

BILL: House Bill 778
TITLE: Education - Students with Disabilities - Parental Consent for Individualized Education Program Content
POSITION: OPPOSE
DATE: March 10, 2016
COMMITTEE: Ways and Means Committee
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE), representing all of the State's local boards of education, opposes House Bill 778.

Local boards of education place a very high priority on ensuring that students receive high quality special education programs and instruction to meet the unique needs of every disabled student. Maryland's public school systems are mandated to provide a wide array of special education services in accordance and compliance with the federal Individuals with Disabilities Education Act (IDEA) and corresponding federal and state regulations. IDEA requires that all eligible disabled students receive special education and related services if they are between the ages of 3 and 21, meet the definition of one or more of the categories of disabilities specified in IDEA, and are in need of special education and related services as a result of the disability. MABE, on behalf of all local boards of education, assures the General Assembly that Maryland's professional educators and school administrators are working within a very comprehensive federal and state legal and educational framework to serve special education students.

This bill would require the Individualized Education Program (IEP) team to 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 alternate assessment aligned with the state's alternate curriculum; (iii) use restraint or seclusion to correct the child's behavior; (iv) reduce or terminate the amount of instructional or related services that are provided to the child; or (v) initiate a change in the child's educational placement.

Local boards of education have great respect and appreciation for the dedication and commitment of educators and parents who are collaborating throughout the school year to ensure that the educational needs of students qualifying for special education services are being met. MABE is opposed to shifting decision-making authority away from the professional judgement of educators, in conjunction with parents and guardians as required by federal law, and instead providing a parental "veto" of IEP team proposals.

MABE is further concerned that in instances when the IEP team determines the parent's unilateral decision is not in the student's best interests, the litigious dispute resolution process is triggered. This is likely to have the unintended consequence of dramatically increasing the rate of such disputes and therefore result in many more time consuming and costly mediations and due process proceedings. Local boards oppose this bill not only because it would result in increased costs, but also because the duration of IEP challenges could result in delays in students receiving the services they need until the completion of the dispute. These outcomes are not in the best interests of students, families, and the educators involved in the collaborative and intensive process mandated under the current law.

An Individualized Educational Program (IEP) is an educational plan designed for the unique needs of each special education student and is formed by parents, teachers, administrators, related services personnel. The IEP is a legally binding document and constitutes the foundation for the educational services provided to every student with a disability. Each IEP states the student's present levels of academic performance, and states how the disability affects the student's involvement and progress in the general curriculum; and the IEP must include academic and functional annual goals, and benchmarks or instructional objectives.

School systems take very seriously the responsibility for identifying and evaluating students with disabilities; developing, reviewing, or revising an IEP for a student with a disability; and determining the placement of a child with a disability in the least restrictive environment. IEP teams, comprised of professional educators and parents, meet to develop the initial IEP and at least once a year thereafter to ensure that the IEP includes the services needed for the student to make progress on the specified annual goals.

Given the complexity and individualized nature of IEPs, disputes do arise between parents and teachers and other educators working in the school system. To accommodate such disputes, IDEA and state regulations provide parents the full protections of a state regulated complaint and enforcement process, and access to due process hearings before an Administrative Law Judge. MABE firmly believes that Maryland's local school systems are providing high quality special education services, and involving parents and guardians in decision-making on behalf of their child's educational well-being, as intended and envisioned by IDEA and Maryland's special education laws and regulations.

For these reasons, MABE requests an unfavorable report on House Bill 778.