

March 28, 2025

Dear Chair Peña-Melnyk and Members of the Health and Government Operations Committee,

I am writing to express my unequivocal opposition to **House Bill 821**, which proposes an expansion of discretionary denials under the Maryland Public Information Act (PIA) to include records related to pending or reasonably anticipated litigation involving public entities or their employees. While I appreciate the bill's intent to provide protective discretion for governmental bodies engaged in litigation, its implications for transparency, accountability, and civil rights are deeply concerning.

As drafted, HB 821 **erodes foundational principles of open government** by creating an overly broad and ambiguous exemption that can be weaponized to conceal systemic misconduct—particularly within educational institutions and local government entities. The provision allowing denial based on “reasonably anticipated litigation” is not only vague but also ripe for abuse. Agencies could routinely claim “anticipated litigation” to suppress disclosure of documents that may reveal inequitable practices or violations of federal protections, including those under the **Individuals with Disabilities Education Act (IDEA)**, **Section 504 of the Rehabilitation Act**, and **Title II of the Americans with Disabilities Act (ADA)**.

Recent experience with the Prince George's County Public School System illustrates the dangerous potential of such discretion. After persistent advocacy and formal intervention, the Public Information Act Compliance Board ruled in favor of transparency, ordering the release of documents detailing **hourly legal fees paid to attorneys retained to oppose families seeking services for children with disabilities**. This data was withheld without legal merit—demonstrating precisely why the public must retain the right to access such information. Under HB 821, this type of evasion would become not only permissible but normalized.

The bill also undermines the state's ongoing efforts to build **trust with historically marginalized communities**, particularly families of color and those navigating the special education system. Shielding government practices behind the veil of anticipated litigation not only disincentivizes ethical conduct but also limits the public's ability to document patterns of racial, economic, and disability-based inequities.

Moreover, HB 821 is **redundant and unnecessary**. Existing statutory and court protections already enable agencies to withhold privileged information during active litigation through the discovery process. Introducing a separate discretionary denial under the PIA therefore

serves only to **restrict public access to information preemptively**, without the procedural safeguards inherent in judicial review.

In the context of educational equity, government accountability, and the preservation of democratic oversight, **HB 821 is a regressive measure**. I respectfully urge the committee to reject this bill in favor of legislation that promotes transparency, affirms civil rights, and upholds the integrity of public governance.

Thank you for your attention to this matter.

Sincerely,

Alicia Baines, MHA

Founder | Parent Advocate | Public Policy Stakeholder

Laurel, Maryland