

Board of Education Legislative Exhibit
January 20, 2021

SECTION 1: BOE VOTE REQUESTED

NO BILLS

Board of Education Legislative Exhibit

January 20, 2021

SECTION 2: BOE VOTE NOT RECOMMENDED AT THIS TIME

HB0071

Juvenile Services Education Board and Program – Establishment, Powers, and Duties

This bill repeals statutory provisions regarding the Juvenile Services Education Program within the Maryland State Department of Education (MSDE) and instead establishes a Board of Education for the Juvenile Services Education (JSE) System to oversee and provide for educational services to all juveniles who are in the custody of the Department of Juvenile Services. Beginning July 1, 2022, the Board would have the authority and responsibility for all functions relating to JSE programs in the State and may contract with a local board of education to provide educational services. By December 1, 2021, MSDE must submit to the General Assembly a report detailing plans for the transition of juvenile services educational programs to the Board.

Sponsored by: Delegate Luedtke

<https://mgaleg.maryland.gov/2021RS/bills/hb/hb0071F.pdf>

NO POSITION

HB0087/SB0253

Vehicle Laws - School Bus Safety - Occupant Capacity

This bill requires a school bus to be routed with the intent that the number of pupils on the bus does not exceed the manufacturer's rated seating capacity for the bus. If an emergency or other temporary situation causes the number of pupils on a bus to exceed the seating capacity of the bus, the situation must be corrected within a reasonable period of time.

Sponsored by: Delegate Jones, D.

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0087F.pdf>

<http://mgaleg.maryland.gov/2021RS/bills/sb/sb0253F.pdf>

NO POSITION

Board of Education Legislative Exhibit

January 20, 2021

SECTION 3: BOE VOTE NOT REQUIRED – ESTABLISHED POSITION IN 2021 LEGISLATIVE PROGRAM

HB0011

Public Schools - African American History - Development of Content Standards and Implementation

This bill requires the State Board of Education, by December 1, 2021, to develop content standards for African American history to be included in certain State standards for social studies. It also requires the content standards to include certain topics and requires each county board of education to develop and implement age-appropriate curriculum guides for African American history subject to content standards. By the 2022-2023 school year, each public school in the State shall implement an African American history curriculum.

Sponsored by: Delegate Wilson

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0011F.pdf>

SUPPORT WITH AMENDMENTS

AACPS generally opposes efforts by the General Assembly to legislate local public school curriculum or assessments. The authority to establish curriculum and assessments is the domain of the State Board of Education and the local boards of education, the same entities charged with the responsibility to research, investigate, and evaluate both curriculum and assessments. Maintaining this authority with the State Board and local boards allows local boards of education to collaborate with the State and stakeholders to ensure that all students, schools, and school systems are held accountable.

However, we do support this legislation with amendments. First, HB11 places the responsibility for the development of content standards for African American history where it belongs – with the State Board of Education. It is time for Maryland to ensure that every public school student in the State receive accurate and thorough education about the extraordinary contributions of African Americans have made in Maryland and across the nation. Failure to require the State Board of Education to develop such content standards has resulted in local school systems not educating Maryland students on comprehensive African American history. All children from all walks of life should have access to a rich education about African American history as it is the fabric of who we are as a nation – it is American history.

The AACPS grade 4, grade 5, grade 8 and grade 9 United States History courses are being audited and rewritten to align to the new frameworks and with a specific focus of including more diverse and inclusive histories. Special attention is being placed on local and state level African American History. The AACPS Social Studies Office is currently engaged in a local history project with the Office of Equity and Accelerated Student Achievement to establish connections and provide a streamline of materials to integrate into K-12 curriculum related to local African American History. AACPS also has an African American History elective course offered at the high school level and we are looking to make this one-semester course into a two-semester offering with a greater depth of national and local African American History.

