

# **SB797 - Access to Attorneys, Advocates, and Consul**

Uploaded by: Abigail Snyder

Position: FAV

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 Jewish Women International  
 Jews For Judaism  
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 Hebrew Congregation  
 National Council of Jewish Women  
 Ner Tamid Congregation  
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 Religious Zionists of America  
 Shaarei Tfiloh Congregation  
 Shomrei Emenah Congregation  
 Suburban Orthodox Congregation  
 Temple Beth Shalom  
 Temple Isaiah  
 Zionist Organization of America  
 Baltimore District

**Written Testimony**

**Senate Bill 797 - Education – Access to Attorneys, Advocates, and Consultants for Special Education Program and Fund – Established Education, Energy, and the Environment Committee – February 23, 2024 Support**

**Background: Senate Bill 797** would establish the Access to Attorneys, Advocates, and Consultants for Special Education Program and respective Fund; require certain information to be provided to the parents of a child with a disability; and require the Governor to include in the annual budget bill an appropriation of \$2,000,000 to the fund beginning in fiscal year 2026.

**Written Comments:** The Baltimore Jewish Council represents The Associated: Jewish Federation of Baltimore and all of its agencies. This includes the Jewish Connection Network, which has an entire department dedicated to ensuring that every member of our community, regardless of their background or abilities, can fully embrace Jewish life.

Millions of individuals with disabilities and their families depend on a wide variety of public benefits for education, income, health care, and food and housing assistance. According to the 2020 Community Study, 14% of our community has a disability or medical condition that limits their ability to work or attend school. By establishing and funding the Access to Attorneys, Advocates, and Consultants for Special Education program, we will be able to provide direct resources and services to students eligible for assistance during a time of great stress for both the student and the parents.

There are many times where a parent or guardian may feel that their child is being treated unfairly in a school setting. This is especially true in the case of children with disabilities. If a student is eligible, having the ability to work with an attorney, advocate, or consultant can make a true difference in the course of action taken to address an incident/incidents in the classroom.

By delaying the funding of the Program until FY26, we are allowing time for the Program to be set up while also recognizing that there is a current budget deficit and not adding strain to our current financial situation.

**For these reasons, the Baltimore Jewish Council asks for a favorable report on SB797.**

*The Baltimore Jewish Council, a coalition of central Maryland Jewish organizations and congregations, advocates at all levels of government, on a variety of social welfare, economic and religious concerns, to protect and promote the interests of The Associated Jewish Community Federation of Baltimore, its agencies and the Greater Baltimore Jewish community.*

# **SB797\_The Arc Maryland\_Support.pdf**

Uploaded by: Ande Kolp

Position: FAV



Senate Education, Energy and the Environment Committee

**SB797: Access to Attorneys, Advocates, and Consultants for Special Education-  
Program and Fund  
February 23, 2024**

**Position: Support**

The Arc Maryland is a statewide organization that works to protect and advance the rights and quality of life of people with developmental disabilities.

SB 797 establishes the Access to Attorneys, Advocates, and Consultants for Special Education Program. The purpose of the Program is to provide funding for resources and services to eligible students with disabilities and their families who need legal, advocacy, and consultant services.

An eligible student is a student with a disability who comes from a household income not more than 150% of the Maryland Legal Services Corporation Guidelines (\$102,333 for a family). This income threshold is slightly higher than the usual MLSC guidelines<sup>1</sup> so that more families are eligible. Even with a median income household, it is very difficult for families of children with disabilities to afford attorneys, advocates, and consultants.

The eligible student must also meet one of the following criteria for situations that would deem the student eligible for access:

- On Page 10, lines 16-29 and page 11, lines 1-6: this includes the situations that require parental consent, and one situation left out of the parental consent law of 2017: a change in placement to which the parent disagrees. Also eligible would be a student who has been suspended or removed from school for more than 10 days, if a parent's native language is not English, and if a student has been restrained or placed in seclusion more than 10 times.

The Maryland Volunteer Lawyers Services (MVLS) would administer the program and have responsibilities to advertise the program, and seek attorneys advocates and consultants along with the criteria it will use to establish a person on their referral list is qualified. They also need to ensure school systems provide the information to families, and compile data.

The funding for the Program includes an appropriation of \$2m in General Funds. Of note, 25% of the fund can be used for legal representation in due process hearings and court proceedings, and 75% can be used for consultation, representation, or advocacy. More of the

fund is set aside to resolve problems before they go to due process and we appreciate the preventative nature in this structuring of the program.

Similar to the Access to Counsel in Evictions bill that the General Assembly voted to create last year- counsel to support people in housing eviction proceedings<sup>ii</sup>- we believe this Program is important to support families as they navigate the special education process for their children. By having access to attorneys, advocates, and consultants to provide families support when needed and under certain circumstances, we anticipate more positive outcomes for students with disabilities, and increased ability of the team to both resolve matters timely and before escalation to due process.

We ask the committee for a Favorable report on SB 797.

For more information, please contact:

Ande Kolp, Executive Director, The Arc Maryland [akolp@thearcmd.org](mailto:akolp@thearcmd.org)

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<sup>i</sup> <https://www.mlsc.org/wp-content/uploads/2024-MLSC-Income-Guidelines-Final.pdf>

<sup>ii</sup> Access to Counsel in Evictions- Funding (2023 Session)

[https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0756?ys=2023RS&search=Tr  
ue](https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0756?ys=2023RS&search=Tr<br/>ue)

**SB0797\_MHAMD\_Fav.pdf**

Uploaded by: Ann Geddes

Position: FAV



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**Senate Bill 797 Education – Access to Attorneys, Advocates, and Consultants for Special Education Program and Fund - Established**

Education, Energy and the Environment Committee

February 23, 2024

**Position: SUPPORT**

Mental Health Association of Maryland (MHAMD) is a nonprofit education and advocacy organization that brings together consumers, families, clinicians, advocates and concerned citizens for unified action in all aspects of mental health and substance use disorders (collectively referred to as behavioral health). We appreciate the opportunity to provide this testimony in support of SB 797.

SB 797 would establish an Access to Attorneys, Advocates, and Consultants for Special Education Program and Fund, to assist low-income families who are in dispute with a school over certain specified special education decisions regarding their child.

It sometimes can be difficult for families with a child with a disability (who has an Individualized Education Plan) to reach consensus with their child's school on what services and supports their child needs to adequately access the "free, appropriate, public education" to which they are entitled. Usually, after some discussion, a reasonable agreement can be reached between the school and the parents/caregivers, but this is not always the case. When a family adamantly disagrees with the school's decision about their child's education, they can opt to go to mediation to try to resolve the matter. If mediation fails, they can try to prevail in a due process hearing.

The laws governing special education are complicated, and most families don't fully understand their rights, their child's rights, or all the nuances of special education law. The school's attorneys, however, are experts in special education law. Not surprisingly, when a family goes to a due process hearing with their child's school and represents themselves, they fail. In fact, recent Maryland data showed that zero families prevailed in a due process hearing when they represented themselves. Families with means can hire an attorney, and the data shows that they fared much better in due process hearings.

