



**Testimony in FAVOR of SB 0926 Submitted to the Chair, Vice Chair,
and the Members of the Education, Energy, and the Environment Committee**

Submitted: March 14, 2023

As an organization that speaks for thousands of families with children on the autism spectrum, **xMinds (Partnership for Extraordinary Minds) strongly urges you to support SB 0926, County Boards of Education – Due Process Proceedings for Children With Disabilities – Burden of Proof.**

xMinds is a non-profit dedicated to improving education outcomes for autistic students in Montgomery County. We provide parents and guardians of autistic students with essential information about special education in Montgomery County so that they can effectively advocate for their children and partner constructively with their children's schools. xMinds provides all these services and other advocacy tools free of charge to the entire community. We make special efforts to reach out to the BIPOC (Black, Indigenous and People of Color) and Spanish-speaking autism communities, offering all our resources and services in Spanish and English.

An Individualized Education Program (IEP) is the key document that dictates what special education supports a student with a disability will receive in school – but there is a critical imbalance in the development and implementation of the IEP. Schools fully control all aspects of implementing the IEP, including provision of appropriate supports and services, as well as placement in the appropriate special education program. **Unlike parents,** the school system has knowledge of complex special education law, access to staff attorneys and outside counsel; it employs the teachers, therapists and educational experts responsible for the IEP; and it has full access to records, instructional materials, and placement options.

Parents, however, often lack full knowledge of their options, much less the significant resources needed to hire expert witnesses and lawyers. Thus, it is unsurprising that parents lose the overwhelming number of IEP disputes in Maryland. In fiscal year 2019, parents lost 19 out of 20 cases. In fiscal year 2016, they lost 86% of cases; in FY2017, 95% of cases, and in FY2018, 81% of cases. Between 2014 and 2019, parents lost all 44 cases where they advocated for themselves in court without an attorney (<https://aucdpolicytalk.org/2020/08/28/a-fighting-chance-in-due-process-hearings/>). As long as families carry the burden of proof, school systems will continue to win cases against them without having to produce evidence that the IEPs they create do in fact provide a free and appropriate public education under the Individuals with Disabilities Education Act (IDEA).

Families of color and low-income families are particularly disadvantaged by the current imbalance of information and resources. There is ample evidence that even in counties with robust special education programs, autistic children from Black and Spanish-speaking families or low-income families are more likely than children from white and/or upper-income families to be placed by their school team in an inappropriate educational program and denied the services that can make a critical difference between educational success and failure.

By placing the burden of proof on the local schools, SB 0926 will address the harmful imbalance currently in place, by promoting accountability and good faith collaboration by school systems. School districts with well-designed services and programs should have nothing to fear from this legislation, which is based on the presumption that the educators who design the IEPs are capable of explaining and defending them. Contrary to fears of the bill's opponents, due process hearings will not proliferate and may even decline if the bill is passed, as evidenced by the examples of New Jersey and New York (Atterbeary and Griffith, Fiscal Policy Note, First Reader, pg. 3, https://mgaleg.maryland.gov/2023RS/fnotes/bil_0004/hb0294.pdf).

We urge you to support SB 0926. If school districts continue to prevail because parents are unable to meet the burden of proof, it is ultimately the children who will lose.

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