Board of Education Legislative Exhibit

January 20, 2021

While we support the goal and intent of this bill, AACPS requests two amendments to HB11. First, we respectfully request that the bill include language requiring MSDE and the State Board of Education to conduct a gap analysis of current State curriculum content standards to determine what African American history and contributions content standards are already being required by the State in order to determine the best manner in which to implement the proposed legislation. Second, we request that the State Board of Education conduct a gap analysis across all public school curriculum content as the contributions of African Americans and social justice issues encompass all facets of American life such as the sciences, the arts, and literature. We also have concerns that, as drafted, the legislation may limit local school systems from educating their students about local African American history and contributions. As such, we request that you ensure that there is no language limiting such education.

HB0072

County Boards of Education - Student Transportation - Vehicles

This bill authorizes a county board of education to provide transportation for specified public school students to and from school using a vehicle other than a Type I or Type II school vehicle when a school vehicle cannot reasonably be provided.

Sponsored by: Delegate Anderton

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0072E.pdf>

SUPPORT

The Maryland State Department of Education (MSDE) generally requires Type I and Type II school vehicles to be used to transport students to and from school and school related activities when local school system sponsored transportation services are provided. However, MSDE does provide exceptions in some specific instances.

Over the years, local school systems' responsibilities for transporting students have significantly expanded due to additional costs associated with the transportation of special education, nonpublic placement, and homeless students. HB72 provides needed flexibility in transporting eligible students. It is not always feasible, practicable, possible, or economical to utilize a Type I or Type II school bus vehicle in all instances. This legislation provides some relief for local school systems when the use of a conventional school bus cannot reasonably be provided. HB72 could also provide some relief to the ongoing bus driver shortage being felt by local school systems. While it is difficult to quantify, this legislation could result in cost savings in instances when a vehicle other than a Type I or Type II school bus vehicle is utilized.

HB0096

Education - High School Graduation Requirements - Application

This bill requires public high school students, beginning in the 2022-2023 school year, to complete and submit the Free Application for Federal Student Aid to the U.S. Department of Education or the Maryland State Financial Aid Application to the Maryland Higher Education Commission in order to graduate. The bill provides for exceptions to the new graduation requirement.

Board of Education Legislative Exhibit

January 20, 2021

Sponsored by: Delegate Solomon

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0096F.pdf>

OPPOSE

AACPS makes great efforts to educate students and families about Free Application for Federal Student Aid (FAFSA). Our high schools host multiple events during the school year to provide information and assistance. While we appreciate the innovation of this legislation, it infringes on local school system decision-making. AACPS opposes efforts by the General Assembly to encroach on local school system authority. The authority to establish graduation requirements is the domain of the State Board of Education and local school systems. Maintaining this authority with the State Board and local school systems allows for collaboration with the State and stakeholders to ensure that all students, schools, and school systems are held accountable.

Further, this bill negatively impacts the very student populations it seeks to help – those students who are in most need and could most benefit from financial aid to attend college. By making the FAFSA application a graduation requirement, the General Assembly would add another barrier to graduating.

To complete the FAFSA application, a student needs to provide:

- a Social Security Number;
- an Alien Registration Number (if not a U.S. citizen);
- federal income tax returns, W-2s, and other records of money earned;
- bank statements and records of investments (if applicable);
- records of untaxed income (if applicable); and
- an FSA ID to sign in electronically.

A student who is a dependent will also need this information for the student's parent(s)/guardian(s). The FAFSA is filed electronically, so access to a computer and the internet is also necessary. In addition, this bill requires forced disclosure of personally identifiable information that belongs to the parent(s), but which would have to be shared with the school system. Students and parents may be obligated to show a completed FAFSA, which could result in disclosure of information that is in violation of the Family Educational Rights and Privacy Act (FERPA). Additionally, the opt-out clause in the proposed legislation puts the burden on the student or family to opt out. This legislation is too burdensome for students and families, especially for those students and families it professes to help.

HB0138

Education - Sexual Abuse and Assault Awareness and Prevention Program - Human and Sex Trafficking

This bill requires that the age-appropriate education program on the awareness and prevention of sexual abuse and assault developed and implemented by the State Board of Education and each nonpublic school include, for students in grades 6 through 8, material promoting the awareness and prevention of human and sex trafficking.

