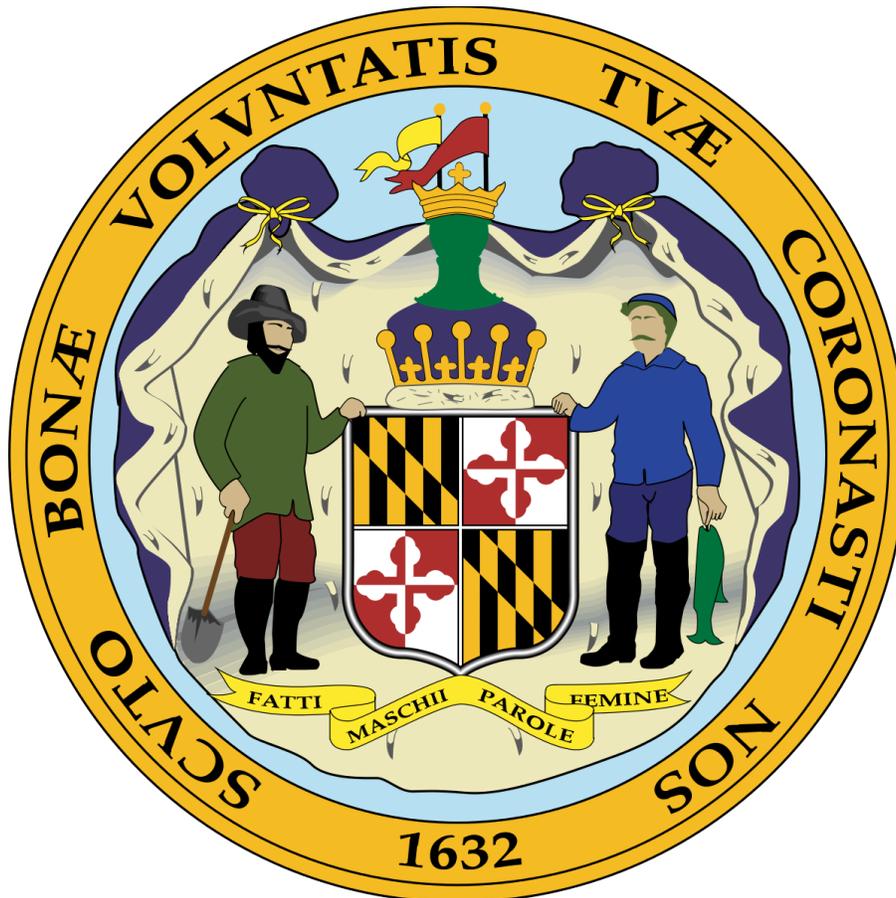


2018 Annual Report

Office of Education Accountability



Executive Summary

In the four months since the inception of the Office of Education Accountability, 287 contacts were made by public school stakeholders. These contacts are classified into five categories: safety, educational facilities, grading/graduation requirements, procurement/budgets, and other. This report provides an overview of the liaison activities commenced, case studies in the subject areas, supporting data, and recommendations. We emphasize the collaborative nature of the process to assist all participants towards resolution of concerns. As data continues to be collected, the office is committed to working with all parties to research and recommend policies to enhance public education in Maryland.

Table of Contents



Section 1 — Overview of the Office of Education Accountability	
A.Mission/Overview.....	4
B.Case Management Process.....	5
C.Executive Order.....	6-8
D. Meet the Staff.....	9
E. The Customer Service Promise.....	10
Section 2 — Contacts Received in 2018	
A. Analyzed by Category and School System.....	11
B. Analyzed by Role of Reporter and Reporting Method.....	12
Section 3 — Recommendations Related to Alleged Cases of Fraud, Waste, Abuse, or Unethical Conduct within Maryland’s Public School Systems	
A. School System Procurement.....	13
B. Grading and Graduation Requirements: Chronic Absenteeism.....	13-16
Section 4 — Goals and Priorities Indicated by a Periodic Assessment of Existing and Emerging Issues Affecting Maryland’s Public School Systems	
A. Safety Issues: Shortages of School System Staff including Nurse.....	16-17
B. Educational Facility Issues: Mold.....	17-19
C. Special Education Issues.....	19-22
Section 5 — Recommendations for Legislation to Enhance the Integrity and Accountability of Maryland’s Public School Systems	
A. Special Education Parent Observations.....	22
B. Universal Reading Screening.....	22
C. Maryland’s Investigator General of Education.....	22
Section 6 — Conclusion – Looking Ahead.....	23

Mission

The Office of Education Accountability promotes transparency, integrity, and accountability in school systems across Maryland by analyzing, coordinating, and providing recommendations on matters including public school safety, grading, graduation requirements, assessments, educational facilities, procurement and budgets.

Overview

The Office of Education Accountability was established by Executive Order 01.01.2018.21, which was signed by Governor Larry Hogan on September 4, 2018. Governor Hogan created the Office to serve as an independent watchdog to field and investigate comments, concerns, and allegations from the public regarding Maryland schools.

The Office of Education Accountability:

- Offers an electronic [tip line](#) to allow anonymous reporting of non-emergency issues;
- Maintains a database that tracks concerns and their resolutions;
- Provides outreach to parents, community groups, teachers and school staff members;
- Serves as a clearinghouse for concerns regarding school safety, safe and healthy classroom environments, procurement, budgets, assessments, grading, graduation requirements, special education, transportation and many other topics;
- Refers concerns to public school officials, Board of Education members, state agencies, departments and resources, as appropriate;
- Refers possible violations of criminal law to the Office of the State Prosecutor or State's Attorneys with jurisdiction to prosecute them;
- Receives and tracks allegations of violations of whistleblower protections for teachers who raise concerns;
- Identifies systemic concerns related to fraud, abuse, waste, and unethical conduct within Maryland's public school systems;
- Provides boards of education with recommendations, solutions, and strategies for improving Maryland's public school systems and communication between schools and parents;
- Facilitates responses by State units subject to the supervision and direction of the Governor (the "Executive Branch") to concerns about public school systems;
- Serves as a liaison between the Executive Branch and the Maryland State Board of Education and local boards of education

Case Management Process

The case management process has six steps, although some may repeat:

Intake

Once a tip is received via the tipline¹, e-mail or mail, it is reviewed and categorized. When tips are received over the phone, issues are identified, clarifying questions are asked, options are explored and notes are taken.

If it is an emergent threat to the safety and/or well-being of students or school staff, it is immediately shared with law enforcement and the Maryland Center for School Safety. Since the Safe Schools Maryland Tip Line was established in October, OEA's tipline website directs respondents to report emergent concerns about bullying, abuse, harassment, school and community violence, drug activity, or mental health crises to the Safe Schools Maryland Tip Line² or App. This language was added after meeting with MEMA and Office of School Safety staff about ensuring that constituents send emergent concerns to the most appropriate party. One consideration was that MEMA staff is on duty 24/7.

