

OPINION

EDITORIALS

Fairer special ed fights

The state Senate Education Committee has taken a major step toward restoring a fair system for parents to fight a school's education plan for a special-needs child. The entire Legislature and governor should now do the same.

The committee last week endorsed a bill that would require school officials to prove that a special-needs education plan meets the needs of a child with disabilities when parents challenge them. Given the complexity and expense of such disputes and the significant advantages held by school districts, that is where the burden belongs, not on the parents.

The burden was on school districts from 1989, following a state Supreme Court decision, until two years ago. That changed when the U.S. Supreme Court ruled that federal law required that the burden be put on parents unless a state passed a statute saying otherwise.

A bill giving parents an edge in disputes with school districts over special education plans for children deserves quick passage.

That meant parents would have to show that the education plan developed for their child wasn't sufficient. The result often was that they had to hire lawyers and other experts.

School districts, of course, loved the federal ruling. It put district officials firmly in the driver's seat in any disagreement, and it placed parents at a severe practical and financial disadvantage.

The imbalance of power encouraged districts to take a harder line in negotiations.

None of that helps students. Districts have a built-in financial incentive to keep costs down by doing special education on the cheap.

Forcing a district to show it is doing the right thing with individual education plans gives parents a tool to help ensure that the district is living up to its legal obligations to meet each student's needs.

Parents aren't suddenly going to be able to hold a district hostage if the burden of proof is returned to districts. Even before the U.S. Supreme Court decision in 2005, when districts had the burden, schools won most of the cases.

The bill to shift the special education burden of proof back to the schools has bipartisan support, has cleared committees in both houses of the Legislature and needs only votes by the full Senate and Assembly.

Lawmakers in both bodies should approve this change before the end of the legislative session in January, and Gov. Jon Corzine should sign it.

The change will help give students the education they deserve, and that will help everyone in the state in the long run.