

**BILL:** Senate Bill 797  
**TITLE:** Education - Access to Attorneys, Advocates, and Consultants for Special Education Program and Fund - Established  
**DATE:** February 23, 2024  
**POSITION:** SUPPORT WITH AMENDMENTS  
**COMMITTEE:** Education, Energy, and the Environment  
**CONTACT:** John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) supports Senate Bill 797, an innovative approach to utilizing the Maryland Volunteer Lawyers Service (MVLS) to train and facilitate the provision of attorney and non-attorney assistance for students and families engaging with local school systems on special education matters. MABE is requesting several amendments intended to help ensure the success of this program.

MABE is requesting amendments to address significant gaps in the provisions of Senate Bill 797. Specifically, MABE requests the inclusion of a definition of “advocate” which is a term used repeatedly in the bill. More importantly, MABE urges the adoption of an amendment to clearly require training of “advocates” and “consultants” as a condition of being qualified and eligible for reimbursement by taxpayer dollars for their services. Again, local school systems are concerned that neither the definition “advocate” nor the term “training” appear in Senate Bill 797. The only stipulation in the proposed law would qualify any person “interested in being included on a referral list to be provided to eligible students.” The lack of a definition of advocate, coupled with the lack of any reference to training of non-attorney consultants and advocates, raises serious quality control issues that could prove detrimental to the families and school system staff involved. These concerns warrant amendments which will serve to clarify key terms and conditions of this new program and set of services.

MABE, on behalf of all local boards of education, assures the General Assembly that Maryland’s professional educators and school administrators are working within a very comprehensive federal and state legal and educational framework to provide students with special education services and accommodations. Local boards of education place a very high priority on ensuring that students receive high quality special education programs and instruction to meet the unique needs of every disabled student. Maryland’s school systems are mandated to provide a wide array of special education services in accordance and compliance with the federal Individuals with Disabilities Education Act (IDEA) and corresponding federal and state regulations. IDEA requires that all eligible disabled students receive special education and related services if they are between the ages of 3 and 21, meet the definition of one or more of the categories of disabilities specified in IDEA, and are in need of special education and related services as a result of the disability.

Federal special education law is intended to guarantee the rights of students and parents to a Free Appropriate Public Education (FAPE). The United States Supreme Court, in *Endrew F. v. Douglas County School District*, 137 S. Ct. 988 (2017), held that the provision of FAPE must be tailored to the unique needs of a particular student and that the school system must offer an Individualized Education Program (IEP) that is reasonably calculated to enable a student to make progress appropriate in light of the student’s circumstances. In addition, the court ruled that a student’s education program must be “appropriately ambitious” in light of the student’s unique circumstances.

Given the complexity and individualized nature of IEPs, disputes do arise between parents and teachers and other educators working in the school system. To accommodate such disputes, IDEA and state regulations provide parents the full protections of a state regulated complaint and enforcement process, and access to due process hearings before an Administrative Law Judge. MABE firmly believes that Maryland's local school systems are providing high quality special education services and involving parents and guardians in decision-making on behalf of their child's educational well-being, as intended and envisioned by IDEA and Maryland's special education laws and regulations.

MABE believes that Senate Bill 797, and the dedicated role of the Maryland Volunteer Layers Service (MVLS), should contribute to the informed engagement of school systems and families seeking the optimal educational programs and services for their child. However, amendments are needed to secure much needed clarity on definitions of key terms and the assurance that the program is intended to provide access to trained advocates and consultants in addition to attorneys to assist families in the crafting of special education plans and the resolution of disputes.

Local school systems also request the consideration of amendments to remove any new reporting requirements from this bill; requirements that are duplicative of other special education recordkeeping and reporting requirements and not directly related to the services provided through the new MVLS program. Special education is a field that is continuously identified as deserving relief from paperwork requirements and MABE requests that Senate Bill 797 not add to the already time consuming burdens on our special education teachers and other staff.

For these reasons, MABE requests a favorable report on Senate Bill 797 with the amendments described above.