Education in fiscal year 2022, exclusively for:

- (i) direct classroom positions;
- (ii) related services positions; and
- (iii) general support positions; and

(2) an additional increase of not less than 2% or the Consumer Price Index for All Urban Consumers, whichever is greater, over the amount approved by the State Department of Education in fiscal year 2022 for all categories of expenditure not listed in item (1) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.