



THE PRINCE GEORGE'S COUNTY GOVERNMENT

(301) 952-3700
County Council

POSITION STATEMENT

HB 294 County Boards of Education – Due Process
Delegates Atterbeary and Proceedings for Children with Disabilities – Burden of
M. Griffith Proof

POSITION:

SUPPORT

HB 294 – County Boards of Education – Due Process Proceedings for Children with Disabilities – Burden of Proof – For the purpose of requiring a county board of education to bear the burden of proof in due process proceedings that initiate from a due process complaint regarding the provision of special education services or a program for a child with disabilities in the county where the county board is located, except under certain circumstances. This bill would take effect July 1, 2023 and expire June 30, 2026.

This bill applies to all due process hearings to resolve disputes on the identification, evaluation, or educational placement of a child with disabilities. Current law does not specify which party specifically has the burden of proof in these types of due process proceedings but the State goes by the ruling in Schaffer v. West, which places the burden on the party seeking relief. In almost every instance, this would be the family of the child with disabilities. HB 294 would codify the burden on the county board of education in these proceedings, except for those hearings where the parent is seeking tuition reimbursement for the unilateral placement of their child in a nonpublic school.

On behalf of all of the parents and their children with Individualized Educational Plans (IEP), the Prince George's County Council supports this bill and appreciates the sponsor's advocacy on this issue. By switching the burden to the board of education to prove that the student is not receiving the care they are legally required to receive, this will even the playing field for parents. The IEP process is often challenging and hard to navigate. Whereas the county board of education has many resources and attorneys present, parents are severely outnumbered and out-educated. Many of these families do not have legal representation, are single parents, low-income, English learners, and the list goes on. Shifting the burden will greatly impact these families with the ultimate goal of helping these students prevail academically.

For the foregoing reasons, the Prince George's County Council SUPPORTS HB 294 and respectfully requests the Committee's favorable consideration of its position.

Prepared by: Evans & Associates
On behalf of Prince George's County Council