Board of Education Legislative Exhibit

January 20, 2021

Sponsored by: Delegate Johnson

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0138F.pdf>

OPPOSE

Maryland schools provide their students with a comprehensive Pre-K –12 health education curriculum that focuses on a student’s development of protective life skills and promotes health and well-being. As part of this comprehensive health education curriculum, AACPS students are educated in Family Life and Human Sexuality as well as Safety and Violence Prevention. Students participate in age-appropriate instruction on the awareness and prevention of sexual abuse and assault. This instruction includes age-appropriate instruction on the meaning of “consent” and respect for personal boundaries.

While this legislation is well-intentioned, AACPS opposes efforts by the General Assembly to legislate local public school curriculum or assessments. The authority to establish curriculum and assessments is the domain of the State Board of Education and the local boards of education, the same entities charged with the responsibility to research, investigate, and evaluate both curriculum and assessments. Maintaining this authority with the State Board and local boards allows local boards of education to collaborate with the State and stakeholders to ensure that all students, schools, and school systems are held accountable.

HB0171

State Department of Education - School Discipline - Data Collection

This bill requires the Maryland State Department of Education (MSDE) to disaggregate discipline-related data in an electronic spreadsheet format for the Maryland Report Card and provide the discipline-related data to the public in an accessible electronic spreadsheet format. The bill would also require MSDE to lower the risk ratio used to identify a school as high suspending from 3.0 to 2.0.

Sponsored by: Delegate Washington

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0171F.pdf>

LETTER OF INFORMATION

The AACPS Instructional Data Division (IDD) collects, analyzes, and applies instructional data to assist students, teachers, instructional leaders, parents and the public. The goal is to enhance learning and positively impact student achievement. At AACPS, student achievement data is analyzed to identify relationships between different types of student achievement measures; and predicting student performance in order to better identify appropriate instructional strategies to address the needs of our students.

Currently, disaggregated student discipline data are currently posted on the MSDE website. State regulations require MSDE to develop a method to analyze local school system discipline data to determine whether there is a disproportionate impact on minority students. MSDE may use the discrepancy model to assess the impact of discipline on special education students. If MSDE

Board of Education Legislative Exhibit

January 20, 2021

identifies a school's discipline process as having a disproportionate impact on minority students or a discrepant impact on special education students, the local school system must prepare and present to the State Board of Education a plan to reduce the impact within one year and eliminate it within three years. A local school system must report its progress annually to the State Board. When presented to the State Board of Education in January 2017, the State Board determined that 3.0 would be the threshold for disproportionality in Maryland. Accordingly, we have concerns that HB171 would lower the ratio to 2.0.

In addition, we have concerns with the definition of high suspending schools. As with disproportionality, it is important to be very careful with small student groups. According to this bill, an elementary school with 1 student suspended out of 10 would be labeled "high-suspending."

Finally, it is important to note that alternative schools and special programs work with unique students by design and should never be compared to comprehensive schools. These schools face challenges and needs that far exceed any comprehensive school. As such, if you take all the students who are struggling behaviorally and put them in the same school or program, the data is going to be disproportionate because the population is disproportionate. Alternative schools and special programs do such wonderful work for students and families, and including them in this legislation would have such a negative impact on the hard work that these schools and their staff do every single day.

HB0192

Public Schools - Special Education Classrooms - Use of Video

This bill requires each county board of education to, beginning with the 2020-2021 school year, install at least one video recording device in each public school classroom in which a majority of the regularly attending students are provided special education instruction. The legislation is very prescriptive in how the video recordings will occur, storage of the recordings, and access to the recordings among other mandates.

Sponsored by: Delegate Guyton

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0192F.pdf>

OPPOSE

AACPS opposes this legislation due to concerns about the universal scope of the mandate to include video cameras in all special education classrooms, the privacy of the students recorded in the continuous classroom surveillance, the potential for the stigmatization of special education students, unfunded costs for installation and monitoring the cameras, and the administrative costs of retaining, redacting, and responding to requests to view the video.

The federal Family Educational Rights and Privacy Act (FERPA) generally prohibits the disclosure by schools that receive federal education funding of personally identifiable information from a student's education records, unless the educational institution has obtained signed and dated written consent from a parent or eligible student or one of FERPA's exceptions applies. A 2018 National

Board of Education Legislative Exhibit

January 20, 2021

School Boards Association briefing report suggests that a video recording may constitute a student record.