Ideally, issues between parents/caregivers and schools should never go to due process but be resolved earlier. This is where education consultants and advocates play an important role. They can explain to a family what a child is entitled to by law, and what they are not entitled to. They can help a family to understand the legal position of the school. They can also provide information about potential supports and services and help a family advocate for their child in a positive manner.

*For more information, please contact Ann Geddes at (443) 926-3396*

As beneficial as education consultants and advocates can be, their cost is prohibitive for many families. And if a dispute ultimately does end up in a due process hearing and an attorney is needed, that cost is out of the reach of most families. SB 797 would alleviate disputes between parents/caregivers and schools, as well as level the playing field.

Families with a child with a serious mental health condition, who has been assessed and determined to have an “emotional disability” under special education law, are especially prone to come into conflict with their child’s school. Children categorized as having an emotional disability are disproportionately Black/African American (50.4%) compared to White (32.7%). They also tend to be from low-income families (eligibility for free and reduced meals: 56%).<sup>1</sup> Children assessed as having an emotional disability are subject to the use of restraint and seclusion, and experience multiple suspensions, far more than their non-disabled peers. They also are more likely than other disability groups to be placed in a non-public school.<sup>2</sup>

The families of these children need assistance to ensure that the school is providing the necessary supports and services, in the least restrictive environment, so that their child can be successful in school. The students need professional Functional Behavioral Assessments and robust Behavioral Intervention Plans. They need appropriate therapy, trusted staff, and instruction that is responsive to their needs. By enabling families who are in conflict with their child’s school to access professional help, SB 797 would improve the outcomes for children assessed as having an emotional disability.

For these reasons, MHAMD supports SB 797 and urges a favorable report.

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<sup>1</sup> Data Dive – Students with Disabilities. Maryland State Department of Education (February 2023). Accessed February 19, 2024.  
<https://marylandpublicschools.org/stateboard/Documents/2023/0228/DeepDiveStudentsWithDisabilitiesPart2.pdf>

<sup>2</sup> Ibid.



**MCF SB797 Testimony-FAV.pdf**

Uploaded by: Ashley Tauler

Position: FAV



## **SB797- Education - Access to Attorneys, Advocates, and Consultants for Special Education Program and Fund – Established**

**Committee: Education, Energy, and the Environment, Budget and Taxation**

**Date: February 21, 2024**

**Position: Favorable**

**The Maryland Coalition of Families:** Maryland Coalition of Families (MCF) is a statewide nonprofit organization that provides family peer support services at no cost to families who have a loved one with a mental health, substance use, or problem gambling disorder. Using their personal experience as parents, caregivers and other loved ones, our staff provide emotional support, resource connection and systems navigation as well as support groups and educational trainings and workshops.

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Many of the families that our staff support are families with children. Last year we served 4,603 Families and nearly 70% were families with children. We provided these families support and had given a total of 677 education resources. MCF supports this bill for several reasons.

- Across the state we have supported and helped families navigate the IEP process. It can be grueling and frustrating for families at times when certain things are not followed through on multiple occasions and the child has an identified need. We have seen some children fall behind grade levels because IEP meeting requests are ignored or partially implemented. Leaving families in a continuous battle.
- Families our bilingual team serves have increased in numbers within the past two years. This bill will provide these families who meet the requirements equitable access to these advocates and attorneys.
- Having Advocates and attorneys for low-income families to help legally navigate this process is crucial in getting the child the help that they need in an educational setting when certain circumstances are inhibiting and unjust.



**Ashley Tauler**

**Policy and Advocacy Associate**

**Maryland Coalition of Families**

**8950 State Route 108, Suite 223**

## **2.21.24 MSEA Testimony Senate Bill 797\_FAV.pdf**

Uploaded by: Christian Gobel

Position: FAV

**FAVORABLE**  
**Senate Bill 797**  
**Education – Access to Attorneys, Advocates, and Consultants for Special**  
**Education Program and Fund - Established**

**Senate Education, Energy, and the Environment Committee**  
**February 23, 2024**

**Christian Gobel**  
**Government Relations**

The Maryland State Education Association supports Senate Bill 797. Senate Bill 797 establishes an Access to Attorneys, Advocates, and Consultants for Special Education Fund and Program. The purpose of the program is to direct resources to eligible students and their families to provide access to legal, advocacy, or consultant services for issues that may arise regarding the provision of special education services. Under the bill, the Maryland Volunteer Lawyers Service is responsible for administering the program and fund.

MSEA represents 75,000 educators and school employees who work in Maryland's public schools, teaching and preparing our almost 900,000 students so they can pursue their dreams. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3 million-member National Education Association (NEA).

MSEA believes that the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and state laws ensure all children with disabilities will be educated in the least restrictive environment. Additionally, MSEA believes in making every effort to provide positive learning experiences and appropriate placements for all students.

Senate Bill 797 will significantly improve access to resources for students with disabilities and their families who are working with local school systems to determine certain decisions regarding the education of their child. At times, students with disabilities and their families may disagree with local school systems about what is



best for the education of the child and will need assistance to advocate for their position.

The IDEA and its dispute resolution processes and procedures are undoubtedly complex and difficult to navigate. Senate Bill 797 will support students with disabilities and their families to ensure they have access to attorneys, advocates, or consultants with expertise in special education to equip families with the resources they need to advocate for their child's education. A lack of access to resources should not influence the educational opportunities a child receives in their public education. MSEA appreciates the sponsors for bringing forward this legislation and supports its passage.

**We strongly urge the committee to issue a Favorable Report on Senate Bill 797.**

# **SB0797- Support- Coni Nepomuceno.pdf**

Uploaded by: Coni Nepomuceno

Position: FAV

Thank you for the opportunity to speak with you today. My name is Coni Nepomuceno, I work at The Arc Maryland, and I am the Director of Family Resources and Outreach.



*Photo of Kyan & Coni Nepomuceno*

I strongly support SB0797, not only as a non-attorney special education advocate but also as a proud Hispanic parent of a child with a disability, who currently has an IEP.

Unfortunately, when my son was first diagnosed, I didn't understand my rights, I didn't understand my options, and I felt completely intimidated by school professionals who I thought knew what was best for my son at the time. My son never received a Maryland IFSP, and he didn't receive services until a year later when his IEP was implemented. If I had had legal representation, my child could have received early intervention services. During the pandemic, I tried to get legal representation for compensatory services for our child, but I did not have the chance to gain legal representation that would help me make a concise decision, and help me prove to the school the long-term impact of my son not receiving what

was indicated in his IEP. Hiring a special education attorney has never been an option for our family, I have been quoted fees that seemed astronomical to the average family.