For all non-emergent tips, description of the issue and reporter information, if available, and is logged into the database.

Acknowledgement

If vital information is missing, the reporter is contacted to a) acknowledge the submission and b) request needed information.

If the reporter provided contact information, then OEA responds within 48 hours to acknowledge receipt and advise the constituent that OEA is looking into the concern. Many times this email includes a request for a specific document or clarification.

Research

OEA performs research into applicable policies, procedures or situations and then sends inquiries as needed.

Consultation/Referrals

OEA consults public school officials, Board of Education members, state agencies, departments and resources, as appropriate, to attempt to resolve the issue. The reporter is never identified unless he or she has given us permission to share his or her name as we make inquiries.

Possible violations of criminal law are referred to the Office of the State Prosecutor or State's Attorneys with the jurisdiction to prosecute them.

Communication of Proposed Resolution

Proposed resolution is explained to the constituent, including the plan of action and/or suggested proactive steps for the constituent to take.

Resolution

Log resolution and close complaint.

¹ <https://governor.maryland.gov/school-survey-form/>

² <http://www.safeschoolsmd.org/>



The State of Maryland

Executive Department

EXECUTIVE ORDER

01.01.2018.21

Accountability in Elementary and Secondary Education

- WHEREAS, There are widespread accountability concerns from parents, students, and teachers about public elementary and secondary education systems across the state due to repeated allegations of wrongdoing and mismanagement;
- WHEREAS, Confidence must be restored in Maryland's public elementary and secondary education systems;
- WHEREAS, Marylanders expect and deserve accountability from, better local management of, and the strongest oversight possible of their public elementary and secondary education systems;
- WHEREAS, Accountability in Maryland public elementary and secondary education systems is critical to implementation of the recommendations of the Commission on Innovation and Excellence in Education;
- WHEREAS, Maryland taxpayers spend more than \$6.5 billion a year on education;
- WHEREAS, It is the duty of the State to promote stable, safe, and healthy environments for children; and
- WHEREAS, There is a need for an Office of Education Accountability to ensure and promote open, ethical, and accountable public elementary and secondary education systems that will operate at maximum efficiency and integrity;
- NOW THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. The Governor's Office for Children shall:

1. Establish an electronic tip system to allow anonymous reporting of concerns about Maryland public elementary and secondary education ("public school") systems; and
2. Develop and maintain a database that tracks such concerns and their resolutions.

B. Office of Education Accountability.

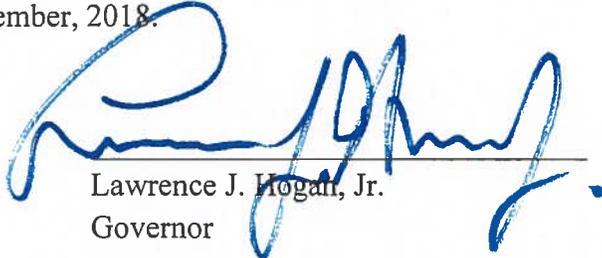
1. The Office of Education Accountability is hereby established within the Office for Children to enhance and promote integrity and accountability in Maryland's public school systems.
2. The Director of the Office of Education Accountability shall:
 - i. Provide outreach to students, parents, and teachers;
 - ii. Serve as a clearinghouse for concerns regarding public school safety, grading, graduation requirements, assessments, educational facilities, procurement, and budgets;
 - iii. Refer concerns to a public school official, agency, department, or resource as appropriate;
 - iv. Refer possible violations of criminal law to the State Prosecutor or State's Attorneys with jurisdiction to prosecute them;
 - v. Receive and track allegations of violations of applicable whistleblower protections for individuals who raise concerns about public school systems;
 - vi. Identify systemic concerns related to fraud, abuse, waste, and unethical conduct within Maryland's public school systems;
 - vii. Provide to the Maryland State Board of Education and local boards of education recommendations, solutions, and strategies for improving Maryland's public school systems and communication between schools and parents;
 - viii. Facilitate responses by State units subject to the supervision and direction of the Governor (the "Executive Branch") to concerns about public school systems; and

- ix. Serve as a liaison between the Executive Branch and the Maryland State Board of Education and local boards of education.
- 3. The Director shall serve at the pleasure of the Governor.
- 4. The Director shall be provided with adequate staff selected by the Governor.
- 5. Reports.
 - i. The Director shall report annually to the Governor, the President of the Senate, the Speaker of the House of Delegates, the Superintendent of Schools, and the Maryland State Board of Education with:
 - 1. recommendations related to alleged cases of fraud, waste, abuse, or unethical conduct within Maryland's public school systems;
 - 2. goals and priorities indicated by a periodic assessment of existing and emerging issues affecting Maryland's public school systems; and
 - 3. recommendations for legislation to enhance the integrity and accountability of Maryland's public school systems.
 - ii. The report shall be submitted no later than December 31 of each year.
 - iii. The Director may issue additional reports.

Given Under my Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 4th Day of September, 2018.



ATTEST:


Lawrence J. Hogan, Jr.
Governor


John C. Wobensmith
Secretary of State

Office of Education Accountability: Meet the Staff

Valerie M. Radomsky, Director, Appointed in September 2018



A lifelong resident of Maryland, Radomsky is a seasoned educator and experienced policy adviser who is utilizing her diverse professional background to improve accountability and transparency in Maryland's public schools.

Radomsky was raised in Baltimore County and graduated from Towson University, where she studied English Literature and Secondary Education. While teaching Language Arts at Franklin Middle School and English at Kenwood High School for Baltimore County Public Schools, Radomsky advocated for healthy environments conducive to learning for all students, teachers, and staff members.

In 2015, Radomsky was appointed Chief Advisor for Education Policy by Maryland Comptroller Peter Franchot. While conducting research on a wide range of policy issues and tracking the status of capital projects at education facilities, she built extensive relationships with teachers, students, parents, board members, and education advocates across the state.

Radomsky also served as Board of Public Works Coordinator for Comptroller Franchot. In this role, she reviewed and analyzed thousands of state contracts for compliance with Maryland procurement laws and regulations, as well as resolved constituent inquiries.

Barbara Krupiarz, Deputy Director, Appointed in December 2018

Krupiarz spent 15 years at the National Security Agency as a mathematician and environmental analyst, evaluating communication security and ensuring compliance with federal and state environmental laws and regulations.

Krupiarz's volunteer work began as her two boys worked their way through the public school system. Her passion for education advocacy—learned from her mother, a retired high school math teacher—was reignited. She became a strong advocate for children with special needs, advancing her knowledge in this area through Special Education Advocacy Training with the Council of Parent Attorneys and Advocates and as a Board member and Chair of the Howard County Special Education Citizens Advisory Committee.

Krupiarz was an appointed member of the Howard County Board of Education's Operating Budget Review Committee chartered to delve into details of the proposed Operating Budget and provide analysis and recommendations to the Board.