AACPS costs associated with purchasing video equipment alone are estimated at nearly \$1.2 million.

HB0205

Public Schools - Provision of Menstrual Hygiene Products - Requirement

This bill requires each county board of education to ensure that each public school provide, at no charge to students, menstrual hygiene products via dispensers in the restrooms at the school. It also requires a public school to install menstrual hygiene product dispensers in at least two restrooms on or before October 1, 2021, and in all restrooms on or before August 1, 2025. The bill defines 'menstrual hygiene products' as size-appropriate tampons or sanitary napkins for use in connection with the menstrual cycle.

Sponsored by: Delegate Reznik

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0205E.pdf>

SUPPORT WITH AMENDMENTS

AACPS supports the intent of this bill to ensure that students have access to menstrual hygiene products. We do have concerns that the requirements set forth in the bill would create an unfunded mandate and have a significant fiscal impact on school systems. Accordingly, we request an amendment to provide State funding for the implementation of this bill. The State funding should cover the cost of the feminine hygiene products themselves as well as the cost of procuring, installing, and maintaining the requisite dispensing devices at each school.

AACPS also requests an amendment to clarify that a school system is not required to provide tampons. There are well-documented health concerns associated with tampons and many parents do not want their children using these particular feminine hygiene products. The requirement to provide tampons, therefore, raises potential liability issues. Finally, there is a concern that teachers may be expected to assist a student with the use of tampons, in particular, which raises additional liability concerns.

HB0237/SB0126

State Department of Education - Early Literacy and Dyslexia Practices - Guidance and Assistance

This bill requires the Maryland State Department of Education to establish, by October 1, 2021, a stakeholder advisory group to develop a reading and dyslexia handbook to guide local school systems in the implementation of best practices for early literacy and dyslexia. It requires a completed handbook be made available to the public by June 1, 2022, and the development of tools and materials to address the needs of at-risk and struggling students with dyslexia. The bill also requires MSDE to update the handbook every 3 years.

Sponsored by: Delegate Ebersole

Board of Education Legislative Exhibit

January 20, 2021

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0237F.pdf>

<http://mgaleg.maryland.gov/2021RS/bills/sb/sb0126F.pdf>

LETTER OF INFORMATION

In 2019, after deliberations through multiple legislative sessions, the legislature enacted a new law to require, beginning with the 2020-2021 school year, each local school board to ensure that students are screened to identify if the student is at risk for reading difficulties. Under the new law, if the screening results indicate that the student is at risk of reading difficulties, the local board must provide supplemental reading instruction, as appropriate, and provide a notification letter to the student's parent as specified. Furthermore, the Maryland State Department of Education (MSDE) must develop and update resources for local boards every four years and provide technical support to local boards allowing them to provide training opportunities annually. In addition, local boards must report annually to MSDE beginning with the 2020-2021 school year. AACPS is in full compliance with the requirements of the 2019 legislation and a lot of work has gone into the screener election, administration and response to instruction.

AACPS has concerns with the prescriptive nature of the handbook proposed in HB237. While the handbook is said to be best practices, processes and procedures to guide local school systems, it is extremely prescriptive, and the bill is written in a manner that is almost mandatory. AACPS also has concerns that this bill specifically provides that the State Leadership Team of Decoding Dyslexia Maryland will select two members of the advisory group established under the bill. There are many dyslexia advocacy groups in the State, and we believe that it is more appropriate for MSDE to select the two members of the dyslexia advocacy community.

AACPS appreciates the intent of this legislation to further the objectives of the recently enacted 2019 legislation. However, in light of the ongoing implementation of the 2019 law and the forthcoming immense work for MSDE to implement the many facets of the Blueprint for Maryland's Future legislation, AACPS recommends that General Assembly reconsider enacting new educational programs at this time.

HB0266

Student Education Equity Grant Program - Established (Student Education Equity in Funding Act)

This bill established the Student Education Equity Grant Program in the State Department of Education to provide grants to eligible students to attend an open public or nonpublic school approved to operate in the State. An open school is defined as a school that is providing full in-person classes and has not restricted any sports or extracurricular activities. The bill authorizes students whose assigned school is not open to apply to the Department for a grant to be used for expenses to attend an open school. It further requires the Department to establish an application process, distribute grants, enter into certain agreements, and provide information to students.

