

# **AIMD Testimony - SB 401 - BOOST.pdf**

Uploaded by: Alan Lencz

Position: FAV



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**Rabbi Ariel Sadwin**  
Executive Director

**SENATE BUDGET & TAXATION SUBCOMMITTEE**

**FEBRUARY 9, 2022**

**SENATE BILL 401**

**OPERATING BUDGET – FUNDING – SCHOLARSHIPS FOR NONPUBLIC SCHOOL STUDENTS**

**TESTIMONY OF RABBI ARIEL SADWIN,  
DIRECTOR, AGUDATH ISRAEL OF MARYLAND**

**SUPPORT**

Agudath Israel of Maryland (AIMD), the Mid-Atlantic regional office for Agudath Israel of America – a renown national Jewish advocacy organization, speaks on behalf of the Orthodox Jewish communities across Maryland. AIMD provides support and representation for the 30 Jewish day schools that operate in our great state.

During the 2016 legislative session the General Assembly created a program in the State Budget to provide low-income (free and reduced meal eligible) families with the opportunity of selecting a school that they determine to be better suited for their children, by initiating and funding the BOOST program. While our society has always given families the right to choose *where* their child will go to receive his or her education, the associated costs to attend a nonpublic school most often makes it prohibitively difficult. With the creation of the BOOST program, the hopes and dreams of thousands of families were fulfilled with the availability of scholarship dollars to attend the eligible nonpublic school of their choosing.

Now, after six years of the BOOST program, thanks to the great dedication of MSDE staff and the guidance of the BOOST advisory board, thousands of low-income students across minority and low-income communities have received the scholarships and are attending these participating schools. These students and their families are thrilled and ever grateful for the opportunity given to them with the scholarship grants they have received. The ever-so-modest increases in the program's funding since it began has allowed for additional funds to be provided to students with special education needs and additional dollars to help defray the higher tuition costs for high school students.

The schools that participate in this program all sign assurances that are laid out by the BOOST advisory board as per the budget language passed by the legislature. Those assurances are in place to ensure that these schools operate with full transparency in the admissions, curriculum, and performance. Participating schools undergo rigorous assessment tests documenting the achievements of their students.

With the success of the program and the great benefit it has provided Maryland children, this program is worthy of permanent inclusion in Maryland's annual Operating Budget. Senate Bill 401 seeks to codify the program in its current form with the \$10 million allocation thru FY 2024. It will increase modestly over the following few years until it reaches \$16 million in FY 2027.

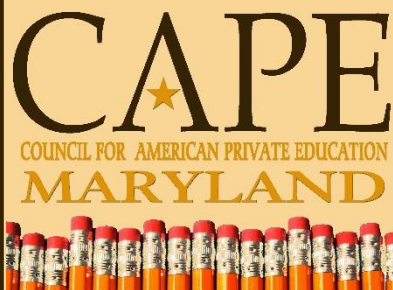
As we have appealed for your support of this great program each year in its current form, we seek your support in passing SB 401 into law to allow the great program to continue the good it does for Maryland children. Thank you for your past support and thank you for your future support. Please report favorably on SB 401.

**PROTECTING**  **ADVOCATING**  **SERVING**

# **MDCAPE Testimony- SB 401 BOOST 2022.pdf**

Uploaded by: Ariel Sadwin

Position: FAV



**Maryland's Voice for  
Nonpublic Education**

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## SENATE BUDGET & TAXATION SUBCOMMITTEE

FEBRUARY 9, 2022

### SENATE BILL 401

#### OPERATING BUDGET – FUNDING – SCHOLARSHIPS FOR NONPUBLIC SCHOOL STUDENTS

### SUPPORT

Maryland CAPE is our state's chapter and one of 40 state chapters of the Council for American Private Education. Our network includes the Catholic, Christian, Evangelical Lutheran, Friends, Independent, Jewish, Lutheran, Montessori, Muslim, and Seventh Day Adventist school communities. We speak on behalf of roughly 120,000 nonpublic school students attending over one thousand nonpublic schools across our great state of Maryland.

Since the 2016 legislative session of the General Assembly, low-income Maryland families who seek financial assistance to send their child to a nonpublic school have been endowed with that opportunity. Thanks to the BOOST scholarship program and the Maryland legislature who has supported it, families who have made the decision a nonpublic school is best suited for their child(ren), may apply for a scholarship to assist them in covering the tuition cost. Their desire for this form of education still comes at great financial sacrifice, but one that they are willing to make despite the hardship.

Now, after six years of the BOOST program, thousands of FARMs eligible Maryland families, from across the spectrum of minority and less-fortunate communities of all ethnicities, have benefited from attending the nonpublic school of their choosing. Their appreciation for these scholarships and the opportunities it has provided their children knows no bounds.

Parents who have made this choice appreciate the standards to which participating schools are held. The student assessments that prove that educational progress is being made and the assurances binding each participating school implemented for the safety and well-being of Maryland children, all contribute to the great success that this program has had.

But, these needs have grown continuously, and the need for a permanent BOOST program in Maryland law is well-justified. Senate Bill 401 seeks to do just that. Taking the \$10 million allocation that passed in the FY 2022 budget, SB 401 continues the funding at that level until FY 2024, after which time it will modestly increase over the following three years.

We appeal for your continued support of these low-income children and their families to allow BOOST scholarships to be codified in Maryland. All of the families who attend nonpublic schools are still providing tremendous savings to the state, and they gladly sacrifice the luxuries enjoyed by others to cover their portion of the cost for what they feel is the best and most conducive education for their children.

