

EXHIBIT

MONTGOMERY COUNTY PUBLIC SCHOOLS

Placement of Handicapped Children in Nonpublic Educational Program (State Law)

- (a) Basis for placement.--A child who needs special educational services that are not provided in a public county, regional, or State program shall be placed in an appropriate nonpublic educational program that offers these services.
-
- (b) Payment of cost.--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 §8-417.2(d) or §8-417.3(d) of this subtitle, as appropriate.
- (c) Approval of Department necessary for payment.
- (1) Payment or reimbursement for a nonpublic program may not be provided if the payment or reimbursement would require an additional contribution from the State under §8-417.2(d)(2) or §8-417.3(d)(2) of this subtitle unless the Department approves:
- (i) The nonpublic program;
 - (ii) The placement of the child in the program;
 - (iii) The cost of the program; and
 - (iv) The amount of payment or reimbursement.
- (2) Department approval is not required for a nonpublic program if:
- (i) The county board approves the placement of the child in the program;
 - (ii) The county board makes the payment or reimbursement from funds available to the county board established under §8-417.3(c) and (d)(1) of this subtitle; and

- (iii) The placement does not require an additional State contribution under §8-417.2(d)(2) or §8-417.3(d)(2) of this subtitle.
- (3) The State Board shall adopt bylaws that establish standards and guidelines for approvals required by paragraph (2) of this subsection.
- (d) Limitations on disapproval of placement recommended by county board.-- A nonpublic placement recommended by a county board for approval under subsection (c)(1) of this section shall be approved or disapproved pursuant to the bylaws of the State Board. However, the Department may not disapprove a nonpublic placement recommended by a county board for a child unless the Department provides an appropriate alternative placement in conformity with the bylaws of the State Board and applicable federal laws and regulations. The Department may not terminate funding for the last approved nonpublic placement of a child during the pendency of an administrative or judicial review of a recommended placement change.
- (e) Court placement.
 - (1) Except for a placement that results from an appeal from a decision of the Department taken under the Administrative Procedure Act, a child may not be placed in a nonpublic educational program at public expense by any court unless the placement is in accordance with this section.
 - (2) The Department shall be notified of each case in which the placement of a child in a nonpublic educational program at public expense is sought or is under consideration by a court.
 - (3) The Department shall be made a party to the proceeding.

Source: Annotated Code of Maryland, Education, Section 8-409.

MCPS Exhibit History: January 1983; reviewed and reprinted with no change February 1994.