Supporting SB0797 is critical for parents just like me, who face income disparity in access to attorneys, advocates, and consultants. It is not uncommon for cost to appear to be the behind-the-scenes driver of decisions regarding a child's educational plan. I often see how parents with legal counsel are more successful than parents without counsel! How is that fair to the students?

I ask that parent voices be meaningfully included in the process of SB0797. Providing funding for resources and services to eligible students with IDD and their families, who need legal representation, advocacy, and consultant services, will help the families have a better understanding of their benefits, requirements, and options, and empower them to make well-informed choices.

Once again, thank you for allowing me to provide my testimony.

Coni Nepomuceno  
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C (301)366-2379  
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**SB0797 Testimony C. Easton.pdf**

Uploaded by: Cristina Easton

Position: FAV

Cristina Easton  
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21212

Thank you delegates and members of the committee for your time and attention, and to all who have put work towards making this bill possible. My name is Cristina Easton and I am here to give favorable testimony for SB0797. I am here as a former special educator and Baltimore City Schools principal and as a parent. I have sat in countless IEP meetings and written IEPs as an educator of other people's children, and I am proud of the relationships I built with families. That doesn't mean families always trusted me or the school. Trust was built over time. I am now the parent of a 4 and a half year old non-speaking autistic boy, and despite my professional experience, I am terrified and overwhelmed. Approaching our first IEP meeting, I have not built relationships with the school system that will receive my child. Having access to advocacy or legal advice should challenges arise would not only allow me to feel prepared and secure in my questions and goals for my child, but also help me feel confident that everyone at the table is accountable to my child's best interests so that I can begin to build trust with a large system that might struggle to meet his specific needs.

Raising a high support needs child is expensive. Despite having health insurance and a decent income, my family's financial health suffers the weight of copays, additional services, equipment, and specialized childcare and programs - not to mention time spent researching and learning about supports we need. With every phone call, dollar spent, hour spent researching, I CANNOT imagine the burden on families that don't share my professional experience and resources. This bill addresses both the research and cost burden on families by requiring dissemination of information about the program to families, and by using an income cutoff of 150% the MLSC guidelines. I ask that you give this bill a favorable review for the sake of my child and the many children behind him who need it even more.

**SB 797.DD Council Member.Support.pdf**

Uploaded by: DD Council Member

Position: FAV



# Maryland Developmental Disabilities Council

CREATING CHANGE • IMPROVING LIVES

**The following is testimony written a member of the Maryland Developmental Disabilities Council.**

Senate Education, Energy, and the Environment Committee  
SB 797 Education - Access to Attorneys, Advocates, and Consultants for  
Special Education Program and Fund - Established  
February 23, 2024  
Position: Support

My name is Tiffany Joseph. I am a member of Maryland Developmental Disabilities Council. I am also a mother of children with disabilities, an autistic adult, and a paraeducator that supports other students with disabilities. I also use a communication device to speak.

I support HB 903 because it sets up a program to support to help families navigating special education in Maryland. For people with disabilities, getting access to education that is supportive and appropriate is not easy. Many families of children with disabilities need and want support as they navigate the special education process. But families don't know how to get the support they want. And if they do, they may not be able to afford it.

I think back to when I was a young mom, feeling swallowed by the IEP process while feeling like I was spoken down to the entire time, and given few if any good choices for my family. I wish this was something that I could have had. I am eternally grateful for moving to a new area. The principal, Mr. Kaplan, treated me and my family as an equal member of the education team. Since that change, I have come to learn that the first team wasn't following policy nor law appropriately. But I had no access to any type of help that I could afford and didn't even know where to look.

I'm here today to ensure that those who come behind have better than my family did. Because this process is too daunting without. Especially for those with low income like I had as I am also Disabled.

Children with disabilities have the right to a free, appropriate public education. And they need and want to learn and play together at school. Sometimes it is hard for parents, especially if they are like me and use a communication device, to say that in an IEP meeting with all the school people there. This Program and Fund would help parents like me access the help I need to make sure my child gets the education they need and want to be successful.

That's why I support HB903. Thank you.

Contact: Stephanie Dolamore, Deputy Director, [sdolamore@md-council.org](mailto:sdolamore@md-council.org)

# **MANSEF Testimony for HB 903 and SB 797 - February**

Uploaded by: Dorie Flynn

Position: FAV



**Bill: HB 903 – SB 797**

**Title: Education – Access to Attorney, Advocates, and Consultants for Special Education Program and Fund - Established**

**Date: February 21, 2024 and February 23, 2024**

**Position: Support**

**Position: Dorie Flynn, Executive Director at 410-938-4413**

The Maryland Association of Nonpublic Special Education Facilities (MANSEF), representing 70 MSDE approved special schools across Maryland, is pleased to offer our support to House Bill 903. We currently serve over 3000 publicly funded students with IEPs and employ over 1500 teachers, clinicians, and administrators.

Students with disabilities are guaranteed a free appropriate public education (FAPE) under the federal *Individuals with Disabilities Education Act* (IDEA.) IDEA provides for a full continuum of educational options. For some students their education is provided for in a special education school.

IDEA and COMAR afford parents the right to seek legal counsel or have an advocate assist them in obtaining the most appropriate services for their child. However, the IEP process can be intimidating and costly. In fact, it can be frightening, and parents cannot always do it alone. Without professional assistance, parents are left to navigate a legal and complicated process on their own. This bill allows for, on a limited basis, access to properly vetted experienced attorneys and advocates for those families who qualify as outlined in the proposed legislation. While MSDE provides for many guidance documents such as the Maryland Procedural Rights Safeguards brochure, many families find it difficult to understand their rights when advocating for their child and this legislation will offer access and assistance to families who otherwise cannot afford to hire such experts.

Advocates and attorneys can help a parent walk through the statutes and regulations and understand the IEP process as a whole. Thereby having access to attorneys and advocates who can assist a parent makes for a smoother and more efficient IEP process.

We as a State should do all we can to assist families who are seeking help with what is a challenging experience. In my role as an advocate, I hear from parents everyday who are struggling to find appropriate services and want to ensure their child is receiving the necessary support to succeed. We encourage parents to advocate and speak up, yet many do not feel they are equal partners on the IEP team. Unfortunately, it is often families from disadvantaged backgrounds who find themselves without the recourse to pursue for their own child what is needed. This inequity puts parents at a

disadvantage immediately as they do not have the skills necessary to adequately present their concerns and are inhibited by the IEP process. Attorneys and advocates can change that dynamic.

One other component of the bill is data collection which is essential in understanding why families are seeking assistance and lays the foundation for the State and local school systems to improve long standing systemic communication concerns. Everyone can agree with the goal to streamline the IEP process and ensure we are meeting the goals and objectives for each and every student with an IEP.

MANSEF supports the belief that each student's unique needs are met on an individual basis in order to achieve his/her maximum potential. This bill will support a more conciliatory IEP process and promote collaboration between parents and school systems at IEP meetings. All students require a quality education and having active parents enhances the outcomes. Access creates fairness.