**Please report FAVORABLY on Senate Bill 401. Thank you for your support.**

# **MD Catholic Conference\_FAV\_SB 401.pdf**

Uploaded by: Garrett O'Day

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

**February 9, 2022**

**SB 401**

**Operating Budget - Funding - Scholarships for Nonpublic School Students**

**Senate Budget & Taxation Committee**

**Position: SUPPORT**

The Maryland Catholic Conference offers this testimony in SUPPORT of Senate Bill 401. The Conference represents the interests of the three (arch)dioceses serving Maryland, the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders. We offer this testimony on behalf of the large number of low-income families attending Catholic schools statewide who receive BOOST scholarship assistance and the thousands of parents in the years to come who will want to utilize the diverse education options provided through BOOST scholarships.

The BOOST Scholarship Program has provided expanded educational options for low-income Maryland K-12 students through the provision of scholarship assistance in the Maryland budget since 2016. One hundred percent of scholarship recipients are eligible for the Free and Reduced-Price Meal Program (FARMs). Scholarship recipients are certified as eligible through the State Department of Education (MSDE). This bill would continue to provide scholarship assistance to 100% low-income FARMs-eligible students. It includes modest increases in funding over the next four years.

BOOST has provided over 15,000 scholarships, the majority of which have been awarded to minority recipients. In addition to the racial and grade-level diversity of boost students, there were approximately 950 student-recipients who were English Language Learners (ELLs) last year. Thus, BOOST is helping to break the cycle of poverty for minority students whose parents choose a Catholic school using a BOOST Scholarship, as an average of 98% of students who graduate at a Maryland Catholic school go on to graduate and attend college. BOOST is also enhancing the education of students with disabilities, with double scholarship awards going to students with special needs.

BOOST has had broad geographic appeal since it's inception. Last school year, BOOST scholarship recipients hailed from 21 of the 24 Maryland jurisdictions, although

the vast majority are low-income students from Maryland's four largest jurisdictions, Baltimore City and Montgomery, Prince George's and Baltimore Counties.

In all, the BOOST Scholarship Program has helped to make Catholic schools an option for so many families. The majority of BOOST scholarships and scholarships dollars are awarded to students whose parents chose a Catholic school this year, many having transferred from a public school. The scholarship recipient demographic data cited above mirrors that of our school families in many Catholic schools, which welcome large numbers of low-income, immigrant and first-generation, minority, and non-Catholic students.

The BOOST Scholarship Program has acted as an integral supplemental source of assistance to low-income Catholic school families, fostering a partnership between Catholic schools and the State of Maryland.

Our Catholic schools remain committed to working alongside the State of Maryland in providing options for low-income students. It is for these reasons, on behalf of the families empowered by BOOST scholarships to choose Catholic schools, that we urge the Maryland General Assembly to secure BOOST funding well into the future through Senate Bill 401.

# **SB401 BOOST.pdf**

Uploaded by: Sarah Miicke

Position: FAV

## OFFICERS

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## WRITTEN TESTIMONY

### Senate Bill 401 Operating Budget - Funding - Scholarships for Nonpublic School Students

### Budget and Taxation Committee -February 9, 2022 Support

## MEMBER ORGANIZATIONS

Adat Chaim Congregation  
American Jewish Committee  
Americans for Peace Now  
Baltimore Chapter  
American Israel Public Affairs Committee  
American Red Magen David for Israel  
American Zionist Movement  
Amit Women  
Association of Reform Zionists of America  
Baltimore Board of Rabbis  
Baltimore Hebrew Congregation  
Baltimore Jewish Green and Just Alliance  
Baltimore Men's ORT  
Baltimore Zionist District  
Beth Am Congregation  
Beth El Congregation  
Beth Israel Congregation  
Beth Shalom Congregation of  
Howard County  
Beth Tfiloh Congregation  
B'nai B'rith, Chesapeake Bay Region  
B'nai Israel Congregation  
B'nai Jacob Shaarei Zion Congregation  
Bolton Street Synagogue  
Chevra Ahavas Chesed, Inc.  
Chevrei Tzedek Congregation  
Chizuk Amuno Congregation  
Congregation Beit Tikvah  
Congregation Beth Shalom of  
Carroll County  
Congregation Tiferes Yisroel  
Federation of Jewish Women's  
Organizations of Maryland  
Hadassah  
Har Sinai - Oheb Shalom Congregation  
J Street  
Jewish Federation of Howard County  
Jewish Labor Committee  
Jewish War Veterans  
Jewish War Veterans, Ladies Auxiliary  
Jewish Women International  
Jews For Judaism  
Moses Montefiore Anshe Emunah  
Hebrew Congregation  
National Council of Jewish Women  
Ner Tamid Congregation  
Rabbinical Council of America  
Religious Zionists of America  
Shaarei Tfiloh Congregation  
Shomrei Emunah Congregation  
Simon E. Sobeloff Jewish Law Society  
Suburban Orthodox Congregation  
Temple Beth Shalom  
Temple Isaiah  
Zionist Organization of America  
Baltimore District

**Background:** The Broadening Options and Opportunities for Students Today (BOOST) program would give low income students who are eligible for the Free and Reduced Price Meals (FARMS) program the opportunity to apply for tuition scholarships enabling them to attend the school best suited to their needs. The bill requires the Governor to allocate in the annual operating budget funding for the program, which incrementally would increase from \$10 million in FY24 to \$16 million in FY27 and each fiscal year after.