Sponsored by: Delegate Cox

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0266F.pdf>

Board of Education Legislative Exhibit

January 20, 2021

OPPOSE

AACPS opposes the diversion of public education funds to nonpublic schools. The Board specifically opposes the use of tuition tax credits, tax deductions, or vouchers as a means of reimbursing parents/guardians for their children's nonpublic educational expenses in Pre-K-12.

We are facing unprecedented times as result of the COVID-19 pandemic. The pandemic has significantly impacted education, school systems, students, and families. The diversion of public education funds to nonpublic schools is likely to have serious economic, constitutional, legal, and public policy consequences. If public education funds were used for the support of nonpublic schools, fewer resources would be available for public elementary and secondary schools. The diversion of public education funds to nonpublic schools would also impede the ability of localities to ensure an appropriate, safe, and equitable education for all students. Further, students in schools with limited parental/guardian and community support would be disadvantaged. AACPS and school systems across the State are already facing decreased funding as a result of the pandemic and diverting

It is also important to note that, unlike public schools, private schools have no direct accountability to taxpayers for their use of tax revenues.

HB0272

Public Information Act - Required Denials - Sociological Information and Distribution Lists

This bill prohibits a definition of "sociological information" adopted under rules or regulations by an official custodian of a public record from including an individual's personal address.

Sponsored by: Delegate Carr

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0272F.pdf>

SUPPORT

Section 4-341 (b) of this bill is significant in its relation to the work of AACPS, which maintains a number of distribution lists for dissemination of both the work of the school system and the happenings of the system and the Board of Education. This aforementioned section designates certain pieces of information (physical address, email address, telephone number) as not disclosable in Public Information Act requests. This is consistent with the school system's responsibility regarding student data privacy and data governance in general.

From the general news release distribution list maintained by the AACPS Communications Office to the list of family email addresses in a variety of departments and offices through which a variety of information is shared, AACPS has collected hundreds of thousands of pieces of contact information from those who have a vested interest in the operations of the school system. Those individuals have provided this information so that they can receive pertinent news and updates from Anne Arundel County Public Schools, not so their information can be provided to third parties for purposes that may be unforeseen and unregulated.

Board of Education Legislative Exhibit

January 20, 2021

Especially concerning is the chilling effect not passing this legislation would have, as families whose information is shared with parties to whom they have no affiliation or desire for correspondence from could cease providing contact information to our school system.

HB0273/SB0266

Education - Voluntary Ethical Special Education Advocate Certificate Program

This bill requires the State Department of Education (MSDE) to establish the Voluntary Ethical Special Education Advocate Certificate Program on or before July 1, 2022, for administration of a voluntary certificate program for ethical special education advocates. It specifies qualifications and application procedures for a certificate. It also requires MSDE to issue a certificate to a certain applicant and authorized an applicant to petition for judicial review of a decision of MSDE that relates to issuing or renewing a certificate.

Sponsored by: Delegate Turner

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0273F.pdf>

<http://mgaleg.maryland.gov/2021RS/bills/sb/sb0266F.pdf>

SUPPORT WITH AMENDMENTS

AACPS believes that collaboration with families is essential to the success of all students. In fact, AACPS has the Partners for Success program to assist families of AACPS students receiving special education services. Partners for Success provides families with guidance, workshops, professional development, and supports. The program has been very successful in helping families.

Maryland does not currently have any quality control, certification, or training requirements for individuals who refer to themselves as advocates for parents of students with special needs. By establishing a Voluntary Ethical Special Education Advocate Certificate Program, this bill could ensure that special education advocates have the necessary training and certification to properly support parents. AACPS proposes that the bill be amended to include the following:

- a face-to-face component to the training, which would allow for greater opportunity for learning;
- clarification on how “good moral character” can be determined; and
- a mechanism for others to express concern to MSDE when a certificated advocate is not acting professionally or in the best interest of students and families.

