

CHARLES E. SYDNOR III, ESQ.
Legislative District 44
Baltimore City and Baltimore County

Judicial Proceedings Committee

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James Senate Office Building
11 Bladen Street, Room 216
Annapolis, Maryland 21401
410-841-3612 · 301-858-3612
800-492-7122 Ext. 3612
Charles.Sydnor@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Senator Charles E. Sydnor III
Testimony Regarding SB 0150 – Baltimore County – Board of Education –
Election of Officers
Before the House Ways and Means Committee
March 24, 2021

“[w]hen a quorum is present, a majority vote, that is a majority of the votes cast, ignoring blanks, is sufficient for the adoption of any motion that is in order.” Robert’s Rules of Order, Article VIII, Section 46

Good afternoon Chair Kaiser, members of the Ways and Means Committee.

Today I come before you to present SB0150, which presents two recommendations to make corrections to the voting policy of Baltimore County Public Schools (“BCPS”) and I have submitted an amendment which seeks to increase the number of appointed members on the school board by one member. My hope is that the board members and other interested parties will look at the facts regarding this bill to understand the issue and what it does and does not do to the governance and authority of the Baltimore County School Board.

SB0150 puts substance over form. It does so by enabling the board to elect officers by a majority of members present rather than a majority of the total member positions. Additionally, SB0150 expands board membership to 13 total members. This will achieve two goals: avoiding ties when there is full Board voting; and eliminating the need for a super majority to elect officers. It will also provide the County Executive with a voice on the board. This is particularly important in that the County Executive’s budget provides the largest proportion of funds for the Baltimore County Schools’ budget.

For background, when I first read about the circumstances surrounding the December 2019 Baltimore County School Board election, I did not understand how a chair and vice chair could remain in office in spite of receiving fewer votes. I questioned how one could even govern when they were unable to convince the majority of their colleagues that they were the best choice. I went to BCPS’s website and read their legal counsel’s legal explanation in the minutes. Later, I contacted the Attorney General’s office to confirm his legal advice because I was under the impression that elections followed parliamentary procedure which states: “[w]hen a quorum is present, a majority vote, that is a majority of the votes cast, ignoring blanks, is sufficient for the adoption of any motion that is in order.”¹

¹ Robert’s Rules of Order, Article VIII, Section 46.

The advice that I received from the Attorney General's office and the state board's advisory opinion² confirmed the board counsel's guidance because the results of this election were based on the concept of a majority being defined as "a majority of the whole board"³ rather than majority being defined as "a majority of the votes cast, ignoring blanks."⁴ When this rule was interpreted with the common law rule for holding over, the chair and vice chair, despite their inability to convince a majority of sitting board members to vote for them, remained as the chair and vice chair of the board. Under current law, once in the seat, a chair could conceivably sit in as a hold over for an entire term if a challenger was unable to convince six other members to vote for them rather than a simple majority. I cannot imagine that this was the intent of this body.

I was also advised that another school system, Baltimore City, was more in line with parliamentary procedure.⁵ It was then that I requested a bill be drafted and worked with the bill drafters to make the language similar to that of Baltimore City where a majority is based on the votes cast rather than the number of seats on the board. This bill should not be perceived as an "Annapolis School Takeover Bill" as it was mischaracterized last year; all this bill does is make the process more democratic.

SB 0150 offers Baltimore County an updated method for governance for this new hybrid board should members vacate their seat for any reason including, but not limited to a member relocating, stepping down for health reasons or even death.

Merriam Webster defines majority as "a number or percentage equaling more than half of a total." The bill simply provides that a majority of the board members present will determine who their chair and vice chair are by requiring a quorum of a majority of the voting members then serving instead of a majority of board member seats. While opponents of the bill last session falsely claimed that "[b]y creating an exception for the election of officers, the bill would allow for the election of officers without majority support,"⁶ the fact of the matter is, without this bill we are already allowing for the election of officers without majority support. If you convince the majority of your colleagues to vote for you, under SB 0150, you will be the next chair or vice chair. What is more basic to democracy than the fundamental principal of "majority will"? What could be more democratic? Does it make sense to require the board to count a vacant seat to determine whether a majority has been reached or does it make more sense to follow something more akin to *Robert's Rule 46*?

Regarding the matter of adding an additional board member, I have submitted an amendment to the bill to increase the board by one member appointed by the Baltimore County Executive so that the Board has an uneven number of board members. Within the past two months, the school board had an election where the board's vice chair election resulted in a 6 to 6 tie and the vice chair resumed the seat because neither candidate could obtain a majority. That election showed that the problem would not be solved by simply adopting *Robert's Rule 46*. An uneven number of board members was critical for the democratic functioning of board elections. Rather than removing someone from the appointed board, and thus diminishing their representation vis-a-vi the elected

² Maryland State Board of Education in Opinion No. 20-08.

³ COMAR 13A.02.01.01.

⁴ Robert's Rules of Order, Article VIII, Section 46.

⁵ Md. Ann. Code, Education § 3-108.1(p).

⁶ Ibid.

members of the hybrid board, another appointed member will be added. The elected members will continue to constitute the majority on the board.

For the aforementioned reasons, I ask that this bill be reported out favorably.