**Written Comments:** The Baltimore Jewish Council, an agency of the Associated Jewish Community Federation of Baltimore, supports excellence in education. While the vibrancy of public schools in Maryland is a top priority, we understand that public school is not the right choice for all Maryland families. Baltimore area Jewish day schools educate more than 8,000 students. For much of the Jewish community, a Jewish day school education is not a choice, it is a necessity.

Many of the Jewish schools in our community serve a population that is 20%-40% FARMS eligible. Our schools strive to keep tuition as low as possible, but must still cover their operating costs. The BOOST program has helped over 2000 low-income Jewish children attend the school that is best for them. Codifying funding for non public school scholarships for low income children will make the program run more efficiently and lower the uncertainty that parents and schools face about the future of funding for these scholarships.

With this in mind, the Baltimore Jewish Council urges a favorable report of SB401.

*The Baltimore Jewish Council, a coalition of central Maryland Jewish organizations and congregations, advocates at all levels of government, on a variety of social welfare, economic and religious concerns, to protect and promote the interests of The Associated Jewish Community Federation of Baltimore, its agencies and the Greater Baltimore Jewish community.*

BALTIMORE JEWISH COUNCIL

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Member of the Jewish Council for Public Affairs

Baltimore Jewish Council is an agency of The Associated

**100** The Associated  
Jewish Federation of Baltimore

# **SB401\_MSEA\_Bost\_UNF.pdf**

Uploaded by: Cheryl Bost

Position: UNF

**Testimony in OPPOSITION to Senate Bill 401  
Operating Budget – Funding – Scholarships for Nonpublic School Students**

**Senate Budget & Taxation Committee  
February 9, 2022**

**Cheryl Bost  
President**

The Maryland State Education Association stands in strong opposition to Senate Bill 401, which codifies Maryland's school voucher program, Broadening Options and Opportunities for Students Today (BOOST), into law and mandates an increasing amount of funding between Fiscal Year 2024 and Fiscal Year 2027. Not only does MSEA call for an unfavorable report on this bill, MSEA continues our request for the complete elimination of the program.

MSEA represents 75,000 educators who work in Maryland's public schools, teaching and preparing our 896,837 students for careers and jobs of the future. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3-million-member National Education Association (NEA).

Public dollars should fund public schools. The BOOST private school voucher program has been highly controversial since its inception and diverts attention and resources from the real needs of our students and public school communities.

First, the funding level of this voucher program has always been subject to much debate. The governor has continued to put \$10 million in the budget, and up until last year, the legislature has decided to reduce that to approximately \$7.5 million. Given BOOST was funded at \$7.5m in FY21, under this bill, the program's funding would increase 113% in six fiscal years. BOOST should not be growing, let alone overfunded, while the governor's FY23 budget proposal did not fully fund the mandated appropriations for the Blueprint for Maryland's Future. What we have seen in other states—and what advocates arguing against BOOST have argued from the beginning—is that voucher programs rapidly expand, regardless of the quality or demonstrated need of those programs. This troubling pattern would only be amplified by this bill. The Governor's budget this year would result in a \$99 million cut from Baltimore City's public schools and \$26 million cut from Prince George's County's public schools along with cuts in funding that were intended to help implement career and technical education, increase behavioral health supports, and train leaders and educators on meeting the goals of the Blueprint.

If the governor is truly interested in making public schools better for all students, particularly struggling students and students from low wealth communities, he can redirect the millions of dollars in this bill toward the funding needed to implement the Blueprint for Maryland's Future and even expedite some of its most important



provisions. That would be precious public dollars better spent. There are a myriad of things our schools, students, and communities need right now to help us recover from the COVID-19 pandemic. Every school system across the state is facing staggering staffing shortages. The \$52 million across four fiscal years (and \$16 million per year after FY27) diverted to private schools through the use of vouchers could go a long way in hiring the desperately needed substitute teachers across the state. Those dollars could help hire more bus drivers, to help ensure that students get to school safely, and parents and guardians are able to consistently make it to work on time. Those funds could be used to ensure there is a school nurse in every building, who is coordinating contact tracing and keeping the school community safe. That funding could go directly towards the many community schools we are working to stand-up across the state, with a proven record in helping to provide wrap-around services and family support to students living in concentrated poverty.

Next, this bill, as written, does not lay out even the current minimum standards to participate in the program that has existed in budget language. These minimum nondiscrimination standards have already been difficult to enforce. The collective priority, if the vouchers are to continue in anyway, should be looking for ways to strengthen those protections rather than looking for ways to increase support for schools without strict nondiscrimination policies. BOOST and other programs which send taxpayer dollars to private institutions have been a target for lawsuits and litigation that cost time and money of the Attorney General and the Maryland State Department of Education (MSDE).

Further, without any of the provisions of the program put into this legislation, it will then be up to MSDE to develop the regulations needed to implement the program. At a time with immense need for our public school students, especially post-pandemic, we should not waste the Department's time on private school support. The Department needs to be focused on the implementation of the Blueprint for Maryland's Future, especially given the delays due to the Governor's veto and then withholding of millions of dollars in a direct attempt to derail the Blueprint implementation. Our kids can't wait any longer. We must start the important work of fully funded implementation right now.

