



**Testimony in Opposition of House Bill 381
Baltimore City and Baltimore County – Due Process Proceedings for
Children with Disabilities – Burden of Proof**

**Ways and Means Committee
February 15, 2023**

**Cindy Sexton
President, Teachers Association of Baltimore County**

The Teachers Association of Baltimore County oppose House Bill 381. House Bill 381 would require the Baltimore City Board of School Commissioners and the Baltimore County Board of Education to bear the burden of proof in all due process proceedings that arise from a complaint regarding the delivery of special education services or a program for a child with disabilities in Baltimore City and Baltimore County, except under certain circumstances. TABCO supports inclusive educational policies and practices for all children, and our educators strive to make our classes welcoming and educationally fulfilling for all students.

TABCO represents educators who work in Baltimore County Public Schools, teaching and preparing our students to pursue their dreams. TABCO is also affiliated with the Maryland State Education Association, and our national affiliate is the 3-million-member National Education Association (NEA).

Shifting the burden of proof in special education due process proceedings onto the board of education will not result in enhanced special education programs. Rather, the policy will incentivize litigation, pull special educators from classrooms with their students to attend to additional bureaucratic matters, and create a presumption that the education delivered by special educators to their students is insufficient.

TABCO understands and appreciates well-intentioned efforts to enhance educational services, but this bill will not accomplish that goal. Our educators work hard day and night, weekday and weekend to deliver the best educational opportunities we can for our students. We are facing a staffing crisis in this state and across the country, especially for special educators. In the 2021-2022 school year, there were

approximately 447 special educator vacancies in Maryland.¹ We believe other policy mechanisms are better suited to enhance the delivery of our educational services and programs, such as the Blueprint for Maryland's Future. The Blueprint is a model policy program that will build support for student success by improving support services for students, building the education workforce by improving educator recruitment and retention, and utilizing accountability measures to ensure all actors in our education system are acting to fulfill the vision of the Blueprint.

Moreover, the Maryland General Assembly enacted legislation in 2020 to enhance special education support for parents, students, and educators by creating a Special Education Ombudsmen in the Office of the Attorney General.² The purpose of the Ombudsmen is to provide information and support to parents, students, and educators regarding special education rights and services.³ Among other things, the Ombudsmen provides impartial information and resources concerning the process to obtain special education evaluations and services, the process for resolving disputes concerning special education programs, and the rights of parents and students and how they may avail themselves of those rights.⁴ TABCO supports legislative efforts that provide greater clarity and knowledge with respect to existing rights and how to navigate processes and procedures to effectuate those rights for parents, students, and educators.

TABCO continues to be an open and willing partner to provide the best education possible to our students. Our members joined this profession to make a measurable impact on the lives of children and to educate and prepare them for life beyond the walls of our schools. We will continue to support efforts that we whole-heartedly believe will further this vision but will oppose legislation that we believe will impede this effort.

We urge an unfavorable report on House Bill 381.

¹ Maryland State Department of Education, *Maryland Teacher Workforce: Supply, Demand, and Diversity*, slide 15 (July, 26, 2022) retrieved from: <https://www.marylandpublicschools.org/stateboard/Documents/2022/0726/TabGBlueprintAndDataDeepDiveTeacherPipelineAndDiversity.pdf>.

² MD Code, State Government, §§ 6-501 – 506.

³ MD Code, State Government, § 6-502(b).

⁴ MD Code, State Government, § 6-504(a).