**SB 797 - SUPP - EEE - Feb 23 - Special ED - LEGAL**

Uploaded by: Henry Bogdan

Position: FAV



**February 23, 2024**

**Testimony on Senate Bill 797**  
**Education - Access to Attorneys, Advocates, and Consultants for**  
**Special Education Program and Fund - Established**  
**Senate Education, Energy and the Environment Committee**

**Position: Favorable**

Maryland Nonprofits is a statewide association of almost 1800 nonprofit organizations and institutions, dedicated to promoting the values of diversity, equity and Inclusion through the work and advocacy of Maryland's nonprofit community. We urge you to support Senate Bill 797.

Access to appropriate placements and services for students with special needs or conditions in our public schools is a life-changing matter for both those students and their families. When access is delayed or not provided, parents' ability to seek redress and enforcement, often of federally protected rights, is a matter of equal educational opportunity, health equity, and social justice.

A family's ability to assert their child's rights, and pursue them effectively, if at all, through what may become an elongated or complicated process, is often a question of wealth and income. The cost of engaging the services of experts or consultants, or of legal representation, can be a prohibitive burden for low- or moderate-income families, who may face very unequal challenge on behalf of their student. The resources of nonprofits providing pro bono or subsidized assistance in these cases are clearly inadequate to meet the need.

Senate Bill 797 establishes the Access to Attorneys, Advocates, and Consultants for Special Education (AAACSE) Program, and an AAACSE Fund, to be administered by the Maryland Volunteer Lawyers Service, to assist families with income up to 150% of the household income guidelines of the Maryland Legal Services Corporation. The bill also mandates an appropriation beginning in Fiscal Year 2026, of \$2,000,00 annually.

We urge you to give Senate Bill 797 a favorable report.

# **Right to an Attorney Testimony.docx.pdf**

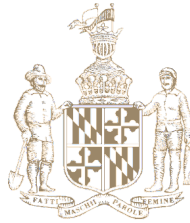
Uploaded by: Katie Fry Hester

Position: FAV

**KATIE FRY HESTER**  
*Legislative District 9*  
Howard and Montgomery Counties

Education, Energy, and  
Environment Committee

Chair, Joint Committee on  
Cybersecurity, Information Technology  
and Biotechnology



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**THE SENATE OF MARYLAND**  
ANNAPOLIS, MARYLAND 21401

**Testimony in Support of SB 797 - Access to Attorneys, Advocates, and Consultants for Special Education Program and Fund**

February 23, 2024

Chairman Feldman, Vice-Chair Kagan, and members of the Education, Energy, and the Environment Committee:

Thank you for your consideration of Senate Bill 797, which will establish the Access to Attorneys, Advocates, and Consultants for Special Education Fund and Program.

This topic may be familiar to the committee, as Senator A. Washington sponsored SB926 last session which sought to achieve the same goal, and I had a similar local bill for Howard County in 2022, HB865. Both of these bills attempted to shift the burden of proof in Individual Education Plan (IEP) disputes from the parents to the school system. However, SB 797 takes a different approach.

For context, under current state and federal law, children with disabilities IEPs are entitled to receive a free, appropriate public education (FAPE). The IEP is a critical tool for parents and schools to document the goals for each student and the special education-related services that the school will provide to the student in order to achieve those goals.

Unfortunately, as schools go through the process of creating IEPs and outlining services a student with disabilities may need, a student may be denied services or support that may be crucial for their success. Families across the state of Maryland have sacrificed countless hours and resources, hoping to have their local school system fulfill the needs of their children with little success. Between 2014 and 2019, families with children with disabilities lost more than 85% of the time in a disagreement against the district.<sup>1</sup>

In these cases, families may hire a lawyer to dispute the school's decision. Parents who file a complaint and have a lawyer are twice as likely to get what they are seeking compared to parents

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<sup>1</sup> [‘Why would we even try?’ Parents of disabled students almost never win in fights against Maryland districts](#)

who go through the same process without a lawyer.<sup>2</sup> The resulting effect is that those who are most vulnerable and don't have the financial resources to hire a lawyer are the most likely not to have their decisions changed, regardless of the needs of the child.

As a result, it is crucial that access to attorneys, advocates, and consultants be expanded to all Maryland residents to ensure that parents are empowered to take full advantage of the services our schools offer.

To ensure that every parent has the resources for a lawyer, this bill will:

1. Establish the Access to Attorneys, Advocates, and Consultants for Special Education Program Fund and Program
2. Outline the responsibilities of the Maryland Volunteer Lawyers Service in managing the program and fund.
3. Require written information about the Access to Attorneys, Advocates, and Consultants for the Special Education Program must be advertised to parents.
4. Require information for each individualized education program, and mediation proceeding to be collected and compiled in a final report for the General Assembly
5. Require that in FY 2026, the Governor will include an appropriation of \$2,000,000 for the fund in their budget.

This bill recognizes and addresses the unique challenges faced by Maryland families with children with disabilities, acknowledging the disproportionate impact these challenges can have on their ability to effectively navigate the appeals process. It bridges the gap in understanding and resources by helping the least informed access an informed attorney to ensure that every family, irrespective of their socioeconomic background, can actively participate in advocating for their children's educational needs. This legislation is not just about addressing the disparities in the appeals system but is a crucial step toward fostering a more inclusive and supportive educational environment for all students in Maryland.

**For these reasons, I respectfully request a favorable report on SB797.**

Sincerely,



Senator Katie Fry Hester  
Howard and Montgomery Counties

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<sup>2</sup> [Maryland parents battle with school districts to get special education services for their children](#)

**DRMtestimony.SB797.pdf**

Uploaded by: Leslie Margolis

Position: FAV



Empowerment. Integration. Equality.

1500 Union Ave., Suite 2000, Baltimore, MD 21211  
www.DisabilityRightsMD.org  
Phone: 410.727.6352

**SENATE EDUCATION, ENERGY, AND THE ENVIRONMENT COMMITTEE**

**SENATE BILL 797**

**EDUCATION—ACCESS TO ATTORNEYS, ADVOCATES, and CONSULTANTS FOR SPECIAL  
EDUCATION PROGRAM AND FUND—ESTABLISHED**

**FEBRUARY 23, 2024**

**POSITION: SUPPORT**

Disability Rights Maryland (DRM) is the protection and advocacy organization for the state of Maryland; the mission of the organization, part of a national network of similar agencies, is to advocate for the legal rights of people with disabilities throughout the state. Over the years, DRM has dedicated significant resources to representation of children with disabilities in special education matters, both individual and systemic, and to educational policy work. We appreciate the opportunity to submit this testimony in strong support of Senate Bill 797, which would create a program to enable families with limited resources to access lawyers, advocates or education consultants to assist them in certain special education matters.