MSEA is increasingly concerned about the possible long-term legal ramifications of continuing to codify and fund this voucher program. The case of *Espinoza v. Montana Department of Revenue* involved a scholarship program created by the Montana legislature that provided a dollar-for-dollar tax credit of up to \$150 for individuals and businesses who donated to private scholarship organizations. The money donated to the organizations was to be used to provide scholarships for children to attend private schools, the vast majority of which, in Montana, are religious. Citing language in its state constitution banning aid for churches and religious schools, the Montana Supreme Court invalidated the entire tax-credit program. In its brief to the Court, the state argued that because the program had been invalidated in its entirety, the plaintiff's claim was no longer about the tax credit program itself but about the state's constitutional provision to not aid religious institutions. Pointing to the *Trinity Lutheran v. Comer* case, the state

argued that by eliminating the program for everyone (religious or secular schools), it could not be found to be violating the Free Exercise Clause.

Chief Justice Roberts, writing for a conservative majority, said, “A state need not subsidize private education. But once a state decides to do so, it cannot disqualify some private schools solely because they are religious.” He went further by adding, “The Montana Legislature created the scholarship program; the Legislature never chose to end it, for policy or other reasons...The program was eliminated by a court, and not based on some innocuous principle of state law. Rather, the Montana Supreme Court invalidated the program pursuant to a state law provision that expressly discriminates on the basis of religious status.”

As it is currently implemented, the BOOST voucher program clearly does not run afoul of the First or Fourteenth Amendments by distinguishing between nonpublic schools that are secular versus those that are religious. However, given the conservative leanings of a majority of the justices on the Supreme Court and their clear inclination to view Montana’s decision through the “free exercise” lens as opposed to the “separation of church and state” lens, we are deeply concerned that any efforts undertaken by members of the General Assembly to enforce the BOOST program’s prohibitions against discriminatory policies or actions would be perceived by these justices as an unfettered attack on religion or a legislative effort to deter public funding from going to nonpublic schools for no other justification than the school’s parochial nature. It is very possible that such enforcement would be deemed unconstitutional. Our concern here is elevated by the flag raised by the justices in the minority when they note that the Montana legislature’s step to eliminate their program in no way deterred their conservative colleagues on the Court from seeking some remedy for a perceived “injustice” that no longer existed. However, we ardently contend that allowing the voucher program to continue, even more so if the program is codified, only increases the probability that such a defense of the program’s long-term continuation only stands to make just such litigation even more eminent.

The State and education stakeholders (parents, students, educators) have spent five years working to determine how we can increase standards for our students and educators through the Blueprint for Maryland’s Future. Schools that participate in the BOOST voucher program do not have the same rigorous standards or accountability to legislators or taxpayers. They are not required to administer the same standards-based assessments, the certification requirements for their teachers are not comparable, and educators are not evaluated similarly, yet these schools are given public tax dollars. Public funding should go to public schools with high standards to serve ALL Maryland students.

The legislature should focus on the implementation of the Blueprint and responding to the urgent needs of our public schools. Students and families are counting on us to get this right, and to help them recover from the pandemic. Our kids can’t wait.

**MSEA strongly urges an Unfavorable Report on Senate Bill 401.**

# **SB401 BOOST 2.9.22.pdf**

Uploaded by: Jeanette Ortiz

Position: UNF



## SB401 OPERATING BUDGET - FUNDING - SCHOLARSHIPS FOR NONPUBLIC SCHOOL STUDENTS

February 9, 2022

BUDGET AND TAXATION COMMITTEE

### OPPOSE

Jeanette Ortiz, Esq., Legislative & Policy Counsel (410.703.5352)

Anne Arundel County Public Schools (AACPS) opposes **SB401 Operating Budget - Funding - Scholarships for Nonpublic School Students**. This bill requires the Governor, beginning in fiscal year 2024, to include in the annual budget bill General Fund appropriations of certain amounts for the Broadening Options and Opportunities for Students Today Program.

AACPS opposes the diversion of public education funds to nonpublic schools. AACPS specifically opposes the use of tuition tax credits, tax deductions, or vouchers as a means of reimbursing parents/guardians for their children's nonpublic educational expenses in Pre-K–12.

Maryland local school systems are committed and required to serve all of the State's school-aged children who are not enrolled in other educational institutions or programs regardless of religious preferences, ability to pay tuition, or special needs. In the public education system, students are exposed to a wide variety of courses and programs aimed at educating and preparing them for graduation, college and career readiness, and full participation in their communities. In pursuit of these goals, local and State accountability measures are used to ensure that the public schools are fulfilling their mission.

Generally, nonpublic schools are not subject to the same legal requirements as public schools such as special education laws and teacher certification regulations. As such, nonpublic schools have no direct accountability to taxpayers for their use of tax revenues.

Additionally, the diversion of public education funds to nonpublic schools is likely to have serious economic, constitutional, legal, and public policy consequences. If public education funds were used for the support of nonpublic schools, fewer resources would be available for public elementary and secondary schools. Further, the diversion of public education funds to nonpublic schools would impede the ability of localities to ensure an appropriate, safe, and equitable education for all students.

Accordingly, AACPS respectfully requests an **UNFAVORABLE** committee report on SB401.

# **SB 401.Scholarship Funding for Nonpublic School St**

Uploaded by: John Woolums

Position: UNF

**BILL:** Senate Bill 401  
**TITLE:** Operating Budget - Funding - Scholarships for Nonpublic School Students  
**DATE:** February 9, 2022  
**POSITION:** OPPOSE  
**COMMITTEE:** Budget and Taxation  
**CONTACT:** John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) opposes Senate Bill 401 to establish the Broadening Options and Opportunities for Students Today (BOOST) private school voucher program within the Maryland State Budget as a mandated annual appropriation of \$10 million beginning in fiscal year (FY) 2024 and increasing to \$16 million in FY 2027 and beyond.