At the state level, Krupiarz has worked with legislators and stakeholders to develop education and accountability bills and was a founding member of a nonpartisan grassroots organization lobbying for legislation that would increase accountability in special education.

Michael Eisenberg, Executive Assistant, Appointed in December 2018

Born in Howard County, Eisenberg attended and graduated from the Howard County Public School System. Eisenberg enlisted in the Navy a year after graduating high school, attaining the rank of Petty Officer Second Class while serving as a Cryptologic Technician Technical on board the USS Gonzalez.

After his military service he attended Howard Community College, earning an associate's degree in Criminal Justice. Next he attended the University of Maryland, Baltimore County, earning his bachelor's degree in Political Science.

In 2015 Eisenberg began work as the Chief of Staff to Delegate April Rose, (District 5, Carroll County) who served on the Ways and Means Committee along with the Education Subcommittee in the General Assembly.

THE CUSTOMER SERVICE PROMISE

The State of Maryland pledges to provide constituents, businesses, customers, and stakeholders with services in the following manner:

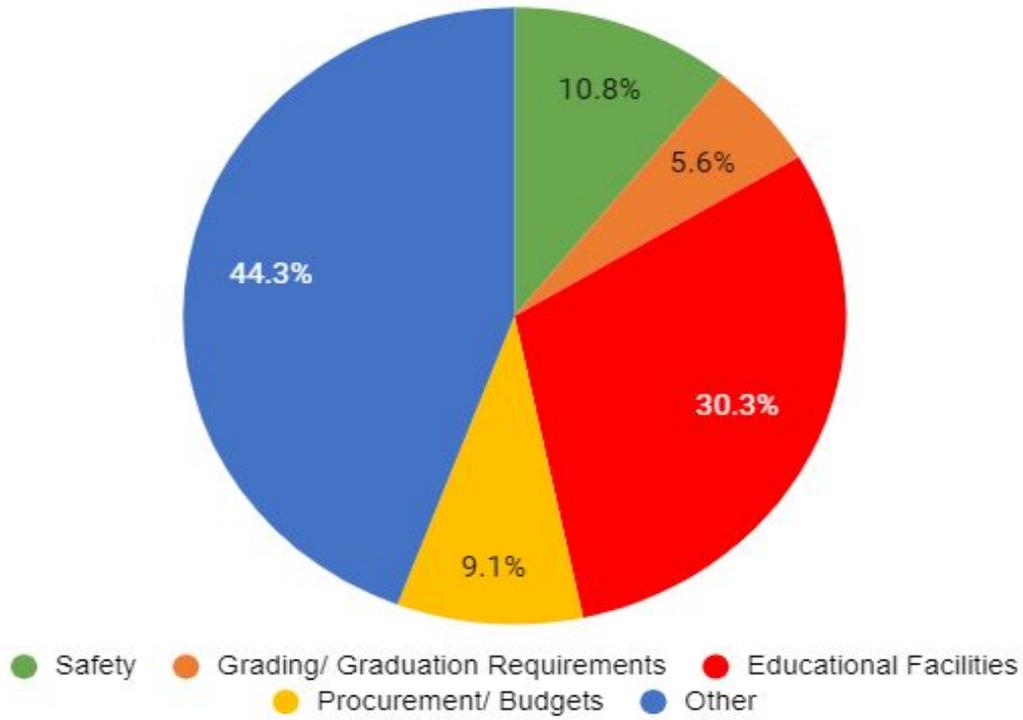
- **Friendly and Courteous:** We will be helpful and supportive and have a positive attitude and passion for what we do.
- **Timely and Responsive:** We will be proactive, take initiative, and anticipate your needs.
- **Accurate and Consistent:** We will always aim for 100% accuracy, and be consistent in how we interpret and implement state policies and procedures.
- **Accessible and Convenient:** We will continue to simplify and improve access to information and resources.
- **Truthful and Transparent:** We will advance a culture of honesty, clarity and trust.



