

April 14, 2014

Commission on Special Education Access and Equity
c/o Marcella E. Franczkowski, Commission Chair
Division of Special Education/Early Intervention Services
200 West Baltimore Street, Baltimore, MD 21201

Dear Commission Members:

My name is Jeanne Taylor and I am providing testimony in regard to shifting the burden of proof in special education due process cases.

I am testifying as the mother of three children who are served by the IDEA, and as a volunteer parent advocate who helps other special needs families.

Some have expressed concerns that if the burden of proof is shifted to the school system, more money will be spent on special education services. *If any increased spending occurs, it is because some students, who were entitled to services and supports weren't getting them, and they should have been.* That's the point of the shift, and opposition based on monetary considerations is impermissible. The law says that Individualized Education Programs must be written based upon the child's needs, not how much money the school district is willing to allocate to special education.

Furthermore, the IDEA is a remedial statute (a remedy for past wrongs) for the very reason that special education was underfunded.

If you are still unsure if this change will benefit children with special needs, consider that if the burden lies with the school, logically, the outcome is far more likely to be reliably correct (win or lose) than if it lies with the parents.

In regard to the argument that a burden of proof shift will not improve educational outcomes for children with disabilities, the above logic refutes that assertion.

In fact, under the IDEA, states use Part B indicators to measure that very thing - and a big piece of Part B centers around due process hearings. It stands to reason that the lower numbers of hearings and complaints in New York and New Jersey are the result of increased collaboration *after the burden of proof was shifted.* A key goal of the IDEA is to include parents as equal partners on the IEP team.

As to paper work concerns for teachers, would our society dare apply that criterion to advancing the rights of other minority groups? Children with disabilities do not belong to a mutually exclusive group, they belong to everyone.

Shifting the burden of proof in special education due process cases to the school district is the fair and just thing to do.

Sincerely,

Jeanne Taylor, Special Education Committee Chair
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Proposed Maryland Parental Consent Regulation

COMAR 13A.05.01.13?

A. Parental consent.

1. Required parental consent. Informed parental consent is required before:
 - a. An initial eligibility determination or any change in categorical identification;
 - b. Any revision to the child's IEP services or placement;
 - c. Any partial or complete termination of special education and related services, except for graduation with a standard or advance studies diploma;
 - d. Inclusion of any provision involving seclusion or restraint in a child's IEP.
2. The Maryland State Department of Education provides for an impartial special education due process hearing system to resolve disputes between parents and local educational agencies with respect to any matter relating to the:
 1. Identification of a child with a disability, including initial eligibility, any change in categorical identification, and any partial or complete termination of special education and related services;
 2. Evaluation of a child with a disability (including disagreements regarding payment for an independent educational evaluation);
 3. Educational placement and services of the child; and
 4. Provision of a free appropriate public education to the child.