

## SPECIAL EDUCATION

### MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** increased state and federal funding and resources to support high quality special education programs and services.
- ✓ **Supports** maintaining the State's share of the total costs for nonpublic placements of students.
- ✗ **Opposes** legislation to mandate expanded special education services beyond federal requirements.
- ✗ **Opposes** legislation to provide unilateral parental consent conditions, shift the burden of proof, or require payment of expert witness fees, in special education decisions and disputes including IEP meetings and due process hearings.

### BACKGROUND

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. 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 serve special education students.

Maryland, and all other states, are mandated to provide a wide array of special education services in compliance with the federal Individuals with Disabilities Education Act (IDEA) and federal and state regulations. IDEA requires that 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. The special education services mandated and governed by IDEA must meet the legal standard of providing a Free Appropriate Public Education, or FAPE, and do so in the least restrictive environment.

When IDEA became law in 1975, the federal government promised to fund 40 percent of the additional cost of educating children with disabilities and yet has never provided more than 20 percent of the additional cost. Maryland, by contrast, has provided additional special education funding through the weighted per pupil cost formulas in the Bridge to Excellence Act. In addition, current law requires that for each student in a nonpublic special education placement, local school systems pay 300% of the local share of the "basic cost", or average per pupil amount spent by the local school system. Any costs above this are shared between the State (70%) and school system (30%).

Since 2013, state legislation opposed by MABE has been introduced to place the burden of proof on the local school system in a due process hearing that is held to resolve disputes about the identification, evaluation, or educational placements of children with disabilities. In Maryland, the party initiating the action in a special education due process hearing, whether the parents or the school system, bears the burden of proof. This is consistent with the assignment of burden of proof in the American legal system; and with a 2005 Supreme Court case arising from a complaint against the Montgomery County school system (*Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49 (2005)).

In 2014, bills passed to require school systems to inform parents of procedural safeguards, rights and responsibilities, and information on access to services. A bill passed in 2016 to require the translation into the parents' native language of individualized education programs (IEPs) and individualized family service plans (IFSPs). In 2017, legislation was enacted to initiate a multi-year study of the IEP process, staff allocations, and resources for parents. Another bill passed to require parental consent for certain decisions adopted by the IEP team. In these ways Maryland has mandated expanded special education services beyond federal requirements, presenting ongoing fiscal, legal, and service delivery challenges for local school systems.

For additional information, see [MABE's Resolution on Special Education](#).