

## **UNFAVORABLE**

### **Senate Bill 329 Education - Certification of Scholarship Granting Organizations**

**Senate Education, Energy and the Environment Committee  
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The Maryland State Education Association opposes Senate Bill 329.

MSEA represents 76,000 educators and school employees who work in Maryland's public schools and community colleges, teaching and supporting our almost 900,000 K-12 students so they can pursue their dreams. MSEA represents more than 40 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3-million-member National Education Association (NEA).

Senate Bill 329 would authorize Maryland to participate in the federal tax credit scholarship program established under 26 U.S.C. § 25F by certifying scholarship granting organizations (SGOs) operating in the State. While framed as participation in a federal tax credit structure, the practical effect of this legislation is to facilitate the expansion of voucher-like subsidies for private and religious education through an unaccountable intermediary system.

#### **Public Dollars Should Support Public Schools**

MSEA's longstanding opposition to voucher programs is grounded in a simple and consistent principle: public resources should support public schools.

The federal tax credit scholarship structure created under H.R. 1 of 2025 diverts federal revenue to private scholarship organizations, which then subsidize tuition at private schools that are not subject to the same academic standards, accountability requirements, public transparency laws, or civil rights protections that govern Maryland's public schools. Participation in this structure undermines public education by normalizing a parallel, publicly subsidized private system that operates outside the democratic governance and accountability framework that Maryland taxpayers expect.

Moreover, if Maryland were ever to opt into participation, the State should preserve flexibility to prioritize eligible services connected to public school students—such as special education supports, tutoring, afterschool programming, summer learning, and supplemental academic supports—rather than allowing the program to function primarily as a private school tuition subsidy. Without clear guardrails, implementation decisions could steer the program almost entirely toward subsidizing private tuition rather than supporting broader student needs.

### **Insufficient Oversight and Reporting Requirements**

Even if the General Assembly were inclined to move forward with participation in this federal program, Senate Bill 329 lacks critical guardrails to ensure transparency, accountability, and protection of student rights.

The bill's certification and reporting provisions are insufficient. At a minimum, any scholarship granting organization certified by the State should be required to meet rigorous standards comparable to those imposed on public schools and public agencies handling taxpayer resources.

Critically, Senate Bill 329 should make explicit that Maryland retains full discretion to approve or deny certification of any scholarship granting organization. The State should not be required to approve every entity that merely satisfies a federal minimum standard. Maryland must retain clear authority to impose additional requirements, limit which SGOs may operate in the State, and deny or revoke certification for organizations that fail to meet Maryland's standards for transparency, accountability, fiscal integrity, or student protections.

If Maryland were to ever consider participation, MSEA urges the following protections:

#### **1. Clear In-State Operational Requirements**

Certification should be limited to scholarship-granting organizations (SGO) that are genuinely "located in the State," defined by a substantial and ongoing operational presence in Maryland. This should include:

- A physical office in Maryland from which program activities are administered;
- Personnel working in Maryland with authority over program administration;
- Continuous in-state programmatic activities, including monitoring and oversight of distributed funds; and,
- Maintenance of program records in Maryland, subject to in-state audit, inspection, and service of process.



An entity should not be considered “located in the State” merely because it operates a website, advertises services, or expresses intent to operate in Maryland.

In addition, any multistate SGO operating in Maryland must comply fully with Maryland-specific rules, reporting, and oversight requirements, rather than relying on aggregate compliance across multiple states. The State should require clear accounting of the amount of funding raised for Maryland students, the amount distributed to Maryland students, and administrative costs attributable to Maryland operations to ensure that funds intended for Maryland families are not redirected elsewhere.

## **2. *Accountability Standards for Participating Schools***

Any education service provider receiving funds through a certified SGO should be required to meet standards equivalent to those governing Maryland public schools, including:

- State accreditation;
- Administration of the same state assessments and compliance with comparable accountability requirements as public schools;
- Compliance with the same health and safety standards;
- Comparable teacher certification requirements;
- Equivalent background check requirements for school personnel;
- Compliance with virtual learning standards applicable to public schools;
- Nondiscriminatory admissions policies, including random lottery processes when applications exceed capacity; and,
- Full compliance with federal civil rights protections applicable to public schools.

In particular, schools receiving publicly subsidized scholarship funds should be treated as de facto recipients of federal financial assistance for purposes of Title II of the ADA, Section 504 of the Rehabilitation Act, and the Individuals with Disabilities Education Act (IDEA). Students with disabilities and their families must retain their rights to evaluation, individualized education programs, free appropriate public education, least restrictive environment protections, and due process safeguards.

Without these protections, the program risks subsidizing schools that can selectively admit students and avoid serving students with the greatest needs.

In addition, any scholarship application and eligibility verification processes must be accessible and not unduly burdensome for low-income families, multilingual families, or families lacking traditional documentation. Application materials

should be available in multiple languages, and technical assistance should be provided to ensure access exists in practice—not merely on paper.

### **3. Strong Governance and Financial Safeguards for SGOs**

Scholarship granting organizations themselves must be subject to meaningful governance and fiscal standards, including:

- Compliance with Maryland nonprofit law;
- A governing board of at least five members, with a majority independent of management;
- Separation of board chair and chief executive roles;
- Adoption of conflict-of-interest, whistleblower protection, and expense reimbursement policies;
- Strict limits on administrative fees retained by the SGO—potentially below the 10 percent federal maximum;
- Annual certified financial audits conducted in accordance with Generally Accepted Accounting Principles and submitted to the Maryland State Department of Education;
- Detailed annual reporting on funds raised, funding sources, scholarships awarded, administrative expenses, and participating schools; and,
- A surety bond or letter of credit sufficient to protect against financial mismanagement.
- Robust public reporting on student access and outcomes—not solely financial reporting. At a minimum, SGOs should report:
  - the number of scholarship recipients;
  - students' prior enrollment (public, private, homeschool);
  - grade levels served;
  - participation and retention rates; and, where applicable,
  - state assessment participation and graduation outcomes.

Reporting should be disaggregated by income level, disability status, race and ethnicity, and English learner status to allow the State to assess whether the program is serving students equitably.

If Maryland were to proceed, the Maryland State Department of Education must be granted explicit authority to investigate complaints, require corrective action, suspend or revoke SGO certification, and remove participating schools or providers that violate state standards or student protections. Regulations should establish a formal complaint process for families, clear timelines for investigation and resolution, and meaningful enforcement tools to ensure compliance.

### **Protecting Public Accountability**

Maryland's public schools operate under robust transparency, accountability, and civil rights obligations because they serve every child. Any entity receiving publicly subsidized scholarship funds should meet comparable standards.



Finally, if state leaders become inclined to consider participation, Maryland should delay any opt-in for at least a year or two to observe implementation in early-adopting states, assess whether public school students meaningfully benefit, and identify equity and oversight risks. That time should be used to enact comprehensive state-level guardrails in statute before participation begins, ensuring that accountability and student protections are established in law—not developed after funds begin flowing.

Senate Bill 329, as drafted, authorizes participation in a federal tax credit structure without embedding sufficient state-level safeguards to ensure fiscal integrity, protect student rights, and prevent discrimination.

**For these reasons, MSEA urges an unfavorable report on Senate Bill 329.**