

**Written Testimony Submitted for the Record to the Maryland House of Delegates  
Ways and Means Committee  
For the Hearing on  
Special Education - Judicial Actions - Attorney's Fees and Related Costs (HB 1237)**

**April 4, 2023**

**SUPPORT**

Free State PTA represents over 50,000 volunteer members and families in over 500 public schools. Free State PTA is composed of families, students, teachers, administrators, and business as well as community leaders devoted to the educational success of children and family engagement in Maryland. As the state's premier and largest child advocacy organization, Free State PTA is a powerful voice for all children, a relevant resource for families, schools and communities and a strong advocate for public education. **House Bill 1237 Special Education - Judicial Actions - Attorney's Fees and Related Costs is compatible with Free State PTA's position on Shifting the "burden of proof" in individualized education plan (IEP) due process cases from parents to school districts.**

While House Bill 1237 does nothing to shift the "burden of proof" in an IEP due process case from parents to school districts, it does help alleviate the costs that are borne to parents or guardians who prevail in a proceeding that is held to resolve disputes about the identification, evaluation, or educational placements of children with disabilities or the provision of a free appropriate public education.

The fact that the passage of this bill would authorize a court to award reasonable attorney's fees and related costs, including expert witness fees and costs, to the parent of a child with a disability is a step in the right direction toward advocating for parents who seek to ensure that their children receive a free appropriate public education in the least restrictive environment which is in accordance with the federal Individuals with Disabilities Education Act (IDEA).

Because parents and guardians have had to challenge school systems in court regarding their responsibility for ensuring that they make a free appropriate public education available to students with disabilities from age 3 through 21, it comes at an enormous financial price. Unquestionably, the Free State PTA supports the protection of the rights of children with special needs and those of their parents' or guardians' effort to seek the best remedy for having their children be provided a free education. If the state or local school district has been found to not guarantee that a child with a disability is provided a free and appropriate education in the least restrictive environment, then the school system should be financially accountable for the ascertainment of this court outcome. Prevailing in legal proceedings is a way to motivate a school system to provide the proper education of disabled students. In general, all parents begin to hold school systems accountable when money is being allocated for legal proceedings as opposed to the proper resources required to educate children with disabilities.

Parents have long advocated for the successes of their children who have IEPs, required adherence of teachers to follow plans, and for principals as well as administrators to be accountable for administering an IEP. Parents are often defeated by the legal cost associated with time, effort and finances involved to help guarantee that their children are receiving a proper education. Prevailing parents need financial relief and Free State PTA supports the proposed stipulations in the bill knowing that any relief at this point strengthens accountability measures that include children with disabilities.

Therefore, the Free State PTA urges the passage of HB 1237.

Testimony is presented on the behalf of

*Marla Posey-Moss*

Marla Posey-Moss, President  
[mposey-moss@fspta.org](mailto:mposey-moss@fspta.org)