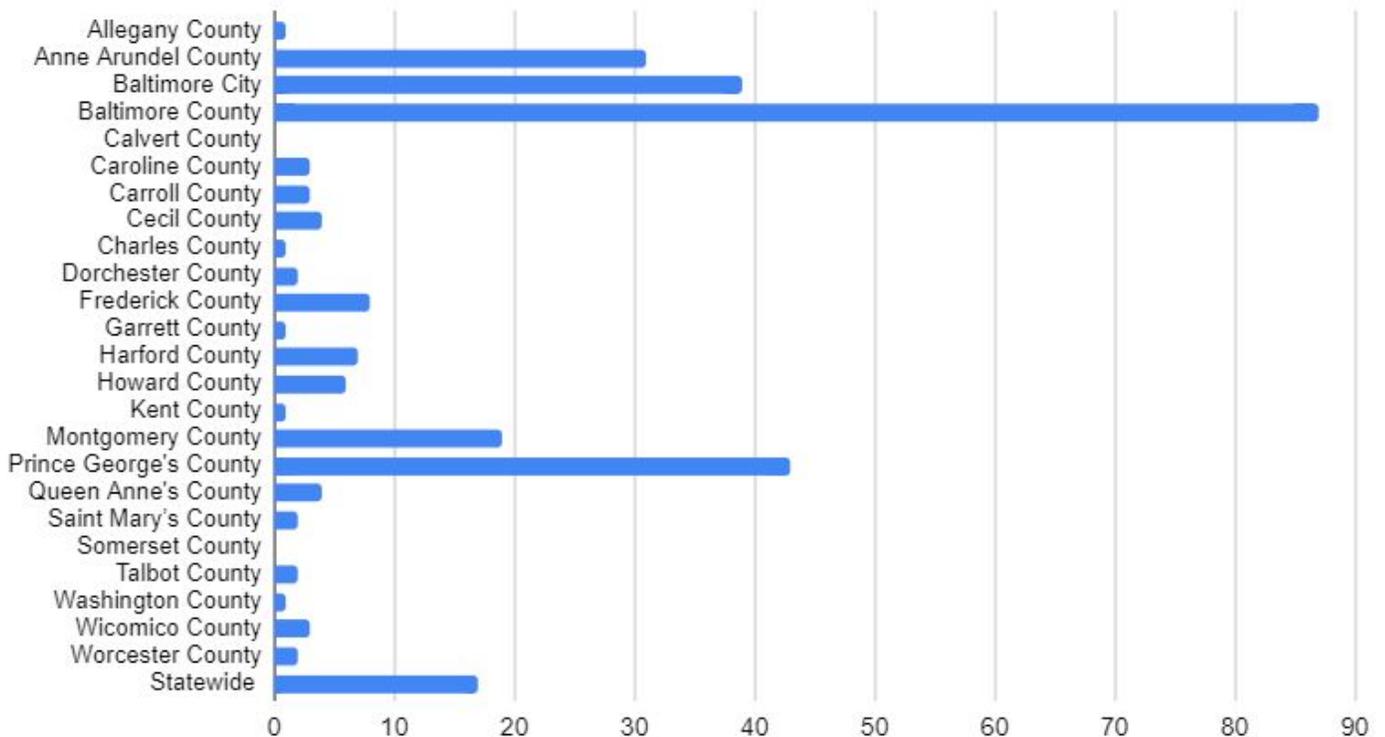
CHANGING
Maryland
for the Better

Contacts from September 12, 2018 through December 31, 2018

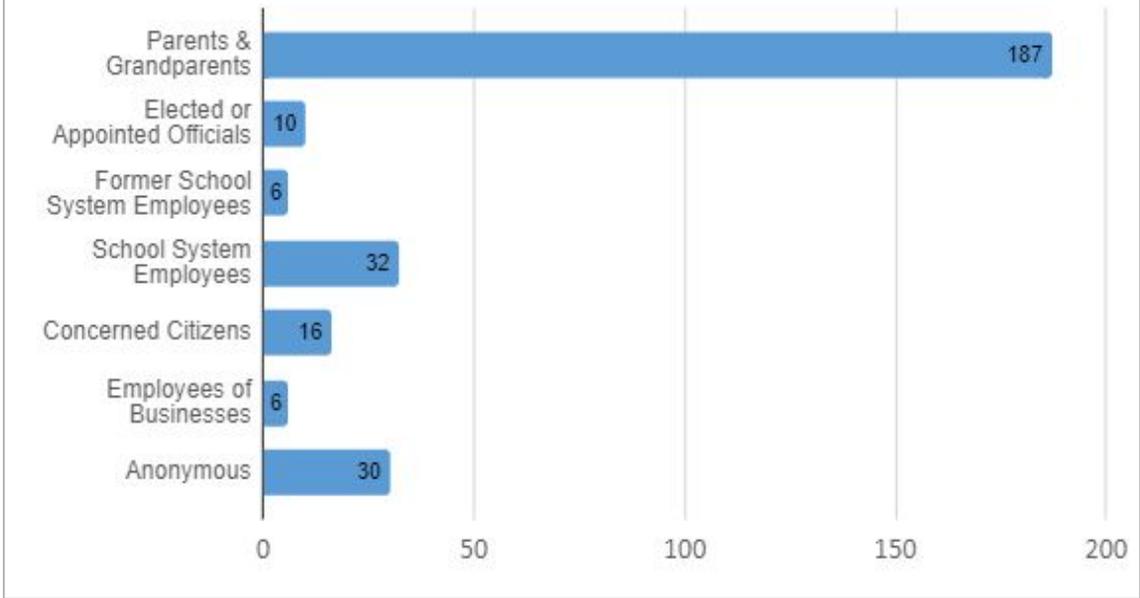
Number of Concerns by Topic



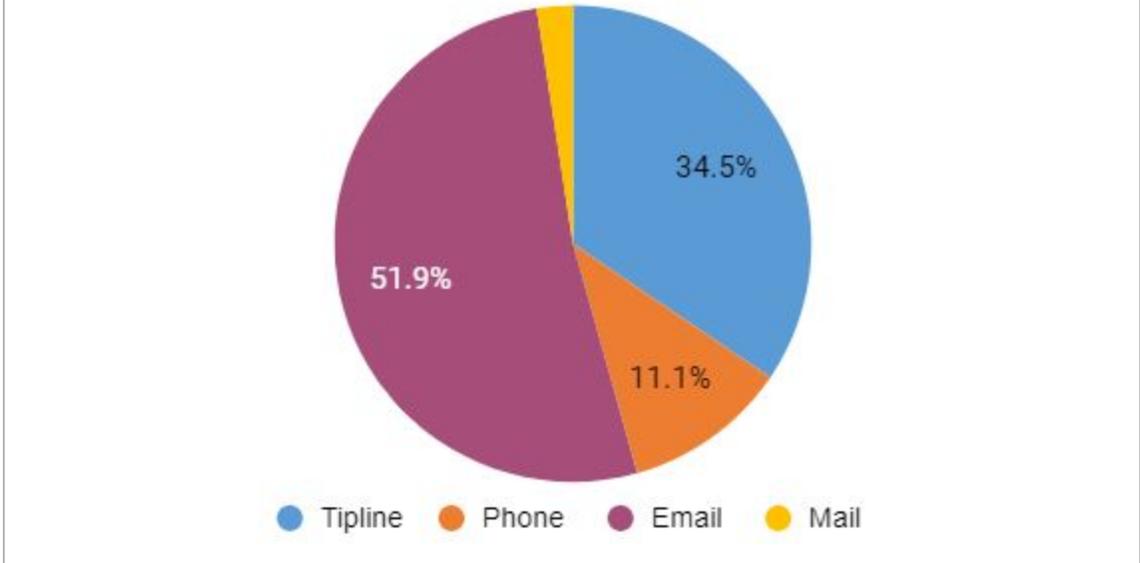
Number of Concerns Received by School System



Number of Concerns Received by Role of Reporter



Number of Concerns Received by Contact Method



Recommendations Related to Alleged Cases of Fraud, Waste, Abuse, or Unethical Conduct within Maryland’s Public School Systems

School System Procurement

The Office of Education Accountability has received six complaints from small businesses about local school systems’ failure to follow State procurement law. While working in conjunction with the Governor’s Office of Small, Minority & Women Business Affairs to resolve these concerns, it became apparent that several school systems are not complying with the State Finance and Procurement Article of the Annotated Code of Maryland, even though the Office of the Attorney General has confirmed that local boards of education are subject to those requirements, as well as those stated in Section 5-112 of the Education Article.

Presently the Office of Legislative Audits (OLA) conducts a financial audit of each local school system every 6 years, unless an exemption is granted. OLA is a branch of the Department of Legislative Services for the Maryland General Assembly and its audits of state agencies and local school systems “assist the General Assembly in its oversight responsibilities and lead to improved performance throughout State government.” The approved Operating Budgets of all 24 systems cost taxpayers in excess of \$13 Billion in 2018.

However, the fact that OLA identified 177 repeat findings from 2013 through 2018 shows that this process does not ensure that satisfactory progress has been made on all findings before the next audit begins. Even more troubling, school systems with repeat findings on procurement policies were granted exemptions from one audit by the Joint Audit Committee, which extends the time until the next audit from 6 years to 12 years in accordance with Chapter 261, 2016 Laws of Maryland.

Recommendations:

As opposed to waiting for OLA audit results to take action - sometimes years after the problem has occurred - Local Boards of Education should receive proactive training in all applicable procurement laws so they are able to develop, implement and ensure accordance with existing procurement policies that:

- Procure contracts/purchases of over \$50,000 through a competitive bidding process or document the justification of any sole source procurements;
- Limit the use the sole-source procurement method to those instances when a documented justification establishes that only one vendor can provide the goods or services;
- Address all categories of goods and services purchased, including procurement methods to be used;
- Establish best practices for the use of ICPAs that mandate the preparation of a benefit analysis, verification that the originating government agency procured the ICPA using a competitive procurement process, and the maintenance of ICPA agreements on file;
- Require all procurement solicitations or notices of award of greater than \$50,000 to be published on eMaryland Marketplace;
- Specific requirements for obtaining Board of Education approval;
- Guarantee that all procurements are conducted in a simple, fair, consistent, and impartial manner, that there is no impropriety and that all qualified suppliers have access to the school system’s business.

