

**INTRODUCTION OF THE  
IDEA FAIRNESS RESTORATION ACT  
(Extensions of Remarks - November 14, 2007)**

**Speech of Hon. Chris Van Hollen  
Of Maryland  
In the House of Representatives  
Wednesday, November 14, 2007**

Mr. VAN HOLLEN: Madam Speaker, I rise today to introduce the IDEA Fairness Restoration Act to help parents of students with disabilities ensure that their children have access to the free and appropriate education guaranteed by this Congress in 1975. I thank Mr. SESSIONS, who joins me in offering this bill, for his work on this important issue.

Madam Speaker, when Congress passed the Individuals with Disabilities Education Act, it recognized the vital importance of parent and school cooperation and collaboration in

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special education. For the most part, this relationship has worked very well. But occasionally, the school system cannot or does not provide an appropriate education. In those rare cases, the Congress recognized that parents should have the ability to challenge the school's decision and advocate for a new Individual Education Plan.

As both school systems and parents build their cases, they bring expert witnesses to assess the student and testify about the quality of the education plan. In 1986, when Congress amended IDEA, it explained in the Conference Report that when parents win their case, a judge could award attorney's fees, including, and I quote, ``reasonable expenses and fees of expert witnesses and the reasonable costs of any test or evaluation which is found to be necessary for the preparation of the parent or guardian's case." For years, prevailing parents were awarded expert witness fees, as Congress intended. But unfortunately, while Congress was very clear in its explanation of the bill, it did not include this provision in the legislative language. In 2006, the provision was challenged and the Supreme Court ruled that because Congress did not make its intention explicit in statute, courts could not longer award these fees.

As a result of this decision, parents can be faced with many thousands of dollars of expert witness fees in order to ensure their child gets an appropriate public education. A single expert witness can charge anywhere from \$100-\$300 per hour. Confronted with these costs, parents are discouraged or outright barred from bringing meritorious cases to secure the rights of their children. Low and middle income families are particularly hard hit.

Today, I introduce a bill to clarify Congress's intent and restore the expert witness fee provisions. It will allow parents to recover the high cost of expert witnesses if, and only if, they

win their dispute with the school district. I want to be very clear--this bill does not impose any additional costs on school districts that comply with IDEA. The provisions apply only when a school system has been found, after an impartial hearing, to have wrongfully denied a child an appropriate education as defined in IDEA.

Madam Speaker, every student with a disability is entitled to a free and appropriate education under the law. This bill will level the playing field and help parents be effective advocates for their children's best interests.

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