HB0342

Education - Health and Safety of Students - Notification of Problematic Student Behavior

This bill requires each public school and nonpublic school that receives State funding to notify the parents or guardians of all students involved in an incident of “problematic sexual behavior” by the close of business on the day of the incident. “Problematic sexual behavior” is student-initiated behavior that involves intimate parts in a manner that is developmentally inappropriate and potentially harmful to the student or others. Local boards of education must ensure that each public school has a policy to provide the required notification.

Board of Education Legislative Exhibit

January 20, 2021

Sponsored by: Delegate Wilson

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0342F.pdf>

OPPOSE

While this legislation is well-intentioned, we have concerns that the very prescriptive nature of the bill would have unintended consequences. Pursuant to Maryland regulations, school officials must promptly report to the responsible law enforcement agency all delinquent acts. Delinquent acts do not include conduct that has traditionally been treated as a matter of discipline to be handled administratively. However, all conduct of a serious nature should be promptly reported to the parent/guardian.

AACPS agrees that it is important to inform a parent/guardian if a child has been involved in an incident of problematic sexual behavior. However, it is also important that information is not shared until the facts surrounding the situation have been verified. If a school official is required to report this behavior prior to the close of business on the day of the incident, they may be providing inaccurate information due to an incomplete investigation. This could lead to unnecessary anxiety and false allegations. It is also important to understand that it is not always feasible to report to parents/guardians by close of business day on the day of the incident. For example, the incident may have occurred at the end of the school day and school officials have not yet had the necessary time to conduct a thorough investigation.

HB0373

Education - Child Abuse and Sexual Misconduct Prevention - Hiring Emergent Employees

This bill authorizes a local board of education or nonpublic school to hire an applicant as an emergent employee for up to 60 days pending a specified review of information and records regarding an individual's employment history, as required under current law for applicants who will have direct contact with minors.

Sponsored by: Delegate Wilson

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0373F.pdf>

SUPPORT WITH AMENDMENTS

AACPS greatly appreciates this legislation as it addresses several concerns related to the 2019 law that required employers to conduct a much more comprehensive background check of applicants who will have direct contact with students. While AACPS supported the 2019 law, it has resulted in significantly increased workloads and a major hiring backlog for AACPS and school systems across the State. HB373 addresses many of the issues we have encountered.

The employee in the new "emergent employee" category would be able to begin working immediately pending the results of the employer history review, and would have more limited causes of action to dispute their dismissal based on a negative finding based on input from a past employer. The bill also provides additional protections and assurances before placing the "emergent employee," and limits any such placement to 60 days. In addition, the provision in the bill that

Board of Education Legislative Exhibit

January 20, 2021

allows local school systems to use the prior employment history reviews of other local schools in the State will be extremely helpful in speeding up the hiring process and cutting back on our existing hiring backlog. Finally, the 10-year employment history look-back will prove helpful with the amount of time it takes to contact previous employers.

While we appreciate the proposed amendments to the law, AACPS proposes an additional amendment for consideration. We recommend that the bill be further amended to authorize MSDE to maintain a database that local school systems can access to obtain prior employment history reviews.

HB0394

Public Schools - Fees for Summer School Courses - Prohibition

This bill prohibits a local school system from charging a student a fee for enrollment in a summer school course if 1) the student attends a school in the local school system; 2) credit for the course is required for graduation from a high school in the local school system; and 3) the student previously took the course, but did not successfully complete or receive credit for the course.

Sponsored by: Delegate Smith

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0394F.pdf>

OPPOSE

This legislation is an unfunded mandate. In accordance with AACPS policy, tuition for summer school courses is set at \$300 per course. However, AACPS offers tuition reduction for students who qualify for free and reduced meals and students from families on government assistance programs such as medical assistance or SNAP. Tuition waivers or reductions account for more than two-thirds of the students. For example, AACPS waived tuition for the 1,463 AACPS students who attended summer school in 2020. AACPS anticipates that implementation of this legislation would cost approximately \$270,000 and closer to \$300,000 in out years, thus, creating an unfunded mandate at a time when we are already facing significant funding shortfalls as a result of the COVID-19 pandemic.

