



The Arc Maryland
8601 Robert Fulton Drive, Suite 140
Columbia, MD 21046
T 410.571.9320
F 410.974.6021
www.thearcmd.org

Education Health and Environmental Affairs Committee
SB 783- Special Education- Judicial Actions- Attorney's Fees and Related Costs
February 18, 2020
Position: Support

The Arc Maryland strongly supports Senate Bill 783, which would allow parents to recover reasonable attorney's fees and related costs, including expert witness fees and costs if they are the prevailing party in certain special education proceedings. The Arc Maryland is the largest statewide advocacy organization dedicated to the rights and quality of life of people with intellectual and developmental disabilities, including the right to a public education that is free and appropriate to meet a child's educational needs (PL 94-142/IDEA). We believe SB 783 will improve assurances of education rights and increase access and equity in our education system in Maryland.

Often, families of limited means are at an incredible disadvantage when it comes to the ability to exercise the procedural protections afforded them under federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 *et. seq.*, and state special education laws. These procedural protections include the right to seek dispute resolution through a due process hearing, which is an administrative hearing conducted by an administrative law judge with witnesses and documentary evidence. Finding qualified legal representation for this hearing can be very difficult and costly for families with limited means. Even families with modest means who can afford a qualified attorney sometimes cannot outlast the defense of the school system in a special education case, particularly when a school system has resources to call expert witnesses that many families do not. This situation creates an imbalance of representation and decreased ability of a family to prevail; to obtain the reasonable services and supports they feel their child needs to appropriately access education services.

Federal special education law already allows courts to award reasonable attorney fees to parents who prevail at due process hearings, but our **state education law** does not currently contain a provision for the awarding of attorney's fees and related costs for prevailing parents. Even a request made by a parent for an independent evaluation of their child exposes them to the possibility of a due process hearing, if the school system refuses to fund the evaluation. SB 783 would incorporate into Maryland law the attorney's fees provisions currently contained in the IDEA. Parents will only be eligible for award of reasonable attorney's fees and related costs if they prevail and meet certain conditions which we believe will restore fairness to the process and ensure the rights of children to access a free and appropriate public education. For these reasons, The Arc Maryland supports SB 783 and urges the committee to return a favorable report.

Respectfully submitted,

Ande Kolp Executive Director