DRM particularly appreciates this bill because it frontloads three quarters of the program's funding for families in the Individualized Education Program (IEP) process or other informal proceedings, reserving one quarter of the funds for families facing due process hearings. So many of the families who contact DRM face significant decisions about their children's special education services and placements, some with life-altering consequences, but the meetings can be intimidating, confusing and difficult to navigate without assistance or representation. Senate Bill 797 outlines criteria for financial and case issue eligibility to ensure that families whose children are facing potentially life-altering special education situations can obtain the assistance they need.<sup>1</sup> During the past year, DRM received nearly 500 requests for assistance with special education matters. Because of limited staff and resources, and because of DRM's focus, as Maryland's protection and advocacy organization, on cases that have systemic impact, DRM was only able to accept approximately 40 cases for full representation. More than half of

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<sup>1</sup> Students who are eligible for the program include those whose family income is up to 150% of the guidelines set forth by the Maryland Legal Services Corporation and whose IEP teams are proposing a reduction in, or elimination of, special education or particular related services and the parent disagrees; students with disabilities who have been suspended or otherwise removed from school for disciplinary reasons for more than 10 days; students who are being recommended for a change to a more restrictive or less restrictive placement and the parent disagrees; students who have been restrained or secluded more than 10 times; students who are being proposed for placement in an alternative education program and the parent disagrees; students against whom a school system has requested a due process hearing; and students whose parent's first language is not English and the parent needs assistance navigating the special education process. Families must make at least one attempt to resolve a disagreement with the IEP team before seeking assistance from the program.

the requests were addressed by the provision of information and referrals to other resources. Of the remaining requests for assistance, many were addressed through the provision of technical assistance to the family, and a number were referred to DRM's pro bono coordinator for assignment to a pro bono attorney. Currently, 46 students are waiting for pro bono attorneys for special education matters.

It has been particularly difficult to refer students whose family income is above the Maryland Legal Services Corporation (MLSC) income guidelines and who are thus, ineligible for a pro bono attorney, to other resources such as private attorneys and education consultants, knowing that many of those families will likely be unable to access those resources because of the cost. Because Senate Bill 797 sets an income limit of 150% of the MLSC guidelines, more families will be able to secure assistance.

In DRM's experience, families who have assistance at the IEP meeting stage are often able to resolve issues and secure appropriate services for their children. Allowing families to access assistance at the early stages of a disagreement or, with families who do not speak English or whose children have faced disciplinary action or restraint or seclusion, before a disagreement actually arises, increases the chances that the issue will be resolved before the disagreement, misunderstanding or miscommunication hardens into a dispute that can only be resolved by more formal means.

At its heart, Senate Bill 797 is about equity. Families with resources are able to hire consultants, advocates or experts at any point of their child's journey through the special education process. This bill would give that same opportunity to families who do not have the resources to do so.

For these reasons, DRM strongly supports Senate Bill 797 and urges a favorable report.

Please contact Leslie Seid Margolis, [lesliem@disabilityrightsmd.org](mailto:lesliem@disabilityrightsmd.org) or 443-692-2505 with questions or for more information.

**MGA2024 -SB797-FAV-MDAC.pdf**

Uploaded by: Liz Zogby

Position: FAV





**SB 797: Education - Access to Attorneys, Advocates, and Consultants for  
Special Education Program and Fund - Established  
February 23, 2024  
Position: Support**

The Maryland Down Syndrome Advocacy Coalition (MDAC) is a coalition of the five Down syndrome organizations in Maryland as well as individuals with Down syndrome and their family members who have come together to advocate for improved quality of life for all individuals with Down syndrome throughout the state of Maryland. MDAC works in coalition with other disability and advocacy organizations across the state and supports many legislative and policy efforts.

MDAC supports SB797, which would establish the Access to Attorneys, Advocates, and Consultants for Special Education Program and Fund. This program would provide needed support for low- and moderately low-income Maryland families who have a child with an Individualized Education Program (IEP) and are at odds with their school or district on specific and significant matters related to the special education process.

The Program and Fund will benefit families with children with Down syndrome who meet the income eligibility requirements and would otherwise have difficulty accessing needed legal, advocacy, or consultant support. Many of these families are in conflict with their IEP teams over serious issues that have lifelong consequences for their children. Despite decades of research indicating that students with Down syndrome make the most academic progress and have the best long-term outcomes when they are fully included in general education classrooms,<sup>1</sup> in Maryland only 18% of students with intellectual disabilities are fully included.<sup>2</sup> Students who take the alternate assessment—about 10% of students with IEPs—are routinely segregated; fewer than 4% are fully included, while 61% are in separate self-contained classrooms and more than 20% attend separate schools with no access to nondisabled peers.<sup>3</sup>

We frequently hear from families across the state that they are dealing with challenging differences with their IEP teams because they oppose their school team's proposal of a more restrictive placement or reduction in critical instructional or related services like intensive reading interventions or speech therapy. Or they are being threatened with the school filing due process against them because they refuse to consent to IQ testing or to move their student off the diploma track to the alternate assessment and instruction aligned with the alternate academic achievement standards.

Bringing an experienced advocate to the IEP table is often all that is needed to ensure that a student and family's rights and opinions are respected in the process. In other cases, having an expert special education consultant provide an outside lens on a student's program and make suggestions about

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<sup>1</sup> [https://alana.org.br/wp-content/uploads/2016/12/A\\_Summary\\_of\\_the\\_evidence\\_on\\_inclusive\\_education.pdf](https://alana.org.br/wp-content/uploads/2016/12/A_Summary_of_the_evidence_on_inclusive_education.pdf)

<sup>2</sup> U.S. Department of Education, Office of Special Education and Rehabilitative Services, Office of Special Education Programs, *44th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act, 2022*, Washington, D.C. 2023. Exhibit 65, p.153, <https://sites.ed.gov/idea/files/44th-arc-for-idea.pdf>

<sup>3</sup> Maryland State Department of Education, Workgroup Data Overview, Sept. 20, 2023, [https://blueprint.marylandpublicschools.org/wp-content/uploads/sites/20/2023/12/WorkgroupDataOverview\\_8232023\\_A.pdf](https://blueprint.marylandpublicschools.org/wp-content/uploads/sites/20/2023/12/WorkgroupDataOverview_8232023_A.pdf)

strategies, accommodations, and supports can help an IEP team get “unstuck” and better support a student. The contributions of advocates and consultants could also have impact beyond the single student they are hired to assist by offering new ideas, suggestions, and perspectives to educators, other IEP team members, school administrators, and district staff. In addition, the 25% of the Fund that will be reserved for families who need attorneys for due process proceedings will chip away at long waiting lists for free and low-cost special education legal assistance. We know that without legal representation families lose—100% of the time between 2014 and 2021<sup>4</sup>—making this type of funding the only chance these families have of the dispute being resolved in their favor.

We also are very supportive of the data collection provision in SB797 that would require the annual reporting of additional data about special education disagreements. More information about the nature of the disputes between families and schools/districts, and the grade level, disability category, placement, race, ethnicity, gender, English learner status, and Free and Reduced Meals (FARMS) status of the students caught in these conflicts may lead to ideas for durable solutions that could prevent many disputes, thereby improving the educational experiences of students with disabilities.

