

# BALTIMORE CITY PUBLIC SCHOOLS

**Brandon M. Scott**  
Mayor, City of Baltimore

**Jhnette A. Richardson**  
Chair, Baltimore City Board  
of School Commissioners

**Dr. Sonja Brookins Santelises**  
Chief Executive Officer

**Testimony of the  
Baltimore City Board of School Commissioners  
In Opposition of  
House Bill 381  
Baltimore City and Baltimore County – Due Process Proceedings  
For Children with Disabilities – Burden of Proof**

**February 15, 2023**

The Baltimore City Board of School Commissioner opposes House Bill 381 as requiring the school system to have the burden of proof in cases that is opposite to what occurs in the American judicial system and was upheld in the Supreme Court case, *Schaffer v. Weast*, 546 U.S. 49, 126 S.Ct. 528, 44 IDELR 150 (2005). **Additionally, the school board believes that any major modification to this long-standing judicial procedure should be addressed statewide, which is the subject of House Bill 294, County Boards of Education – Due Process Proceedings for Children with Disabilities – Burden of Proof. House Bill 294 is in the exact same posture as House Bill 381, but looks at the burden of proof at the state level and not specific school districts.**

Under current law, any moving party would have the burden to prove its case. However, in this legislation, if a parent or guardian files a due process complaint against a school system concerning a dispute over the identification, evaluation, or educational placements of children with disabilities or the provisions of a free appropriate public education the school system has the burden. The Board agrees with testimony submitted by the Maryland Association of Boards of Education and the Public School Superintendents Association of Maryland as to the issues that shifting the burden represents presented during the hearing on House Bill 294.

The Committee should also be reminded that in 2020 the General Assembly established a special education ombudsman in the Office of the Inspector General for Education. Also, in 2014, several bills passed the General Assembly that requires the school system to notify parents of rights and procedural safeguards in due process hearings. Several bills that became law also require school systems to translate IEPs in the parent’s native language and to provide on line access to all special education services.

The Committee should also be aware of the funding challenges that exist in Baltimore City. A school system that has one of the highest special education student populations in the State. In Baltimore City, the school board spends approximately \$300 million on special education services and receives only \$80M.

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For the foregoing reasons, the Baltimore City Board of School Commissioners opposes House Bill 381 and urges an unfavorable report.

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