

Chapter 665

(Senate Bill 540)

AN ACT concerning

Child with a Disability – Individualized Education Program

FOR the purpose of requiring appropriate school personnel to provide a copy of certain documents relating to the development of an individualized education program for a child with a disability to the parents of the child within a certain period before a certain meeting, subject to a certain exception; authorizing certain school personnel to provide the parents of a child with a disability a summary of certain information in a certain manner under certain circumstances; requiring certain school personnel to document certain failures and to ~~include certain documentation in certain records~~ communicate certain information to the parents of a child with a disability under certain circumstances; requiring appropriate school personnel to provide a copy of a completed individualized education program to the parents of a child with a disability within a certain period after a certain meeting; requiring the parents to be provided with a draft copy of the individualized education program under certain circumstances; requiring the documents to be in an accessible format; providing that failure to comply with this Act does not constitute a certain violation of the requirement to provide certain students a free appropriate public education; and generally relating to individualized education programs for children with disabilities.

BY repealing and reenacting, with amendments,
Article – Education
Section 8–405
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

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

Article – Education

8–405.

(a) When a team of qualified professionals and the parents meet for the purpose of discussing the identification, evaluation, educational program, or the provision of a free appropriate public education of a child with a disability:

(1) The parents of the child shall be afforded the opportunity to participate and shall be provided reasonable notice in advance of the meeting; and

(2) Reasonable notice shall be at least 10 calendar days in advance of the meeting, unless an expedited meeting is being conducted to:

- (i) Address disciplinary issues;
- (ii) Determine the placement of the child with a disability not currently receiving educational services; or
- (iii) Meet other urgent needs of a child with a disability to ensure the provision of a free appropriate public education.

(b) 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.

(C) (1) (I) ~~AT~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AND SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT LEAST ~~5~~ ~~2~~ 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 ~~A~~ 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.

(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:

1. ~~DOCUMENT~~ DOCUMENT THE EXTENUATING CIRCUMSTANCE; AND

~~**2. INCLUDE WRITTEN DOCUMENTATION RELATING TO THE EXTENUATING CIRCUMSTANCE IN THE STUDENT'S PERMANENT RECORD AND COMMUNICATE THAT INFORMATION TO THE PARENTS OF THE CHILD.**~~

(D) (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.

(3) THE COMPLETED OR DRAFT INDIVIDUALIZED EDUCATION PROGRAM SHALL BE PROVIDED TO THE PARENTS IN AN ACCESSIBLE FORMAT.

(E) FAILURE TO COMPLY WITH THIS SECTION DOES NOT CONSTITUTE A SUBSTANTIVE VIOLATION OF THE REQUIREMENT TO PROVIDE A STUDENT WITH A FREE APPROPRIATE PUBLIC EDUCATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, May 20, 2010.