

I am writing today in support of SB0926 as a parent of a student with Down syndrome who is enrolled in St. Mary's County Public Schools. The Burden of Proof Bill is a critical change needed to ensure that the IDEA is implemented correctly and students with disabilities receive a free and appropriate public education regardless of their economic status, access to legal representation, and without fear of retaliation. The Burden of Proof Bill would not create more work for teachers as they already are required to track metrics of progress, services delivered and the supports and accommodations given to each student receiving special education services. Parents of children with limited communication or no communication have to entirely rely on what is and is not shared by the school system. Therefore in a situation where they are concerned about whether or not their child is receiving the agreed upon services and supports, it is unfathomable that they would have to provide evidence and witnesses first. Additionally, school systems hold another advantage in having in-house legal counsel and numerous experts to help argue that they have provided what is in the students' IEP and are providing a free and appropriate public education. Parents who cannot afford legal counsel cannot adequately access their parental safeguards and then cannot actually advocate for their own child's special education needs. I believe that this bill would actually reduce the number of due process complaints because school systems would be more inclined to follow IEP plans with fidelity and keep accurate records as they would be in the position to defend themselves first. In the end, that would mean a significant improvement in educational outcomes for students receiving special education services, a reduction in stress and financial burden on families, and more adherence to the IDEA and COMAR. Wins all around.

I can personally speak to the imbalances that exist within the current procedures. We filed due process in the fall of 2022 after more than 6 months of IEP meetings, emails, and phone calls trying to get our son out of a self-contained, segregated classroom. The school failed to hear our concerns and refused to change his placement to his least restrictive environment despite 9 years of success in a general education placement with support. When we filed our due process complaint, we learned several things: that we would have less access to information about our son and his education during this time because of "liability", that we were "on trial" within the staff at our son's school due to our filing, and that we had no chance of success in our hearing because "Maryland has a very strong record" in due process. As a result of the retaliation against our family and our son, our family's financial constraints, and a deep and painful feeling that nothing would change for our son's placement, we withdrew our due process request after mediation. During this process, our son's personal information and information about our case was shared widely within our small community by school personnel with no repercussions. He developed tics and anxiety as a result of the retaliation and poor treatment by school staff. He eventually had to be removed from the school and is now home on HHT. The escalation of events and the lack of transparency led my husband and I to the conclusion that he was no longer safe in the building. So now, not only is he not receiving a FAPE, he isn't able to be a part of his school community at all. Putting the burden of proof on the school system, who hold all records and employ all witnesses, is the only way to ensure that parents can actually USE their parental safeguards and ensure that the law is upheld for some of the state's most vulnerable students. Please vote yes on SB0926.

Thank you for reading this and for your consideration. Please reach out for any needed additional information.

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