The Office of Education Accountability could design and deliver this training module to each school system, and then provide technical assistance to the school systems as they propose or revise procurement policies.

Grading and Graduation Requirements: Chronic Absenteeism

The Office of Education Accountability received 7 concerns about local school systems not enforcing attendance policies, or allowing students with excessive absences to earn credits and/or Maryland High School Diplomas. One parent from Wicomico County expressed disappointment that his son was able to graduate high school after an excessive amount of unexcused absences, which left him unprepared to meet the attendance requirements vital to success at his local community college.

The [2018 independent performance audit](#) of Prince George’s County Public Schools (PGCPS) that MSDE hired Alvarez & Marsal to conduct as a follow-up to the [2017 audit](#) raised concerns about attendance accountability while showing that PGCPS made significant progress implementing changes recommended by the previous audit. Out of 1,085 students selected as a sample from the 7,273 2018 graduates, Alvarez & Marsal found that 654, or 60.3 percent, of these students graduated despite excessive unlawful absences in one or more required course during their senior year. The report states that strict adherence to procedures “would have resulted in each of these students failing core courses, and most likely being ineligible to graduate.”

PGCPS has revised its attendance policy for the 2018-19 school year. Instead of failing courses as a result of five unexcused absences in a semester, or 10 in a year-long course, students now receive zeros for assignments when absences are unexcused. When the follow-up audit was discussed at the December 4, 2018 Maryland State Board of Education meeting, Board President Justin Hartings raised concerns about the high rate of student absences.

COMAR 13A.03.02.08 Grading and Reporting requires each local school system to develop a written policy on grading and reporting and to file its policies annually with the State Superintendent of Schools. In February 2018, when considering the need to strengthen this regulation, Dr. Karen Salmon collected the most recent grading policy for each of the local school systems and reviewed it for specific areas including grade changes, numerical value of a failing grade, impact of attendance on grades, and grade appeals by parent/guardian. According to “Local Grading Policies – Analysis³,” which was shared at the February 27, 2018 State Board of Education meeting, only 10 school systems besides PGCPS stated that students may, shall, or could be in danger of failing courses due to unlawful, illegal or excessive absences:

System	How Attendance Factors into Grading
Allegany County	Principals are authorized to withhold credit(s) for excessive absences or excessive tardiness.
Anne Arundel County	As of September 2017, truant students (students with more than 15 unlawful absences in a semester) may be in jeopardy of not receiving course credit.
Cecil County	A student is a habitual truant if the student is unlawfully absent from school for a number of days or portion of days in excess of 10 percent of the school days within any marking period, semester, or year. A student who is absent from school in excess of five days in any single marking period for absences which are coded as Unlawful Causes will receive a failing grade in all subjects for the marking period.
Charles County	Students in grades 9-12 who have two or more illegal absences in a course, during a quarter, will receive a failing grade for that course for the nine-week marking period.
Dorchester County	Students who accumulate more than 10 days of unlawful absences in a High School year-long course and 20 or more days in a Middle school course will receive a failing grade in that course.
Frederick County	A student may receive an unsatisfactory mark in grades 1-3 and a failing grade in grades 4-5 if there is an excess of five unlawful absences in a term. In middle and high schools, a student shall fail or lose credit if unlawful absences exceed 5 days in a term, 10 days in a semester or 20 days in a school year.
Howard County	N (No credit due to absence) codes will be used when a student is denied credit in a course due to excessive absences. Any high school student with absences constituting five percent (5 percent) or greater of a semester or a yearlong course will be considered for denial of credit. Courses with N codes will receive no credit, will count as a credit attempted, and will earn 0 quality points in the end-of-year GPA and cumulative GPA.

³ <http://marylandpublicschools.org/stateboard/Documents/02272018/TabJ-GradingPolicies.pdf>

Kent County	Any student who has been unlawfully absent from school in excess of 3 days in any single marking period will receive a failing grade in all subjects for that marking period. Parents will be notified when a student has any absences coded as unlawful.
Montgomery County	The policy states that “attendance and tardiness are not calculated in the grade,” but the Student Attendance regulation states that high school students with 5 unlawful absences in a class will automatically be notified to submit an appeal of the recording of their absences if they believe any absence was recorded incorrectly, or develop an attendance intervention plan with their school counselors/administrators. If a student does not complete either an appeal of recording or an intervention plan and/or continues to be further unlawfully absent, the student will be considered to be in danger of receiving a failing grade in that course.
Worcester County	High school students automatically fail a class with 11 unlawful absences. For a given subject, 5 unlawful absences during any one grading period shall result in a failing grade.

On December 4, 2018, The State Board considered and granted final approval of amendments to COMAR 13A.03.02.08⁴ governing requirements for local school systems to adopt grading policies and provide those policies annually to MSDE. The regulations specify the components of local policies and require annual audits by each local school system of the administration of their grading policies and the reporting of the results of the audits. The amended regulations include requirements that local school systems must incorporate into their grading and reporting policies, including: grading scales, calculation of final grades, explanation of weights for honors and other courses, how attendance factors into the grade, information on grade change procedures, and audit and appeal procedures. In explaining how attendance factors into the grade, the local school system can state that there is no direct impact on the grade for any number of legal or illegal absences.

Section 7-302.2 of the Education Article, Annotated Code of Maryland defines truant students as unlawfully absent for more than 8 days in any quarter, 15 days in any semester, or 20 days in a school year.

COMAR 13A.08.01.04 states that “A student is an habitual truant if the student is unlawfully absent from school for a number of days or portion of days in excess of 20 percent of the school days within any marking period, semester, or year” and allows local school systems “the prerogative of defining habitual truancy in a more but not less stringent manner.”

COMAR 13A.08.01.05 requires each local school system to develop a student attendance policy that includes standards for school attendance that “**may** identify a specific number of excessive or unlawful absences allowed within a marking period, semester, or school year” and “penalties for not meeting standards for regular attendance requirements include actions taken by school system staff when a student is unlawfully absent or accumulates an equivalent number of excessive or unlawful absences which exceeds the standard for regular school attendance.”

However, Maryland’s ESSA plan⁵ and federal reporting guidelines define a “chronically absent” student as “absent 10 percent or more school days during the school year in membership at least ten days.” Chronically absent students include students who are absent for any reason, including illness, suspension, or the need to care for a family member, regardless of whether absences are excused or unexcused. The chronic absenteeism measure in Maryland’s accountability system measures the percentage of students that are not chronically absent. Included in response to research on the impact of absenteeism and the importance of minimizing lost instructional time, it is part of the School Quality/Student Success indicator for grades K-12, and it has 15 possible points.