Since 2016, the State Budget has inappropriately provided millions of dollars in special funds from the Cigarette Restitution Fund to fund the BOOST private school voucher program established each year in the Budget Bill. MABE has consistently opposed legislation to further codify the establishment of the BOOST program, and based on the performance of this program and the competing priority of meaningful increases in State aid for public education, requests each year that the program should be removed from the State Budget.

In 2016, the State Budget Bill was amended in conference committee to establish the \$5 million BOOST Program to provide vouchers for students who are eligible for the free or reduced-price lunch program to attend eligible nonpublic schools. To be eligible to participate in the BOOST program, a nonpublic school must participate in the Aid to Non-Public Schools Program for textbooks and computers administered by MSDE; and comply with Title VI of the Civil Rights Act of 1964; the State Government Article; and not discriminate in student admissions on the basis of race, color, national origin, or sexual orientation.

Generally, nonpublic schools, including non-sectarian and parochial schools, are not subject to the same legal regulations as public schools, such as special education laws and teacher certification regulations. A limited but notable exception is the array of State-funded nonpublic special education schools serving public school students. However, the vast majority of nonpublic school programs are not linked to State or federal student performance accountability measures, or special education provisions of the federal Individuals with Disabilities Education Act (IDEA). In addition, many nonpublic schools instruct their students in particular religions, a practice that is unconstitutional in public schools and which public funds may not directly support.

MABE continues to oppose the establishment of the BOOST program as a mandated expansion of the State's direct public funding of private and parochial education.

For these reasons, MABE requests an unfavorable report on Senate Bill 401.

# **SB 401\_UNF\_ACLUMD\_Nalley.pdf**

Uploaded by: Justin Nalley

Position: UNF



## Testimony for the Senate Budget and Tax Committee

February 9, 2022

JUSTIN NALLEY  
PUBLIC POLICY ANALYST

### **SB 401 - Operating Budget - Funding - Scholarships for Nonpublic School Students**

**UNFAVORABLE**

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The ACLU of Maryland has long opposed taxpayer subsidies for private and religious schools in the many and increasing forms that they have taken in our state – vouchers, subsidies for textbooks and technology, and subsidies to maintain and improve private school buildings. The ACLU of Maryland opposes SB 401 proposed expansion of the BOOST program up to a total of \$16 million after the fiscal year 2027.

The vast majority of the schools that receive subsidies through the BOOST programs are religious schools, which improperly entangle public taxpayer dollars with religious teachings. Undeniable evidence has surfaced to expose the reality that some BOOST-funded schools are operating with discriminatory practices. There remain serious transparency concerns about what government dollars support religious teachings and whether those policies and practices align with the firm, inclusive anti-discrimination standards that govern our public schools.

To shift funds away from public schools, which educate the vast majority of students in our state, no matter who they are is unacceptable. This is particularly true when the fiscal year 2023 budget proposal omits a mandated appropriation of \$125.5 million to Baltimore City and Prince George's County public schools. Private and religious schools also do not have to meet the same non-discrimination standards as public schools. And there are currently no clear, consistent curriculum and testing requirements that would ensure that private and religious schools will be held to the same standard as public schools in exchange for state subsidies.

For the foregoing reasons, the ACLU of Maryland urges an unfavorable report on SB 401.



# **SB401\_MD Center on Economic Policy\_UNF.pdf**

Uploaded by: Kali Schumitz

Position: UNF



FEBRUARY 9, 2022

# Mandating and Expanding Private School Vouchers Would Put Maryland on a Dangerous Path

## Position Statement in Opposition to Senate Bill 401

*Given before the Senate Budget and Taxation Committee*

High-quality public schools are part of the foundation of a thriving community. They reflect our understanding that every child has something to contribute – regardless of their race, ethnicity, disability status, sexual orientation, or gender including gender identity. Voucher programs divert public dollars to private schools that have no legal obligation to treat all students with equal dignity, and ongoing litigation threatens the state’s ability to insist that they do so when receiving public funding. Senate Bill 401 would lock in and heighten diversion of public dollars to private and religious schools, and may ultimately require the state to fund schools that discriminate. **For these reasons, the Maryland Center on Economic Policy opposes Senate Bill 401.**

Senate Bill 401 is part of a multi-year agenda to divert money from public schools to private and religious schools:

- Gov. Hogan created the so-called “Broadening Options and Opportunities for Students Today” (BOOST) voucher program in 2016, the culmination of a two-year effort to for the first time use public dollars to pay tuition at private and religious schools in Maryland.
- That same year, the governor introduced a budget that underfunded three-quarters of the state’s public school districts in comparison to a 2002 standard that already underestimated the true cost of providing a high-quality education.<sup>i</sup> More than half of the state’s Black students went to school in a district that was underfunded by at least 15% under this budget.
- The governor has sought to increase funding for the voucher program in every subsequent budget, finally reaching his goal of \$10 million in the current budget year. Meanwhile, he continued to underfund public schools and delay or obstruct implementation of the historic Blueprint for Maryland’s Future funding reform. His current budget proposal shorts public schools by \$140 million, with the bulk of cuts hitting schools that primarily serve Black students.<sup>ii</sup>

The General Assembly has sought to reduce the harm caused by the voucher program by requiring that private schools receiving public support comply with basic nondiscrimination requirements:

- In 2016, the General Assembly added protections to Gov. Hogan’s original private school funding proposal requiring that benefiting schools comply with state employment nondiscrimination law, and that they not discriminate based on race, color, national origin, or sexual orientation in student admission decisions.
- Gov. Hogan’s subsequent budget proposals have included the protections added in 2016.
- In 2019, the legislature expanded the 2016 protections to cover retention, expulsion, and any other

discriminatory action. The legislature also prohibited discrimination based on gender identity and expression.

