



**HB140 SPECIAL EDUCATION - ADMINISTRATIVE PROCEEDINGS AND JUDICIAL ACTIONS -
ATTORNEY'S AND EXPERT WITNESS FEES AND RELATED COSTS**

February 7, 2019

WAYS AND MEANS COMMITTEE

OPPOSE

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The Board of Education of Anne Arundel County opposes **HB140 Special Education - Administrative Proceedings and Judicial Actions - Attorney's and Expert Witness Fees and Related Costs**. This bill authorizes an administrative law judge to award attorney's fees and related costs to the parent of a child with a disability who is the prevailing party in a special education proceeding.

The proposed legislation would have an extensive impact on the school system if this bill were to pass. As such, this legislation would result in an unfunded mandate. Currently, if the parent is the prevailing party in a due process or court hearing, the parent is awarded only attorney fees. This bill proposes to award parents expert witness fees and "other costs" in direct contradiction to *Arlington Central School Dist. Bd. of Ed. v. Murphy*, 548 US 291, where the Supreme Court determined that "'costs' is a term of art that generally does not include expert fees." 402 F. 3d, at 336 and "was not meant to be an open-ended provision that makes participating States liable for all expenses incurred by prevailing parents in connection with an IDEA case..." Reimbursement of this expense, according to the Supreme Court, runs counter to statutory intent to reduce litigation fees.

Accordingly, the Board of Education of Anne Arundel County respectfully requests an **UNFAVORABLE** committee report on HB140.