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BILL: House Bill 778
TITLE: Education – Students with Disabilities – Parental Consent for IEP
DATE: March 10, 2016
POSITION: OPPOSE
COMMITTEE: Ways and Means
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House Bill 778 requires specified individualized education program teams to obtain a specified written consent before implementing specified actions except in specified circumstances; requires a specified individualized education program team to send a written notice to parents who have not provided written consent to a specified action under specified circumstances; and authorizes a specified individualized education program team to use specified dispute resolution options in specified circumstances.

The Individuals with Disabilities Education Act (IDEA) is a law ensuring services to children with disabilities throughout the nation. IDEA governs how states and public agencies provide early intervention, special education and related services to more than 6.5 million eligible infants, toddlers, children and youth with disabilities. IDEA clearly outlines the responsibilities of local school systems and IEP teams to provide a FAPE (Free and Appropriate Education) to children with disabilities and outlines the rights of parents, including resolving disagreements. It is the school system's responsibility to provide FAPE to students. Requiring parental consent to implement certain proposed changes to an IEP would, in many cases, delay or prohibit the provision of FAPE to students.

The IEP (Individualized Education Plan) is to help students who are not making progress in the regular education classroom. The plan states goals that are specific to the student for the IEP team to work on in order to (eventually) close the gap between where the child currently is and where they are supposed to be- academically, socially, etc. The IEP also states the disability, strengths of the student, areas of need, and ways to accommodate the student so that he/she is successful in the classroom. The IEP team members are required to propose an appropriate IEP that will enable the student to access and make progress in the general curriculum. The school IEP team members are the educational experts. If a parent disagrees with an IEP team decision, the parent can exercise his/her rights on resolving disagreements. Parents have the legal right to initiate mediation or due process if they disagree with the IEP proposals. Parents also have to provide consent to initiate the IEP and reserve the right to revoke consent for the IEP at any time.

House Bill 778 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. The parents' failure to accept or reject the proposed action would not allow the IEP to proceed until after 20 business days. However, in instances where such proposals are made by the IEP team but rejected in writing by the parents, the bill would allow the IEP team to employ the law's current special education dispute resolution process.

PSSAM opposes House Bill 778. The federal laws as outlined in IDEA are definitive and detail the specific responsibilities for the school system and the IEP team. Presently, if an IEP team proposes changes to an IEP and the parent disagrees, the changes are implemented unless the parent files for due process. In such cases, the parent has the burden of proof.

Under this bill, if the parent refuses to consent, the school system must file for the hearing, thereby undertaking the burden of proof and incurring substantial legal costs. It is also important to note that rather than providing FAPE to children in a timely manner, critical teaching and learning time for our most vulnerable students will be spent by administrators, teachers, and related service providers in mediations or due process hearings to uphold the IEP team's proposal(s) to provide FAPE. In addition, a 20 business day timeline for implementing the IEP while waiting for the parent to provide written consent or refusal would also result in the loss of strategic special education instruction time for disabled students.

For the reasons stated above, PSSAM **OPPOSES** House Bill 778 and requests an unfavorable report.