- Gov. Hogan’s budget proposals submitted in 2020, 2021, and this year have omitted the 2019 protections, and the General Assembly has added them back in each time.

However, current litigation now puts these measures at risk:

- In December, the United States Supreme Court heard a case regarding a program in Maine that pays for private schools to enroll some students in rural areas. Plaintiffs claim that the First Amendment requires the program to partner with religious schools, including those that explicitly discriminate against LGBTQ students and employees.<sup>iii</sup> While the Court has not yet handed down a decision, legal observers expect the Court to rule in favor of the plaintiffs.<sup>iv</sup>
- Another federal court in December ruled that Maryland violated a religious school’s constitutional rights by barring it from participation in the BOOST program.<sup>v</sup> The school’s handbook includes general language hostile to LGBTQ people and specifically states that transgender students must use facilities that do not match their gender. This requirement puts students in danger of sexual violence<sup>vi</sup> and clearly violates the requirement that schools not “otherwise discriminate” against students based on gender identity.

There is a strong possibility that programs like BOOST will soon be legally required to fund schools that practice discrimination and put their own students in harm’s way. Senate Bill 401 would lock us into this situation by requiring annual appropriations well above the levels in Gov. Hogan’s budgets to date. This is a dangerous step in the wrong direction. To prevent public support for discriminatory schools, the best course of action is to cancel all funding for BOOST, now and forever.

The threat of effectively pro-discrimination requirements in the near future is not the only reason it is unwise to expand and mandate BOOST funding. Maryland’s constitutional obligation is to provide a free, high-quality *public* education to every child in the state, but policymakers have rarely provided the resources needed to keep that promise. Historically, students of color have borne the cost. The Blueprint for Maryland’s Future gives us a chance to do better – if we implement the plan faithfully. Senate Bill 401 requires an average of \$13 million per year in BOOST funding between fiscal years 2024 and 2027, and more down the line. This is nearly identical to the \$14 million in statewide implementation support for the Blueprint plan that is absent from the governor’s budget proposal. The question is, what do we as a state value?

**For these reasons, the Maryland Center on Economic Policy respectfully requests that the Budget and Taxation Committee make an unfavorable report on Senate Bill 401.**

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## Equity Impact Analysis: Senate Bill 401

### *Bill summary*

Senate Bill 401 would mandate annual funding for the so-called “Broadening Options and Opportunities for Students Today” (BOOST) private school voucher program, beginning at \$10 million in fiscal year 2024 and increasing to \$16 million per year in FY 2027 and thereafter.

## *Background*

The fiscal year 2017 adopted budget created BOOST, a modified version of a private school funding proposal in Gov. Hogan's original budget. The state appropriated \$5 million for the program in FY 2017. The governor asked for increased funding in his next five budget proposals. The program receives \$10 million in the current budget year, and Gov. Hogan has proposed the same amount in his FY 2023 budget.

Data released in early 2017 showed that most students who received vouchers during the program's first year of operation already attended private schools, indicating that the program was not achieving its goal of assisting students in transitioning from public to private school. The General Assembly has since added guidelines to prioritize vouchers to students currently attending public schools.

The private school funding program in Gov. Hogan's FY 2017 budget proposal required participating schools to obey federal law prohibiting racial discrimination but did not include any other nondiscrimination protections. The General Assembly added a requirement that participating schools comply with state employment nondiscrimination law, which prohibits discrimination based on gender and sexual orientation, and prohibited participating schools from rejecting student applications based on race, color, national origin, or sexual orientation.

The General Assembly strengthened these protections in 2019, prohibiting discrimination based on gender identity or expression, and expanding the scope of protections to include retention, expulsion, and any other discriminatory decision.

On December 8, 2021, the United States Supreme Court heard oral arguments in the case *Carson v. Makin*, in which plaintiffs argue that the Constitution requires a private school funding program in Maine to partner with religious schools, including those that practice discrimination.

On December 14, 2021, a judge at the United States District Court for the District of Maryland ruled that Maryland violated the Constitution by barring a religious school from receiving funding through BOOST based on language in the school's handbook, which states opposition to same-gender marriage and rights for transgender people. The handbook also states that "faculty, staff and students are required to identify with, dress in accordance with, and use facilities associated with" the gender they were assigned at birth.

## *Equity Implications*

The likelihood that federal courts will invalidate the current BOOST nondiscrimination protections potentially limits access to the program based on sexual orientation and gender identity and puts LGBTQ students who do participate at risk of discrimination and sexual violence.

Furthermore, mandating and expanding BOOST would use resources that could otherwise be used to support public schools. The state's history of education funding following the Great Recession – as well as the budget proposal Gov. Hogan submitted this year – that that underfunding of public schools disproportionately harms students of color, especially Black students:

- During the 2016–2017 school year, 52% of Black students in Maryland went to school in a district that was underfunded by at least 15% in comparison to the state's 2002 standards. Only 13% of white students went to school in a district this deeply underfunded.

- The governor’s FY 2023 budget proposal omits \$99 million in funding for Baltimore City schools through the Education Effort Adjustment. Three-quarters of students in Baltimore City schools are Black and nine out of ten are students of color.
- The governor’s FY 2023 budget proposal omits \$27 million in funding for Prince George’s County schools through the Education Effort Adjustment. More than half of students in Prince George’s County schools are Black and 19 out of 20 are students of color.
- The governor’s FY 2023 budget proposal fully funds direct aid to the state’s 22 other school districts. Altogether, one-quarter of the students in these districts are Black and just over half are students of color.