While we all work together to improve the educational experiences and long-term outcomes of Maryland’s students with disabilities, including students with Down syndrome, SB797 will provide much needed relief and assistance to some of the most economically disadvantaged students with disabilities.

For these reasons, MDAC supports SB797.

Respectfully submitted,

Liz Zogby  
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<sup>4</sup> According to data compiled on pro se cases. Also see, AUCD Policy Talk, Aug. 28, 2020, “A Fighting Chance in Due Process Hearings,” <https://aucdpolicytalk.org/2020/08/28/a-fighting-chance-in-due-process-hearings/>

**EACtestimony.SB797.pdf**

Uploaded by: Megan Jones

Position: FAV

# Education Advocacy Coalition for Students with Disabilities

## SENATE EDUCATION, ENERGY AND ENVIRONMENTAL AFFAIRS COMMITTEE

### SENATE BILL 797 – EDUCATION – ACCESS TO ATTORNEYS, ADVOCATES, AND CONSULTANTS FOR SPECIAL EDUCATION PROGRAM AND FUND - ESTABLISHED

DATE: FEBRUARY 23, 2024

#### POSITION: SUPPORT

The Education Advocacy Coalition for Students with Disabilities (EAC), a coalition of more than 40 organizations and individuals concerned with education policy for students with disabilities in Maryland, provides this testimony in support of Senate Bill 797. Senate Bill 797 will establish the Access to Attorneys, Advocates, and Consultants for Special Education Program and Fund.

The EAC supports increasing access to attorneys, advocates, and consultants during the special education process. EAC members represent or guide parents through the special education process to help parents understand the process and their rights and to ensure that students receive appropriate supplementary aids, services, educational programming, and placement. Currently, many Maryland families struggle to navigate the special education process and seek out expert, legal, or advocacy support. Support is particularly needed when disagreements arise regarding life-changing decisions for children (e.g., more or less restrictive placements, reduction in instructional/related services, participation in the alternate assessment); significant challenges (e.g., repeated use of restraint/seclusion and/or exclusionary discipline), the parent's native language is not English; or the school has requested a due process hearing. Unfortunately, such support is financially out of reach for many families, and free or low-cost legal and advocacy assistance is difficult to secure because of high demand and long waiting lists. Low- and moderately low-income families will benefit from this Program and Fund which will create additional access to these much-needed resources.

The special education process involves the development and implementation of Individualized Education Programs (IEPs) for students with disabilities. IEPs are developed by a multidisciplinary team of educators and related service providers as well as parents and the student. Despite parents being full members of the IEP team, there are significant power imbalances between schools/districts and families. In the experience of our EAC members, having a third-party expert—a lawyer, advocate or educational consultant—at the IEP table can help resolve issues more effectively, often before they escalate to more serious legal disputes including due process hearings. If issues cannot be resolved and they do escalate, otherwise unrepresented families can secure necessary legal assistance.

In addition to expanding access to legal, advocacy, and consultant services, which will help support more families and lead to better outcomes for students with disabilities, this bill will collect additional data on special education disputes so that policymakers and state and local education leaders will better understand the persistent challenges faced by families. Such

information could lead to policy proposals and/or guidance and technical assistance that will prevent disputes in the future.

For these reasons, the EAC supports Senate Bill 797.

For more information, please contact Leslie Seid Margolis, Co-Chairperson, at 443-692-2505 or at [lesliem@disabilityrightsmd.org](mailto:lesliem@disabilityrightsmd.org).

Respectfully submitted,

Selene Almazan, Selene Almazan Law, LLC

Rene Averitt-Sanzone, The Parents' Place of Maryland

Linda Barton, MSED, Education Consultant

Elizabeth Benevides, Autism Society of Maryland, Co-Chairperson

Ellen A. Callegary, J.D.

Melanie Carlos, xMinds (Partnership for Extraordinary Minds)

Ariannwyn Carver, Mallory Legg, Maureen van Stone, Tyler Cochran, Project HEAL at Kennedy Krieger Institute

Rich Ceruolo, Parent

Michelle Davis, M.Ed., ABCs for Life Success

Jennifer Engel Fisher, Weinfeld Education Group

Lisa Frank, Andrea Bennett, Jen Ritchotte and Amy Tonti, Special Kids Company

Kimberly Glassman and Brian Gruber, Law Office of Brian K. Gruber

Riya Gupta, Strong Schools Maryland

Beth Ann Hancock, Charting the Course, LLC

Kalman Hettleman, Independent Advocate

Nicole Joseph and Kate Raab, Law Offices of Nicole Joseph

Ande Kolp, The Arc Maryland

Rachel London, Maryland Developmental Disabilities Council

Leslie Seid Margolis, Disability Rights Maryland, Co-chairperson

Mark B. Martin, Law Offices of Mark B. Martin, P.A.

Ellen O'Neill, Atlantic Seaboard Dyslexia Education Center

Ronza Othman, National Federation of the Blind of Maryland/Maryland Organization of Parents of Blind Children

Maria Ott, Attorney

Rebecca Rienzi, Pathfinders for Autism

Jaime E. Seaton, BGS Law

Kelly Spanoghe, Education Consultant

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Liz Zogby, Maryland Down Syndrome Advocacy Coalition

**SB0797 Testimony M. Konka 2.22.24.pdf**

Uploaded by: Meghan Konka

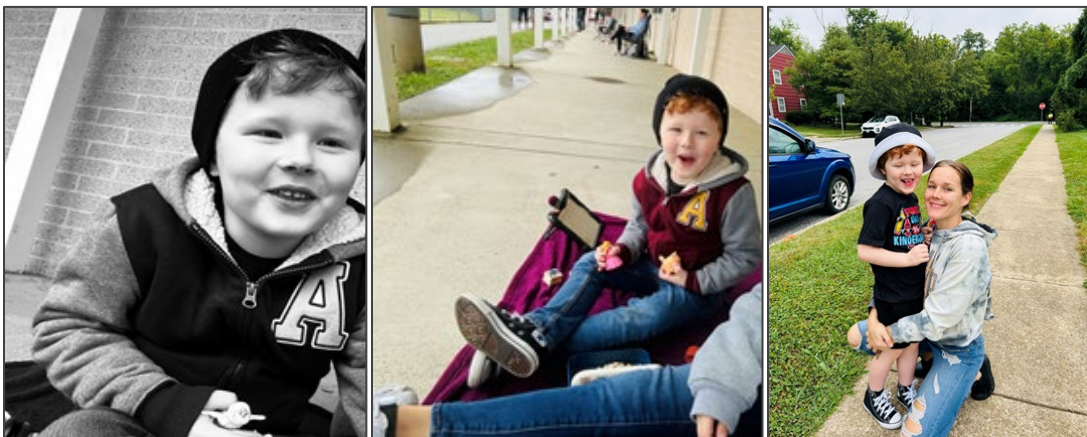
Position: FAV

Good morning my name is Meghan Konka and I stand here before you this morning as a mother of a special needs child.

