

Statement in Support of HB 381, Baltimore City and Baltimore County – Due Process Proceedings for Children With Disabilities – Burden of Proof

House Ways & Means Committee

February 15, 2023

1:00 pm

Honorable Delegates:

I am testifying as a parent of a 12th grade student in the Baltimore County Public Schools with personal experience filing two Due Process complaints.

Our family has experienced the barriers for families advocating for their child by filing a Due Process complaint.

- Most people have no prior knowledge of an intimidating process
- Filing a Due Process complaint is extremely costly in both time and money
- Families of children with disabilities rarely have extra funds, given resources that are spent attending to their needs, and
- Bearing the burden of proof adds to the difficulty and discourages parent advocacy

Our Story:

In order to receive necessary services and placement for our child, our family has filed a Due Process complaint 2 times, first in 2015 to qualify for an IEP, then again in 2019 to retain placement in a magnet school.

In some ways, our family is unusually advantaged in our advocacy. We only have one child, we speak English, have flexible work hours and are willing to navigate a very intimidating educational and legal system. We are disadvantaged in that we are a fully self-employed, low income family.

For our family, this was a huge undertaking. When we realized that we had to hire a specialized attorney very quickly to keep our child in his school, I immediately had to provide a \$5,000 retainer, which I had to borrow from a relative. At the time attorneys in this practice cost up to \$475 per hour, but that has most likely increased. We also knew that we might have additional costs for expert evaluations and testimony.

In addition to direct costs, the hundreds of hours we spent navigating the system and preparing documentation meant significant lost revenue and future business opportunities. Filing a Due Process complaint process caused enormous financial and emotional stress on our family. Fortunately for our family, both of our complaints were settled in our favor before requiring a hearing. Had we been unable to reach a settlement, I am quite sure we would not have been able to afford the legal costs of a trial.

Summary:

The financial cost associated with assuming the burden of proof severely limits equitable access for families seeking to exercise their legal rights. The current process does not support a child's ability to access their education, or support family stability.

We respectfully request your support of HB 381.

Julie K. Zielinski
BCPS Parent