2018 Maryland School Report Cards data shows that 70 percent or less students were not chronically absent in 380 out of 1641 schools across the state. This means that 30 percent or more students were chronically

⁴ <http://www.marylandpublicschools.org/stateboard/Documents/12042018/TabF-13A.03.02.08GradingReporting.pdf>

⁵ <http://marylandpublicschools.org/about/Documents/ESSA/ESSAMDSUBMISSIONConsolidatedStatePlan091718.pdf>

absent in 23 percent of Maryland schools. No less than 50 percent of high schools across the state had 30 percent or more students who were chronically absent during the 2017-2018 school year.

2017 Maryland School Report Cards data⁶ shows that the statewide percentage of high school students absent more than 20 days had increased from 17 percent in 2014 to 22 percent in 2017 after falling from 21 percent since 2005. While some local school systems did not experience an increase from 2014 to 2017, such as Frederick County, which maintained a rate of 12.3 percent, several systems experienced large increases from 2014 to 2017, such as Montgomery County, 14.8 percent to 20.6 percent; Baltimore County, 16.2 percent to 24.4 percent; and Baltimore City, 40.6 percent to 53.5 percent.

Frederick County has had a policy in place⁷ that states that a middle and high student “shall fail or lose credit if unlawful absences exceed 5 days in a term, 10 days in a semester or 20 days in a school year.” In 2014 Baltimore County revised their attendance policy that stated “Unexcused absences, 10% or more, **will** result in failure for that marking period⁸” to “A student **may** be subject to a failing grade for the marking period when the student is absent from class due to an unexcused absence 10% or more of the class days during the grading period⁹.”

Recommendations:

In order to ensure the integrity of the Maryland State Diploma, the State Board of Education should consider asking MSDE to examine the correlation between chronic absenteeism and how local school systems factor attendance into grading. Factors contributing to chronic absenteeism should also be examined in order to elicit best practices for improvement.

Goals and Priorities Indicated by a Periodic Assessment of Existing and Emerging Issues Affecting Maryland’s Public School Systems

Safety: Shortages of School System Staff including Nurses

OEA has received multiple complaints about schools in Prince George’s County that lack school nurses or any certified health professionals, including outreach from administrative staff who have been required to administer prescription medication and decide whether or not to send sick students home early, as well as complaints received from parents of students with chronic health problems who require emergency care plans.

The Annotated Code of Maryland Education Article §7-401 requires each county board with the assistance of the county health department to provide adequate school health services, instruction in health education, including the importance of physical activity in maintaining good health, and a healthful school environment.

Additionally, in accordance with the Annotated Code of Maryland Education Article §7-401 School Health Program, the Code of Maryland Regulations (COMAR) 13A.05.05.05-.15 School Health Services Standards align with the laws for health and safety of youth and provide further guidance for the provision of adequate school health services in Maryland public schools. The service delivery model for school health services is a local decision between the local county board and the local health department. Thus, the models for the delivery of school health services vary across the state and may include the following staffing patterns:

- Registered Nurse (RN) only
- A mix of RN and Licensed Practical Nurse (LPN)
- A mix of RN and Certified Nursing Assistant (CNA)
- A mix of RN, LPN, and CNA

⁶ <http://msp2017.msde.state.md.us/AttendanceRate.aspx?PV=183:H:99:AAAA:1:N:0:13:1:1:0:1:1:3>

⁷ <https://apps.fcps.org/legal/doc.php?number=430>

⁸ http://holabirdms.bcps.org/UserFiles/Servers/Server_166585/File/Webmaster_Documents/Title_I_PIP/rule5120.pdf

⁹ <http://lochraventech.bcps.org/common/pages/DisplayFile.aspx?itemId=5522860>

In speaking with MSDE's Ombudsman, OEA was also provided with local points of contact, who had already spoken with the parent who had wished to remain anonymous. The Supervisor of the School Health Services Program provided the plan for nursing coverage that currently includes the following measures:

- Nurse Managers are responsible for a caseload of 27-30 schools. Each school has an assigned nurse manager who assesses the health needs at their assigned schools with nursing vacancies. A health care plan and/or an emergency care plan is developed by the nurse manager for students with chronic health conditions. This emergency care plan is shared with the appropriate school staff.
- Nurse managers may cover a school.
- School nurses may be temporarily assigned to more than one school (neighboring school).
- Substitute nurses are utilized.
- Contract nurses are utilized.
- School staff are trained by a Registered Nurse in the administration of Epi-Pens and other emergency procedures. Each school is provided with the "Guidelines for Emergency Care in Maryland Schools" to assist.

Prince George's County Public Schools also acknowledged the challenge in retaining nurses and providing coverage to schools. They are currently considering additional methods to employ to address their nursing vacancies and school coverage issues. OEA will continue to monitor the situation and work toward mitigating this threat to student health.

Recommendations:

Prince George's County Public Schools should utilize contract with staffing company in order to provide a health professional in every school while exploring solutions to address vacancies.

Educational Facilities: Mold

OEA has received 12 complaints about mold in a Prince George's County school and 27 complaints about mold in a Baltimore County school.

Parkville Middle School Case Study

Five days after OEA contacted Baltimore County Public Schools (BCPS) in November to report that 21 parents and teachers had contacted us to state that students and teachers had been experiencing symptoms such as exacerbation of asthma, shortness of breath, headaches, dizziness and rashes since the beginning of the school year, Parkville Middle School sent an email informing parents that mold reported by school staff was remediated in August and September 2018.

BCPS shared that Environmental Services staff investigated all reports and implemented remedial actions in accordance with established protocol, which included daily actions, such as cleaning and evaluations by operations personnel in the building and certified contractors under the direction of licensed professionals.

Since excessive rain causing high humidity conditions throughout the building was suspected of causing the environmental concerns, dehumidifiers were deployed to help reduce the humidity levels. Additionally, building system evaluations performed by qualified staff and contractors revealed openings of some of the unit ventilators to a damp crawl space area, and those openings were sealed the same day by contracted services.

OEA followed up to acknowledge the communication with parents and ask for results of environmental testing on behalf of two stakeholders who requested documentation of air sampling conducted as a follow-up to mold remediation that will allow their physicians to clear them to return to the building. BCPS replied that information regarding environmental testing would be forthcoming.

One month later, after several follow-up emails, BCPS replied that Industrial Hygienists conduct visual inspections when mold is suspected, assured OEA that this process has taken place at Parkville Middle School, and stated they are continuously monitoring the school. BCPS pointed out that, "There are no federal

or state protocols for testing mold; however, all indicators suggest that the issue has been resolved.” BCPS also asked OEA to divulge the names of the two stakeholders so that they can reach out to them directly to determine what information is needed for their return to Parkville Middle School.

OEA was recently informed that teachers on the Faculty Council filed a grievance with the BCPS area superintendent in December 2018 stating that: “The teachers believe there is mold in the building and have requested testing from the administration. To date no testing has occurred. The grievance seeks remedy for all similarly situated individuals be made whole in the same manner.”