While AACPS firmly believes that summer school must be affordable and accessible for all students, we believe that this legislation would have unintended consequences. AACPS has historical data to support that 1) summer school tuition inspires students to pass classes during the regular school year, and 2) students who must pay some tuition towards a summer class take the class more seriously and are more likely to pass the course during the summer.

HB0405

Special Education - Judicial Actions - Attorney's Fees and Related Costs

This bill authorizes an administrative law judge to award attorney's fees and related costs, including expert witness fees, to the parent of a child with a disability who is the prevailing party in a special education proceeding.

Board of Education Legislative Exhibit

January 20, 2021

Sponsored by: Delegate Lopez

<http://mgaleg.maryland.gov/2021RS/bills/hb/hb0405F.pdf>

OPPOSE

The proposed legislation would have a significant fiscal impact on the school system if this bill were to pass and would, as written, result in unfunded mandate. In recent litigation, a plaintiff used five expert witnesses – four of whom were in court for a half day each and one of whom was in court for one full day. Had AACPS not prevailed in the case, this bill would require AACPS to absorb the costs of five expert witnesses. Currently, if the parent is the prevailing party in a due process or court hearing, the parent is awarded only attorney fees. HB405 proposes to award parents expert witness fees and “other costs” in direct contradiction to *Arlington Central School Dist. Bd. of Ed. v. Murphy*, 548 US 291, where the Supreme Court determined that “‘costs’ is a term of art that generally does not include expert fees.” 402 F. 3d, at 336 and “was not meant to be an open-ended provision that makes participating States liable for all expenses incurred by prevailing parents in connection with an IDEA case...” Reimbursement of this expense, according to the Supreme Court, runs counter to statutory intent to reduce litigation fees.

SB0165

Maryland Healthy Working Families Act - Applicability

This bill exempts from the Maryland Healthy Working Families Act an employee who is called to work by a local board of education on an as-needed basis, can reject or accept the shift offered, and is not guaranteed to be called on to work by the local board of education.

Sponsored by: Senator Bailey

<http://mgaleg.maryland.gov/2021RS/bills/sb/sb0165F.pdf>

SUPPORT

This bill clarifies that the Maryland Healthy Working Families Act does not apply to employees of a county board of education who are called to work on an as-needed basis, can reject or accept the shift offered by the county board of education, and are not guaranteed to be called on to work by the county board of education.

The Maryland Healthy Working Families Act has required school systems to provide paid sick leave to substitute teachers. We have essentially been required to hire substitutes for substitutes and this has made covering classes during teacher absences even more difficult. The proposed legislation would align county boards of education with other industries in the law that are exempt from providing paid sick leave to employees who receive an invitation to work and have the ability to accept or reject the assignment based upon their needs and interests. There is already a shortage of substitute teachers available in Anne Arundel County and the current law further limits our ability to find substitute teachers to ensure class coverage. Accordingly, the legislation addresses AACPS opposition and concerns regarding the implementation of the Maryland Healthy Working Families Act. The current law has cost AACPS over \$500,000 since its enactment.

Board of Education Legislative Exhibit

January 20, 2021

SB0243

Public High Schools - Health Education - Gambling Dangers and Addiction

This bill requires the Maryland State Department of Education (MSDE) to develop, by July 1, 2022, a program of health education on the dangers of gambling and gambling addiction to be provided in public schools. Beginning in the 2022-2023 school year, each local board of education must annually require middle and high schools to include instruction on the dangers of gambling and gambling addiction in grades 6 through 12.

Sponsored by: Senator Simonaire

<http://mgaleg.maryland.gov/2021RS/bills/sb/sb0243F.pdf>

OPPOSE

AACPS supports local decision-making authority in developing curriculum and AACPS opposes efforts by the General Assembly to legislate curriculum, courses of instruction, assessments, or graduation requirements, firmly believing that this role belongs to local boards of education in conjunction with the State Board of Education. In creating the State Board and local boards of education, the General Assembly has delegated to them the responsibility for guiding and delivering a high-quality statewide system of public education through State standards and accountability measures, and locally governed and administered curriculum, teaching, and learning. The program of studies in each school system is developed as a whole and aligned with the State and local standards and assessments. Accordingly, the authority to establish curriculum and assessments is the domain of the State Board of Education and the local boards of education. We are the same entities charged with the responsibility to research, investigate, and evaluate both curriculum and assessments. Legislation such as SB243, which seeks to interject piecemeal segments into the curriculum or to extract portions of the testing, only serve to weaken the effectiveness of the entire educational program.