### *Impact*

Senate Bill 401 would likely **worsen racial, ethnic, and gender (including sexual orientation and gender identity) inequity** in Maryland.

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<sup>i</sup> MDCEP analysis of DLS funding adequacy data and National Center for Education Statistics enrollment data.

See “Adequacy of Education Funding in Maryland Since 2002,” Department of Legislative Services, 2019, [http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnInnovEduc/2019\\_07-24\\_AdequacyDLS.pdf](http://dls.maryland.gov/pubs/prod/NoPblTabMtg/CmsnInnovEduc/2019_07-24_AdequacyDLS.pdf)

<sup>ii</sup> Christopher Meyer, “Governor’s Budget Proposal Shorts Public Schools by \$140 Million,” Maryland Center on Economic Policy, 2022, <http://www.mdeconomy.org/governors-budget-proposal-shorts-public-schools-by-140-million/>

<sup>iii</sup> Rachel Laser, “Do Taxpayers Have to Fund Religious Schools? The Supreme Court May Say Yes,” *The Washington Post*, December 5, 2021, <https://www.washingtonpost.com/opinions/2021/12/05/carson-v-makin-supreme-court-religious-education/>

<sup>iv</sup> Jay Michaelson, “The Supreme Court Is Ready to Make Taxpayers Fund Religious Schools,” *New York Magazine*, December 8, 2021, <https://nymag.com/intelligencer/2021/12/supreme-court-ready-to-make-taxpayers-fund-religious-schools.html>

<sup>v</sup> Taylor Deville and Alex Mann, “Federal Court Rules Maryland Violated Christian School’s Rights by Banning it from Voucher Program,” *The Baltimore Sun*, December 14, 2021, <https://www.baltimoresun.com/education/bs-md-bethel-christian-violated-rights-20211214-ouywlglqz5eaxc4dfbqxmgqlhm-story.html>

<sup>vi</sup> “Transgender Teens with Restricted Bathroom Access at Higher Risk of Sexual Assault,” Harvard T.H. Chan School of Public Health, 2019, <https://www.hsph.harvard.edu/news/hsph-in-the-news/transgender-teens-restricted-bathroom-access-sexual-assault/>

# **SB 401 Operating Budget - Funding - Scholarships f**

Uploaded by: Lois Hybl

Position: UNF



## TESTIMONY TO THE SENATE BUDGET AND TAXATION COMMITTEE

### SB 401 Operating Budget - Funding - Scholarships For Nonpublic School Students

**POSITION: Oppose**

**BY: Nancy Soreng – President**

**Date: February 9, 2022**

The League of Women Voters of Maryland (LWVMD) opposes public funding for vouchers or other aid for private and parochial schools. This bill, SB 401 *Operating Budget - Funding - Scholarships for Nonpublic School Students*, is another form of providing state aid for nonpublic education. The state's primary responsibility is to support public school students, regardless of race/ethnicity, gender, socioeconomic status, language, and physical and academic ability. **The LWVMD strongly opposes SB 401**, which would increase state aid to nonpublic schools.

This is the wrong time to be sending more money to private and parochial schools when public schools are struggling to cope with the impact of COVID-19, staff shortages, and the need to provide extra services to help students catch up. After a delay, public schools are beginning to receive the increased funding allocated under the Blueprint, but they are by no means fully funded. While current revenue seems adequate for the Blueprint, we are likely to need more revenue in FY2027 and beyond. We need to support all our public schools, not just a few nonpublic schools.

SB 401 calls for a mandated annual appropriation of \$10,000,000 for scholarships for students attending nonpublic schools in FY2024, and increases this allocation to \$16,000,000 in FY2027. Funding for the BOOST program keeps creeping up. The FY2018 budget allocated \$5.5 million for the scholarship program. This allocation increased to \$8,850,000 in FY2019 and \$10,000,000 in FY2021 and FY2022. This needs to stop.

The League opposes the FY2023 funding for the BOOST program and urges the General Assembly to find a way to eliminate this program as soon as possible.

We urge the committee to give an unfavorable report to SB 401 for the mandated allocation for the BOOST program increasing to \$16,000,000 in FY2027.

# **sb 401 BOOST oppose PSSAM.pdf**

Uploaded by: Mary Pat Fannon

Position: UNF



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**Bill:** SB 401 - Operating Budget – Funding – Scholarships for Nonpublic School Students  
**Date:** February 9, 2022  
**Position:** Unfavorable  
**Committee:** Senate Budget and Taxation Committee  
**Contact:** Mary Pat Fannon, Executive Director

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This legislation requires the Governor to fund scholarships for students participating in the Broadening Options and Opportunity for Students and Teachers (BOOST) Program. These scholarships are for students who are eligible for the free and reduced-price lunch program who attend a nonpublic school. The legislation mandates funding beginning in FY '24 of \$10 million, \$12 million in FY '25, \$14 million in FY '26, and \$16 million in FY '27 and each fiscal year thereafter.

The Public School Superintendents' Association of Maryland (PSSAM), representing all twenty-four local school superintendents, **opposes SB 401**.

This bill's purpose is to create a permanent funding stream to finance private and parochial school students at the expense of public-school students. This diversion of state revenue to finance private school student expenses, including tuition, constitutes a voucher-like program long opposed by PSSAM and public education advocates in Maryland.