According to the Environmental Protection Agency’s website, tens of thousands of schools across the country have successfully followed their “Indoor Air Quality (IAQ) Tools for Schools” guidance. EPA’s summary framework for the Tools for Schools program enumerates six key drivers for an effective IAQ program, which are:

1. Organize for success.
2. Communicate with everyone, all the time.
3. Assess your environments continuously.
4. Plan your short- and long-term activities.
5. Act to address structural, institutional and behavioral issues.
6. Evaluate your results for continuous improvement.

Two of the important key drivers where some local school systems appear to fall short are continual communication with all stakeholders and evaluating results following remediation. When school systems delay communication of moisture and mold issues with staff, parents, and students, they put human beings at risk for potentially long-term health effects. Parents have expressed seeking doctors’ diagnoses for their children for weeks and months without the knowledge of potential mold exposure. Thus, proper diagnosis and treatment are delayed, which can snowball into long-lasting health implications for the child or staff member. Teachers have expressed concerns that they have been discouraged from notifying parents of the potential existence of mold in their schools, causing increased physical symptoms for those with allergies and compromised immune systems, but also decreased morale among staff.

The EPA provides best practices for schools to manage the health of buildings and their occupants through the EPA “Tools for Schools”¹⁰ and “Mold Remediation in Schools and Commercial Buildings”¹¹ guidance. One of the factors used to determine the effectiveness of mold remediation is whether students and staff re-occupy the space without health complaints or physical symptoms. Therefore, in addition to formal notifications of health concerns by students and staff, continual data collection of trips to the nurse’s office and any ambulance calls for mold-related symptoms can be indicators of the need for further investigation.

Benchmarking Opportunity

Following significant criticism of the Howard County Public School System’s handling of mold-related issues in several of its schools by parents, staff, and the Board of Public Works, HCPSS launched a thorough and transparent process to regain stakeholder trust. Beginning with the hiring of a Certified Industrial Hygienist (CIH), Howard County developed an Indoor Environmental Quality (IEQ) process that should serve as a benchmark for school systems experiencing mold and other environmental concerns. Their process includes many of the recommendations of the EPA Tools for Schools guidance, in addition to steps that go beyond those recommendations.

The HCPSS IEQ process includes two sets of standardized walk-throughs per year, one by a group of stakeholders trained by school system staff to identify problem areas, the second by the CIH. All concerns documented by stakeholders are uploaded to the searchable IEQ database on their website. Also included on the website are searchable open and closed findings, industrial hygiene contractor reports, and archived data

¹⁰ <https://www.epa.gov/iaq-schools>

¹¹ <https://www.epa.gov/sites/production/files/2014-08/documents/moldremediation.pdf>

by school for previous years. Finally, each school has a link on its website describing the IEQ process and any results from investigations of IEQ concerns and drinking water sampling.

Recommendations:

Maryland public school infrastructure is aging and deferred maintenance costs continue to increase. Indoor air quality concerns by parents and teachers are also becoming a more prevalent issue for school systems. While mold spore sampling is an inexact science and schools lack standards for acceptable mold levels, there are guidance documents available to assist schools in maintaining healthy buildings, and therefore, healthy students and staff. We encourage districts to take advantage of these well-developed and widely-used tools for schools in their entirety.

Special Education Issues

Special education concerns fall into the “other” category in our reporting, but represented 79 of the contacts submitted to OEA. Concerns have been further broken down into the following categories.

Appropriate Educational Settings

The Education for All Handicapped Children Act, which later became the Individuals with Disabilities Education Act (IDEA), was passed by Congress in 1975. When Congress passed this law, it committed to cover 40 percent of the cost of educating special education students, numbering over 6 million in the United States today. However, federal funds have historically been in the 10-15% range, leaving the rest to the states and local governments. As such, local systems are left with the reality of inadequate funding coupled with their requirement to fully comply with all aspects of IDEA.

The foundation of IDEA is the development of an Individualized Education Program (IEP) for qualifying students with disabilities. The IEP outlines the accommodations, modifications, supports, and services to be provided to the student in accordance with federal and state laws. The individualized part of the program can sometimes prove to be a drain on resources for schools, but that does not relieve the school from its legal obligation. So, schools are left using the resources they have available and staff they have trained for a potential mix of students that could be detrimental to each other.

Parents have communicated their concern about the appropriateness of certain programs for their students that are not fitting for their disability, some even describing the significant harm their children are still experiencing after removal from such programs. One example is the placement of students with Autism Spectrum Disorder (ASD) in Emotional Disability (ED) programs. Although students with ASD and ED can both exhibit behavioral challenges, the antecedents to those behaviors can be considerably different.

Conversely, the definition of ED in federal regulations¹² include, but are not limited to, an inability to build or maintain satisfactory interpersonal relationships with peers and teachers, inappropriate types of behavior or feelings under normal circumstances, and a general pervasive mood of unhappiness or depression.

It is often said that special education is ‘service for children rather than a place where such children are sent.’ However, the appropriateness of the student’s educational setting is one that should be evaluated by educators and parents alike, working together in the best interests of the student.

Response to MSDE-Mandated Corrective Actions

When parents or guardians believe their student’s school is not complying with special education law, safeguards are formalized to give families mechanisms by which to resolve their disputes. One such

¹² The Code of Federal Regulations, Title 34, §300.8(c)(4)(i)

mechanism is a formal state complaint, for which the law requires certain timelines for MSDE to investigate and report its findings. Once those findings are presented to the school, there are also timelines provided for corrective actions to be undertaken. Parents have communicated that findings in their favor from an official state complaint have been very slow to commence, and in some cases, have not been initiated at all. Moreover, they believe compliance follow-up has been equally slow.

COMAR 13A.05.02.07, Compliance Review Activities, states that "[i]f a public agency has not implemented the corrective actions in the time and manner specified by the Department," MSDE shall "advise the public agency in writing that the corrective actions shall be implemented within a specified time frame to avoid further enforcement action" and "offer additional technical assistance to the public agency to assist in the implementation of the corrective actions."

If the above steps are taken and the public agency still has not implemented corrective actions, then MSDE may initiate sanctions, including redirecting, targeting, reducing or eliminating the use of funds allocated under IDEA Part B Discretionary funds; redirecting, targeting, withholding or reducing the use of funds allocated under IDEA Part B federal pass-through funds pending completion of the corrective actions; withholding or reducing State funds for special education services pending the completion of corrective actions; assigning MSDE staff on-site to assist in the completion of the corrective actions; and assigning a monitor to oversee the public agency's special education programs.

When MSDE finds a violation has occurred and compensatory services are required, but the school system still does not respond in a timely manner, parents and their attorneys continue to advocate for what is due to the student. Parents who are not financially able to hire an attorney are left to watch their child fall further behind.

