

Testimony in Opposition to Senate Bill 302 Accountability in Education Act of 2018

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The Maryland State Education Association (MSEA) opposes Senate Bill 302, which seeks to create a politically motivated and redundant process to provide new oversight of school systems across the state.

Senate Bill 302 would create a system ineffective at oversight albeit effective at generating negative publicity at the behest of the chief executive, which appears to be the larger aim of this bill. The investigator general envisioned in this legislation would be hand-picked by appointees of the governor. That makes the position a political appointment – hardly an independent watch dog.

Beyond the political concerns, the creation of a new office and power outlined in SB 302 could complicate and make for a more ineffective and inefficient process than currently exists. The powers sought for this new office are already held by specialized offices (such as offices of civil rights) or by local elected officials who may be held accountable by voters (such as school boards). While educators understand that existing systems, structures, and protocols are, at times, frustrating and time consuming to navigate, on the whole, those systems provide accountability that is focused more on the best interest of students and schools than political agendas.

Below is a review of powers and roles granted to the investigator general in SB 302 that are already part of school oversight and protocols:

Power Being Sought in SB 302	Current Oversight
Investigate and determine whether the civil rights of teachers, students, and parents are being upheld in compliance with federal, state, and local laws and regulations.	Maryland Office of Civil Rights, USDOE Office of Civil Rights, Office of Special Education Programs and each County has its own version of the Office of Civil Rights
Analyze and report on child abuse and neglect	Child Protective Services (part of the Maryland Department of Human Resources)
Analyze and report on safety and educational facilities	Each County Board (facilities management division) and Maryland State Board of Education (MSBE)
Analyze and report on grading, graduation requirements, and assessments	Each County Board and Maryland State Department of Education (MSDE)
Analyze and report on procurement	Each County Board and MSDE, and ultimately the courts
Analyze and report on equitable use of resources among public schools and budgets	MSDE
Report all instances of fraud, abuse, and waste relating to public funds and property	Whistleblower Protection Act, administrative process and courts
Report employee violations of applicable laws, regulations, policies, or ethical standards of conduct	This is, unless criminal, an internal personnel matter handled first by the county board, MSBE, and ultimately the courts. Disputes remain in the employee's official personnel file and is confidential and not subject to disclosure.
Investigate complaints of unethical, unprofessional, or illegal conduct of individuals employed by MSDE or a county board	MSDE and each county board has initial authority to investigate its own
Investigate complaints received from any source, including anonymously	Each county board may investigate
Issue subpoenas, hold hearings, and otherwise make inquiries as the unit deems appropriate	Circuit Courts
Establish an anonymous electronic tip program to allow the reporting of violations	Many county boards have these tip/complaint lines already established
Oversight of a remediation plan to address violations or systemic problems identified	MSDE typically provides the oversight

Beyond the redundancy detailed above, the bill itself creates internal conflicts. For example, results of investigations by Child Protective Services reside in a confidential database that is not accessible by an outside agency, such as the Education Monitoring Unit; yet, the Unit is to analyze and report on matters such as child abuse and neglect cases. As a matter of law and as a result of specific language in the bill itself, the Unit may not compel the production of “documents that are confidential or privileged under applicable provisions of federal or state law.” As such, the Unit is precluded from fulfilling its charges. This same issue of confidentiality and lack of publicly available information would similarly apply to discipline of school employees that are handled locally since personnel files are confidential by law. Only discipline matters appealed to the State Board of Education would be public in that its decisions are available on its website. Given that few discipline cases are appealed, the Unit would, again, largely be prohibited from completing its charge to report on employee violations of policies, rules, or regulations.

The Commission and Unit created by SB 302 are not required to be led by individuals who possess any formal education policy or legal backgrounds; yet these appointees are granted powers to implement remediation plans and issue subpoenas. This is not oversight, this is overreach.

The politicization of school governance proposed by this bill aims to undermine trust in our public schools while creating redundant oversight processes that primarily serve the political agenda of the chief executive.

MSEA urges an unfavorable report for SB 302.