On January 7<sup>th</sup> of 2020, my son was diagnosed with moderate nonverbal autism, global developmental delays, Pica, and sensory processing disorder. Shortly after that diagnosis, he received a feeding disorder diagnosis from Mt Washington. SB0797 is so important to families like mine, and I believe this bill will be path the way for other states to make important and much needed changes to special education. This bill will establish and provide access to advocates, consultants and attorneys for the special education program. It will not only give access to supports that parents and caregivers need but I believe it will also reduce the number of families that request mediation because they will have someone with the right expertise providing guidance and support through the special education process.

When the time came for my son to start school, I knew that he needed special accommodations and support, so I started the IEP process. I realized after my first IEP team meeting that it really wasn't a team meeting at all, it was me against the school. To give you an example, my son is nonverbal, and I am currently advocating for more speech services in school. At the present moment, my son receives two–30-minute speech sessions a week in the classroom setting which is not enough for him. I ended up hiring an advocate to assist me with navigating through this process, but I started to think about others in my position and what happens to the parents/caretakers who can't afford an expensive service like this, and most importantly, what happens to the children? I will tell you- children go through school not getting the services and supports they so desperately need to thrive and improve quality of life because they can't afford to pay someone to advocate for services that should be available to them without pushback from the school system.

I respectfully request a favorable report on SB0797, it's time that we not only acknowledge the struggles and challenges families face but do something to change it.



*Picture of my son and I*

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# **SB797\_Council\_Support.pdf**

Uploaded by: Rachel London

Position: FAV





## Maryland Developmental Disabilities Council

CREATING CHANGE • IMPROVING LIVES

Senate Education, Energy, and the Environment Committee

**SB 797: Education – Access to Attorneys, Advocates, and Consultants for Special Education**

**Program and Fund - Established**

**February 23, 2024**

**Position: Support**

The Maryland Developmental Disabilities Council (Council) creates change to make it possible for people with developmental disabilities to live the lives they want with the support they need. SB 797 makes sure that happens for students with disabilities.

### **WHAT does this legislation do?**

- Establishes the Access to Attorneys, Advocates, and Consultants for Special Education Program to provide funding for resources and services to eligible students with disabilities and their families who need legal, advocacy, and consultant services.
- Requires funds to be used only for services provided to eligible students by attorneys, advocates, and consultants; outreach and education activities; and administrative expenses.
- Identifies the intent of the funds to mostly (about 75% of the funds) pay for consultation, representation, or advocacy prior to any hearings or court proceedings.
- Requires data to be collected.

### **WHY is this legislation important?**

- **More support leads to better outcomes for students.** State and federal law requires the provision of a free, appropriate public education in the least restrictive environment. These laws also afford many protections for students with disabilities, including the development and implementation of an Individualized Education Program (IEP). The IEP sets goals, tracks progress, and should lead to positive outcomes and the student's success in school. IEPs are developed by a multidisciplinary team of educators and related service providers as well as parents and the student. Despite parents being full members of the IEP team, schools have access to more resources, information, and expertise, while many families struggle to understand and navigate the special education process.
- **Many families need and want advocacy support as they navigate the special education process for their children.** Having support and assistance helps parents advocate for their children and increases the likelihood that issues will resolve at the meeting table rather than in a hearing. Low- and moderately low-income families will benefit from this Program and Fund which will create additional access to these much-needed resources.
- **Few free and low cost legal options are available for families.** By allowing low and lower income families to access assistance, more families will be able to get the advice, support, and representation that other families are able to secure on their own, and will be better able to address difficult issues with their child's team.

- **More data for decision-makers.** The collection of data about the use of this Program and Fund allows policymakers and state and local education leaders will better understand the persistent challenges faced by families. Such information could lead to better policies, practice, guidance, and technical assistance that prevents disputes in the future.

Contact: Rachel London, Executive Director, [RLondon@md-council.org](mailto:RLondon@md-council.org)

**SB797. Written Testimony Selene Almazan, Esq..pdf**

Uploaded by: Selene Almazan

Position: FAV

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## SENATE: EDUCATION, ENERGY, AND THE ENVIRONMENT AND BUDGET AND TAXATION COMMITTEE

### SENATE BILL 797 – EDUCATION – ACCESS TO ATTORNEYS, ADVOCATES, AND CONSULTANTS FOR SPECIAL EDUCATION PROGRAM AND FUND - ESTABLISHED

DATE: FEBRUARY 23, 2024

#### POSITION: SUPPORT

I am Selene Almazan and I am an attorney in private practice in Maryland. I have been an attorney for over 35 years, representing students in special education matters in both the nonprofit and private firm settings. I am also the Legal Director for the Council of Parent Attorneys and Advocates, COPAA, a national nonprofit membership organization of parents, attorneys, advocates, and related professionals who work to protect the civil rights and secure excellence in education on behalf of all children ages 0 through 21 eligible for special education services under the *Individuals with Disabilities Education Act* and those K-12 students with disabilities protected by Section 504 of the Rehabilitation Act of 1973. Because of my work and longtime experience, I have a national as well as a state perspective on families and the struggles they face trying to secure appropriate special education services for their children. Please accept my written testimony in support of Senate Bill 797. Senate Bill 797 will establish the Access to Attorneys, Advocates, and Consultants for Special Education Program and Fund.

Parents are key members of the IEP Team.<sup>1</sup> And as the U.S. Supreme Court has repeatedly emphasized, parent participation in the IEP decision-making process is essential to implementing the education rights of children with disabilities that Congress sought to protect with IDEA.<sup>2</sup>

IDEA contemplates that parents will “protect the substantive rights provided to their children” through IDEA’s procedures. *Schaffer v. Weast*, 546 U.S. 49, 53 (2005) (cleaned up)). Indeed, “[o]ne of the central

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<sup>1</sup> 20 U.S.C. § 1414(d)(1)(b); 34 C.F.R. § 300.321(a)(1), § 322(a)-(f).

<sup>2</sup> *Endrew F. v. Douglas County School District. RE-1*, 137 S. Ct. 988, 994 (2017) (“These procedures emphasize collaboration among parents and educators and require careful consideration of the child’s individual circumstances.”). *Honig v. Doe*, 484 U.S. 305, 311 (1988) (“[e]nvisioning the IEP as the centerpiece of the statute’s education delivery system...and aware that schools had all too often denied such children appropriate educations without in any way consulting with their parents, Congress repeatedly emphasized throughout the Act the importance and indeed necessity of parental participation in both the development of the IEP and any subsequent assessments of its effectiveness.”); *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176, 206-206 (1982) (“the importance Congress attached to these procedural safeguards cannot be gainsaid...Congress placed every bit as much emphasis upon compliance with procedures giving parents and guardians a large measure of participation at every stage of the administrative process...as it did upon the measurement of the resulting IEP against a substantive standard...{T}he congressional emphasis upon full participation of concerned parties throughout the development of the IEP...demonstrates the legislative conviction that adequate compliance with the procedures prescribed would in most cases assure much if not all of what Congress wished in the way of substantive content in an IEP.”).

innovations of the special education law, and a key to its success, is that it empowers parents to participate in designing programs for their children and to challenge school district decisions about educational services and placement.”<sup>3</sup>

The special education process involves the development and implementation of Individualized Education Programs (IEPs) for students with disabilities. IEPs are developed by a multidisciplinary team of educators and related service providers as well as parents and the student. Despite parents being full members of the IEP team, there are significant power imbalances between schools/districts and families.