SB0300

Special Education – Learning Continuity Plan – Requirement

This bill requires an individualized education program to include a learning continuity plan to be implemented for students with disabilities during emergency conditions beginning October 1, 2021. A continuity of learning plan is also required for students with a 504 plan. The bill dictates when the learning continuity plan must be developed and also makes a local school system responsible for providing internet services and electronic devices for these students.

Sponsored by: Senator Peters

<http://mgaleg.maryland.gov/2021RS/bills/sb/sb0300F.pdf>

OPPOSE

AACPS believes that all students are entitled to challenging instruction from highly qualified professionals that addresses their unique learning needs and differences.

The Individualized Education Plan is already considered to be a cumbersome document by most parents. Adding a minimum of two pages to this tool just in case of an emergency seems

Board of Education Legislative Exhibit

January 20, 2021

unreasonable. To plan for a student's needs without knowing the nature of the emergency event, how the student may react to the specific event, or the family's particular needs related to the event would be difficult and not individualized. In the Spring of 2019, AACPS quickly put Individualized Continuity of Learning Plans in place that were individualized to the student and incorporated direct input from families. Based on a student's rate of change, these plans may need to be updated several times a year.

Additionally, while AACPS is committed to doing everything possible to ensure that students and families have access to effective internet services and has been very successful in partnering with internet providers during the COVID-19 pandemic, the school system has no control over the availability of internet in certain areas of the County or the speed of internet services available to our students. Likewise, while AACPS has been very successful at distributing computer devices to students, we have learned that some of the supply and demand issues during a worldwide pandemic impacted our ability to move forward with distribution as planned. Therefore, we have concerns with the bill's provisions which would hold school systems accountable for these two mandates.

This proposal could negatively impact the individualization of services to children because it is based on too many unknowns which prevents the development of a meaningful, student-centered plan.

SB0330

State-Funded Construction and Major Renovation Projects - Solar Panels - Requirement

This bill requires specified construction and major renovation projects which are proposed after December 31, 2021, receive State funding, and are carried out by the State or local governments to be designed, engineered, and constructed in a manner that allows the roof to withstand the weight of solar panels. Such projects must include the placement of the maximum number of solar panels for which the project was designed. The Maryland Green Building Council must recommend design considerations consistent with the bill's intent.

Sponsored by: Senator West

<http://mgaleg.maryland.gov/2021RS/bills/sb/sb0330F.pdf>

OPPOSE

AACPS has taken great steps to reduce our energy use. In fact, in 2017, AACPS celebrated our 1.4 MW solar panel farm. The completed project features nearly 4,000 panels that will produce 1,971 MWh of electricity annually. According to our calculations, this solar panel farm will also offset more than 41,000 metric tons of carbon dioxide annually. That is equivalent to one year of carbon dioxide emissions from 4,357 homes. AACPS also has a partnership with the City of Annapolis where the school system purchases energy from the City's solar panel farm. Additionally, new AACPS school construction projects are built in a manner that can accommodate solar panels, if it sound to use them.

While we support efforts to reduce our carbon footprint, this legislation is an unfunded mandate and does not align with sound engineering principals, widely accepted life-cycle economic costing methodologies, or best practices within energy management and building maintenance. Each building is unique, and the most appropriate energy management and HVAC system should be

Board of Education Legislative Exhibit

January 20, 2021

selected via an exhaustive engineering analysis utilizing broadly accepted sound life-cycle cost modeling. Mandating such a one-size fits all approach defies all sound logic and would lead to increased costs to the taxpayer at both the initial cost point of construction as well as over the 40-50-year ownership period.

While it is difficult to quantify, this legislation could result in millions of additional dollars in initial construction costs as well as millions in additional dollars in operating costs over a 40-50-year lifespan of the district's real estate portfolio.