



MASSACHUSETTS ADVOCATES *for* CHILDREN

An Act to Provide Equal Access to the Bureau of Special Education Appeals H.223 – S.250

Lead sponsors: Rep. Jennifer Benson and Sen. James Eldridge

- Parents without attorneys face near impossible hurdles in accessing the Bureau of Special Education Appeals (BSEA) due process hearings that are used to resolve special education disputes. This bill provides a critical step forward by providing unrepresented parents with information (but not legal advice or representation) so they may seek to obtain essential educational services for their child.
- Parents and school districts occasionally disagree about what special education services a child needs to make meaningful educational progress. When this disagreement cannot be resolved voluntarily, parents' only recourse is to request a due process hearing at the BSEA. It is only through this process that a school district may be required to provide special education services mandated by state and federal laws.
- The BSEA hearing is a formal adjudicatory process that has become technical and litigious. School districts are virtually always represented by an experienced attorney who often begins the process by filing technical motions or requests—such as a motion to dismiss the matter prior to hearing or a request to force parents to provide certain information. The hearing itself is governed by rules that dictate each step of the proceeding—such as what questions can be asked of a witness.
- Unrepresented parents flounder when they use this process. Unable to understand the process, they sometimes simply give up, believing that the BSEA is stacked against them from the beginning. Or they continue through the process as best they can and nearly always lose. They often conclude that the BSEA hearing process is not designed to allow their child to obtain the special education services that he or she desperately needs.
- This bill provides an essential first step towards leveling the playing field, by requiring the BSEA to hire an attorney to serve as pro se facilitator who provides unrepresented parents with oral and written information, but not legal advice or representation, so that unrepresented parents may access the BSEA's dispute resolution processes.

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