Unlike nonpublic and private schools, with the exception of nonpublic special education schools, Maryland public schools are held strictly accountable by local, State, and federal laws and regulations such as teacher education and certification, academic standards, and anti-discrimination laws. Local superintendents fully recognize that strong accountability measures for Maryland's 900,000 public school students translates into strong accountability for public dollars invested in education. In addition, it is important to note that public schools provide effective educational programs for all students, including special education, English language learners, early childhood, and rigorous high school programs that are not always available in parochial and private schools.

PSSAM strongly opposes the establishment of a permanent funding stream that would ultimately finance private schools. The financial needs of our public-school students must take priority over those who choose a private or parochial education.

For the reasons stated above, PSSAM **OPPOSES SB 401** and requests an **unfavorable** committee report.

*One Voice, One Vision for Maryland's Students*

# **SB401oppose2022.pdf**

Uploaded by: Todd Reynolds

Position: UNF

**Written testimony submitted for the record by the American Federation of Teachers-Maryland  
Before the Senate Budget and Taxation Committee  
SB 401 – Operating Budget – Funding – Scholarships for Nonpublic School Students  
OPPOSE**

Good afternoon, Chair Guzzone and members of the Senate Budget and Taxation Committee. On behalf of the 20,000 members of the AFT-Maryland, including the teachers and educational professionals of the Baltimore Teachers Union, we call for an unfavorable report to SB 401, the bill that would require future Governor's to include in the budget increased funding for the Maryland school voucher program known as BOOST.

It is deeply troubling to the members of the AFT-Maryland that, while city schools have had a crumbling infrastructure (including broken HVACs, as has been highlighted recently in the news) *for years*, and while state funding to public schools has not met expectations since the great recession, the state somehow finds the revenues needed to fund a wasteful and discriminatory program that diverts public tax dollars to private schools. Incredibly, while Governor Hogan cuts what he believes to be at his discretion vital funding to Baltimore City Public Schools to the tune of almost \$100 million—in a year with unprecedented budget surpluses—he would tie future Governor's hands to syphon public funding off to a wasteful and discriminatory private school voucher program that has not demonstrated to improve educational outcomes for Maryland's students.

The BOOST program itself has a long history of not meeting expectations; the program has in the past failed to “broaden” opportunities for Baltimore City School children, as 75% of the voucher scholarships have gone to students who were attending that private school before the program began. In addition, it has been revealed that a number of religious schools receiving public funds through this voucher program have built discriminatory practices into their school policies. For example, at least four BOOST schools have state policies reserving the right to not admit or expel a student if her or his parents are in a same-sex marriage, or who are found to be “living in, condoning, or practicing alternative gender identity.” Finally, no evidence has ever been produced to show that a student attending a private school on a BOOST scholarship will have a higher academic achievement rate than her or his peer attending a public school. In fact, a 2017 study done by the Economic Policy Institute found “limited improvements *at best* in student achievement and school district performance from even large scale programs. In the few cases where test scores increased, other factors, namely increased public accountability, not private school competition, seem to be more likely drivers.”

The AFT-Maryland again calls for an unfavorable report to SB 401.

# **SB401.DRM.MDDC.TheArc.LOI.pdf**

Uploaded by: Rachel London

Position: INFO



Senate Budget and Taxation Committee  
**SB401: Operating Budget – Funding – Scholarships for Nonpublic School Students**  
February 9, 2022  
**Letter of Information**

The Maryland Developmental Disabilities Council (Council), Disability Rights Maryland (DRM), and The Arc Maryland work to advance the inclusion, rights, and opportunities of people with developmental disabilities. **The Council, DRM, and The Arc provide this letter of information to explain our concerns for students with disabilities in Maryland relative to funding for the Broadening Options and Opportunities for Students Today (BOOST) Program.** We take no position regarding the value of private schools.

Our position is solely based on the lack of access for students with significant disabilities:

- This bill requires public funding for scholarships for students to attend nonpublic schools. While often referred to as school choice because families can access state funds to pay tuition at private schools, **the reality for students with disabilities and their families is that this is not a choice at all.**

We are pleased that schools that explicitly discriminate against students with disabilities in their admissions policies no longer receive BOOST funds. However, schools receiving public funds are still able to engage in more subtle forms of discrimination in every aspect of the educational process - from admissions to classroom instruction to physical accessibility.

Parents who choose to send their children to private schools must be free to do so. However, public funds should not be used to assist attendance of children at those schools that do not provide equitable opportunities for children with and without disabilities to learn with and from each other.

**Why do scholarship programs not meet the needs of students with significant disabilities?**

- **Private schools do not have to accept everyone.**

**Private schools that do not receive federal funds are not required to comply with Section 504 of the Rehabilitation Act.** Section 504 prohibits discrimination on the basis of disability in programs or activities that receive Federal financial assistance from the U.S. Department of Education.

**Private schools run by religious organizations are not required to comply with the Americans with Disabilities Act (ADA).** The ADA ensures that students with disabilities have equal access and opportunity for participation in the programs, services and activities offered by the school.

- **Students with disabilities who attend private schools have to give up their rights and protections under the Individuals with Disabilities Education Act (IDEA).** If parents of students with disabilities remove their children from the public school system to utilize the Program, their children would no longer be entitled to the special education and related services or procedural protections mandated by this federal special education law.

- **Scholarship programs divert funding from public schools.** If funding is diverted from public schools, less funding is available for services, supports, and other resources, including those that provide students with disabilities meaningful access. Students with disabilities are entitled to a free, appropriate public education with the services and supports needed to learn alongside their peers without disabilities. In order to ensure every student receives a high-quality education, including students with disabilities, funding should not be diverted away from public schools.

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