The IEP meeting can be a complicated process for parents. Senate Bill 797 would establish access to attorneys, advocates and consultants for families who may need assistance. Many families face an IEP meeting with education professionals and may not be equipped to understand complicated concepts such as baseline data to determine progress or functional behavior assessments. A consultant or advocate can assist parents in these meetings and help ensure that parents are able to meaningfully participate in IEP meetings. Senate Bill 797 would also give parents the opportunity to retain an attorney if needed. An example of this scenario may be if a parent requests an Independent Educational Evaluation (IEE), a substantive parental procedural right in IDEA, and requests that the school district pay for the evaluation. The school district can either pay for the IEE or file a due process hearing request against the parent. The parent would need counsel to help defend their position. Senate Bill 797 would provide an attorney for a parent in this scenario.

For these reasons, I support Senate Bill 797.

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<sup>3</sup> Mark C. Weber, *Litigation Under the Individuals with Disabilities Education Act After Buckhannon Board & Care Home, Inc. v. West Virginia Dep't of Health & Human Resources*, 65 Ohio St. L.J. 357, 369 (2004).

# **SB797 Education - Access to Attorneys, Advocates,**

Uploaded by: Dawana Sterrette

Position: FWA

**Testimony of the  
Baltimore City Board of School Commissioners  
Support with Amendments  
Senate Bill 797– Education – Access to  
Attorneys, Advocates, and Consultants for Special Education  
Program and Fund – Established**

**February 23, 2024**

The Baltimore City Board of School Commissioners (the Board) supports with amendments Senate Bill 797 as a path for parents and guardians to maneuver through the myriad of special education regulations and laws to support their child to receive a free and appropriate public-school education.

The Board appreciates the spirit of the proposed legislation and understands that this compromised legislation was worked on by various advocates. The Board also notes there are many cases where involvement of an attorney might prove quite helpful to steering a family in a reasonable direction. That said, some thoughts for consideration:

1. Since there is a burden-shifting provision if school systems refuse to mediate, the bill should include a requirement that parents receiving attorney funding through this program must participate in mediation.
2. Any attorney seeking to participate in this program should be required to first participate in a training, ideally run by MSDE, perhaps in consultation with MABE and DBM, if appropriate.
3. In terms of fees, there should be a requirement that fees are for reasonably incurred fees, not just reimbursement of any of fees incurred.
4. It would be helpful to add some provisions to reduce the length/costs of due process hearings (e.g., requiring appointed attorneys to work with school systems to stipulate to uncontested facts; requiring families with appointed attorneys to agree to observations, especially if their children are parentally placed
5. Consideration should be given to excluding families who privately place their students at non-public schools from access to this program.

6. There are some cases where it would actually benefit all parties, including the school systems, for the parents to be appointed an attorney. As such, the bill should include a provision allowing school systems to request that the program appoint an attorney.

For the forgoing reasons, the Baltimore City Board of School Commissioners supports, with amendments, Senate Bill 797 and urges a favorable report with the amendments.

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# **SB 797.Special Education Advocates and Attorneys T**

Uploaded by: John Woolums

Position: FWA

**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.

# **SB 797 - Education - Access to Attorneys, Advocate**

Uploaded by: Mary Pat Fannon

Position: FWA



**PSSAM**  
Public School Superintendents' Association  
OF MARYLAND

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**BILL:** SB 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:** Senate Education, Energy, and the Environment Committee  
Senate Budget and Taxation Committee

**CONTACT:** Mary Pat Fannon, Executive Director, PSSAM

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The Public School Superintendents' Association of Maryland (PSSAM), on behalf of all twenty-four public school superintendents, **supports SB 797 with amendments.**

Senate Bill 797 establishes the Access to Attorneys, Advocates, and Consultants for Special Education Fund and Program. This program is to be administered by the Maryland Volunteer Lawyers Service (MVLS) to provide legal and non-legal (advocacy) special education assistance to students and families.

Local superintendents consistently place top priority on providing special education services to our students. We strive to ensure that our students receive high quality special education programs and instruction that will meet their individual needs. We work diligently to adhere to comprehensive federal and state requirements to serve our special education students.

PSSAM supports the innovative nature of this legislation, but suggests several amendments to ensure the program's successful implementation.

The bill should be amended to further define "advocate" to provide quality control on who is being paid to speak for, or represent, some of our most vulnerable students. Similarly, there should be more stringent requirements and criteria delineated regarding training for attorneys, advocates and consultants to ensure that they are knowledgeable on all aspects of state and federal special education regulations and statutes. According to our special education directors, a misinformed advocate or representative can do serious damage to the delicate and deliberative process of ensuring the most appropriate special education services. The bill could be amended to require the MVLS share and develop training and vetting criteria without a group of stakeholders before embarking on the recruitment process; this group should include MSDE,

local special education directors, disability rights advocates, and representatives from the Judiciary.

It may be useful to amend the bill's income thresholds to match the eligibility standards set by the federal Free and Reduced Price Meals (FARMS) program that are more familiar to families and staff. Additionally, the bill established a list of program eligibility that slightly differs from the existing criteria for a due process proceeding that may be filed under the Individuals with Disabilities Act (IDEA); this too may be confusing for families and LEA staff.

Lastly, we request that the new reporting requirements by LEAs be removed from this bill (p. 8, lines 1-17). The new requirements are not related to the work of the new Program or Fund, are largely duplicative of other special education reporting, and do not have a clear purpose or rationale for additional reporting. Special educators are responsible for important medical billing and related administrative functions that require accurate data recordation and meaningful reports that are shared with families on a formal basis each quarter and on an informal basis throughout the student's tenure with the school system. These existing reports allow the school team and parents to effectively understand student needs, track progress, and pivot practices and strategies for success. The bill's new reporting requirements do not appear to enhance this process and unless explained, would be appropriately amended out of this bill.

PSSAM supports a special education system that respects the dedication and professional expertise of special educators and school administrators to develop, in collaboration with parents, individual education programs (IEPs) to identify and determine the most appropriate services for students. With the amendments described above, PSSAM welcomes the additional services SB 797 would provide to our special education students and families.

For these reasons, PSSAM requests a **favorable with amendments** report on Senate Bill 797.