

Education Advocacy Coalition

for Students with Disabilities

SENATE EDUCATION, ENERGY, AND THE ENVIRONMENT COMMITTEE

SENATE BILL 819

Public Schools—Open Enrollment—Policies and Funding

March 7, 2025

POSITION: LETTER OF INFORMATION

The Education Advocacy Coalition for Students with Disabilities (EAC) is a coalition of nearly 50 organizations and individuals concerned with education policy for students with disabilities in Maryland. The EAC files this Letter of Information to identify several issues for consideration regarding open enrollment and its impact on students with disabilities.

Federal and state law require the provision of a free appropriate public education (FAPE) to students with disabilities; specifically, school districts must provide individualized special education instruction, related services that enable the student to benefit from the education they receive, and supplementary aids and services and program modifications and supports. These services must be provided in the least restrictive environment in which the child's education plan—the Individualized Education Program (IEP)—can be implemented, with a preference for placement in the school the student would attend if not disabled and for placement with nondisabled peers. Cross-district open enrollment as outlined in Senate Bill 819 raises several issues with significant implications for students with disabilities who receive special education services and supports:

First, and most significantly, Senate Bill 819 allows a receiving school in an open enrollment district to deny an enrollment application if the “school does not offer appropriate programs or is not structured or equipped with the necessary facilities to meet any special needs of the child.” Because the focus of Senate Bill 819 addresses open enrollment across Maryland's local school systems, which are public entities, receiving schools are obligated to comply, not only with the Individuals with Disabilities Education Act (IDEA), but also with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. Allowing receiving schools to unilaterally reject an application without any due process procedures in place for students whose applications are rejected and without any consideration of whether reasonable accommodations or modifications to the program could be made effectively guarantees that many students with disabilities will not be able to avail themselves of the opportunity to participate in open enrollment. In fact, in states with cross district open enrollment, this is exactly what has happened. See, e.g., [The Hidden Role of K–12 Open-Enrollment Policies in U.S. Public Schools - Education Next](#) .

Second, Senate Bill 819 allows a receiving school to deny an application if the child does not meet the established criteria for participation in a program, including required levels of

Education Advocacy Coalition Testimony: Senate Bill 819

March 7, 2025

Page Two

performance. EAC members have successfully challenged blanket application of performance requirements for students who, as a result of their disabilities, may not be able to meet eligibility criteria for a program, such as a minimum reading level or particular grades, but who, with reasonable accommodations, are able to participate appropriately in the program. This provision of Senate Bill 819 will also serve to screen out students with disabilities.

Additionally, although Senate Bill 819 requires a receiving county board to pay for transportation services if a sending county is providing transportation services to a student enrolled under the open enrollment policy, the bill does not address who actually has to provide the transportation service. Many students with disabilities receive transportation as a related service in accord with their IEPs; because school district buses do not cross district lines, the bill's lack of clarity will create another barrier for students with disabilities who might wish to avail themselves of open enrollment.

The EAC takes no position on the concept of cross-district open enrollment but submits this testimony simply to underscore the importance of ensuring that students with disabilities have equal access to participation in the open enrollment process. Well-established civil rights statutes require nothing less.

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Education Advocacy Coalition Testimony: Senate Bill 819

March 7, 2025

Page Three

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