Classroom Observations

It has been reported that parents, educational advocates, and attorneys have been denied the ability to observe their students with disabilities in the current classroom or prior to placing the student in a more restrictive program recommended by the school system.

Privacy rights for students are typically cited under the Family Educational Rights and Privacy Act (FERPA). However, FERPA protects a parent's privacy interest in his or her child's "education records." Education records under FERPA are "those records, files, documents, and other materials, which (i) contain information directly related to a student; and (ii) are maintained by an education agency or institution or by a person acting for such agency or institution, 20 U.S.C §1232 g (a)(4).

FERPA protects records and information derived from those records and would therefore prohibit a school from discussing a student's disability with another parent. However, simply observing a student in a classroom would not be a legal reason to preclude parent observation. With an abundance of caution, school systems who expect parents or their advocates to request classroom observations (such as in nonpublic schools, regional programs, separate programs for students with disabilities within the district) could and should develop an approval release for parents to sign to allow other parents to observe a potential placement or a current placement to ensure IEP compliance.

MSDE outlines principles for collaboration in "Maryland's PreK – 12 Family Engagement Framework: A Shared Responsibility"¹³ The principle of "Supporting Student Learning and Student Success" is realized by:

- Enabling shared decision-making
- Ensuring all families have opportunities to advocate for their own and other children
- Supporting transitions throughout the student's educational career

¹³ "Maryland's PreK – 12 Family Engagement Framework: A Shared Responsibility". Division of Student, Family, and School Support, Maryland State Department of Education.

<http://marylandpublicschools.org/parents/Documents/MDPreK12FamilyEngagementFramework2016.pdf>

- Using data to inform decisions
- Engaging community support

No one knows a student better than a parent and in order to make informed decisions to support academic achievement, parents or guardians must have sufficient access to information about the programs and services for their children.

Disability Training for Educators

Parents and staff have expressed concern over the lack of adequate special education training for special educators and general educators. When districts add more restrictive programs to schools without disability training for educators, students suffer as a result. Over 70% of Maryland’s special education students spend more than 80% of their day in general education classes. Thus, training general educators on disability awareness, behavior interventions, and instruction for students with disabilities is imperative for the provision of a Free Appropriate Public Education as required by IDEA.

The Kirwan Commission has used Massachusetts as a benchmark for public education. Educator training is an important factor in the provision of a world class education. Massachusetts law requires training in the following areas for both general and special educators:

- *the requirements of special education,*
- *analyzing and accommodating diverse learning needs of all students in the general education classroom, and*
- *methods of collaboration among teachers, paraprofessionals, and teacher assistants to accommodate diverse learning needs.*

Massachusetts school systems are also required to provide “*at least one workshop annually within the school district on the rights of students and their parents and guardians under state and federal special education laws.*”¹⁴

Certified Teachers Providing Specially Designed Instruction

Schools across the state rely heavily on paraprofessionals and other teacher aides to assist with the education of students with disabilities. The minimum education requirements for these support staff varies from district to district to include only a high school diploma, some coursework in instruction or behavior, an associate’s degree, or a bachelor’s degree. Parents have suspected that these support personnel are the staff providing the instruction required to be delivered by certified personnel per 20 U.S. Code §1412(a) (14) (A). In the last quarter of 2018 alone, there were 5 state complaints that found violations of the requirement to have specially designed instruction provided by or under the direct supervision of a certified special education teacher.

The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this subchapter are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

Recommendation

In addition to timelines for corrective actions provided in State Complaint letters of findings, we recommend MSDE produce and disseminate a schedule and hierarchy for sanctions for untimely responses to corrective actions. We further recommend the development of a statewide policy for observations of current and proposed placements of students receiving special education services so parents are true partners who can

¹⁴603 CMR 28.03(1).”School District Administration and Personnel,(1) General Responsibilities of the School District”. Massachusetts Education Laws and Regulations. <http://www.doe.mass.edu/lawsregs/603cmr28.html?section=03>

make informed decisions to advocate for their children. Finally, with the mandate of inclusion in federal law, it is crucial that general educators as well as special educators have the tools necessary to effectively provide a Free Appropriate Public Education (FAPE) to students with disabilities. Finally, with the goal of closing the special education achievement gap, we recommend the pursuit of high quality training for all educators, as prescribed by the Kirwan Commission.

Recommendations for Legislation to Enhance the Integrity and Accountability of Maryland's Public School Systems.

Special Education Parent Observations

When parents are told that a school cannot educate their child with a disability and request moving the child to a more restrictive environment, parent understandably would want to view the new school. In addition, if parents believe their child is regressing or not progressing in their current school environment, they may choose to observe the classroom. In many schools in Maryland, parents are being denied the ability to observe these classrooms.

A major principle of the Individuals with Disabilities Education Act (IDEA) is parental participation in their child's education. In fact, IDEA states:

"Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by... strengthening the role and responsibility of parents and ensuring that families ... have meaningful opportunities to participate in the education of their children at school and at home."

Universal Reading Screening

Many states have implemented universal reading screening for elementary school students rather than following the "wait to fail" de facto process that can occur. Screening young children for risk factors is a proven, cost effective, proactive measure to identify and provide scientific interventions for struggling readers. We have heard from 36 parents of students with dyslexia who believe their children have not been properly identified and provided the research-based interventions necessary for their success, some of whom are reading at an elementary school level in high school.

Maryland's Inspector General of Education

The Governor's Accountability in Education Act of 2019 would create an Education Inspector General charged with investigating complaints of unprofessional, improper, or illegal conduct on matters including procurement, education assets, graduation requirements, grading, education facilities, and school budgets. The Inspector General may also investigate complaints of unethical and improper conduct of individuals employed by the State Department of Education, by any county board of education, any appointed or elected member of a county board of education and any person or entity associated with the provision of products or services to the state department of education - or any school.

The Inspector General will be able to make inquiries and have the ability to obtain information by subpoena. The Office will also establish an anonymous electronic tip program, will protect whistleblowers, and will allow Maryland citizens to report any potential cases of wrongdoing, abuse, or unethical conduct.

Maryland citizens are losing confidence in the leadership of our education systems. Our children desperately need someone to fight for their civil rights and this Office puts in place the proper mechanism. Marylanders have a right to expect and deserve more accountability, better local management, and the strongest oversight possible.

Conclusion – Looking Ahead

During our first three months of work, we are honored to have been able to help school system employees, families, and concerned citizens reach resolutions in their individual cases.

In order to better serve the public, we also plan to add the following informational pages to the OEA website:

- How to identify and contact your board member
- How to identify and contact your legislators
- How to find applicable state laws and regulations
- Understanding the school construction funding process
- Glossary of education lingo and abbreviations

As we look ahead, we will be working to engage more stakeholders across the state through outreach and build relationships with members of local boards of education and the State Board of Education.

In addition, we will be collaborating with the Governor's office to pass a bill creating a statewide Education Inspector General, as well as continuing to work with advocates to get their voices heard by the Maryland General Assembly.