



**Testimony for the House Ways and Means Committee
March 7, 2016**

**HB 1343 – Maryland Education Credit
OPPOSE**

The ACLU of Maryland opposes HB 1343 and urges an unfavorable report.

The ACLU of Maryland opposes HB 1343 on four main grounds: first, this bill will take money from the State general fund, money that could otherwise go to public schools that desperately need it. Second, this bill is simply a clever way of funneling more state dollars to private schools¹—on top of the monies private schools already receive from the State. Third, private schools are not required to abide by the same hard fought prohibitions against discrimination that public schools do. Finally, this system would entangle the State of Maryland in funding religious schools, creating an unnecessary entanglement of church and state.

The State has an obligation to adequately fund public education.

The Maryland Constitution mandates that the state provide an adequate education to Maryland public school students. Our Constitution does not establish a mandate to fund the private choices of citizens to opt out of the free public school system provided for the benefit of all the children of Maryland. HB 1343 would allow up to \$15,000,000 to be taken from the General Fund every year. That is millions of dollars that will not be available to public schools or any other budgetary need of the state. The State should not be diverting millions to private schools to a thinly veiled voucher system when public schools are facing millions of dollars in need.

HB 1343 is simply another way to give more state dollars to private schools, which operate with little oversight by the State.

The state already funds private schools under the Aid to Non Public Schools Program in the Operating Budget, under the Aging Schools Program in the Capital Budget, and in the many individual grants given to private and religious schools through the budget. Businesses that want to make donations to non-profit scholarship foundations to benefit private and religious schools can already take a tax deduction. This bill would establish a tax CREDIT that deprives the General Fund of taxes they would otherwise pay.

It is concerning that the state would allocate additional funds to go to private and religious schools when there is little oversight of the current program. MSDE reports they can only audit 10% of the schools receiving the textbook money a year. A quick skim of these schools immediately brought up one school that isn't even qualified to participate. Under the budget, only schools that charge at or less than the per-pupil average cost of instruction (\$14,637) are allowed to participate. Yet Our Lady of Good Counsel High School charges \$19,550, and still receives textbooks from the state.²

¹ While the bill purports to apply to public schools as well, note that public school advocates are opposed to this bill.

² <http://www.olgchs.org/page.cfm?p=402>

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Furthermore, only a fraction of poor or under-served children benefit from the current textbook program. MSDE reported that in 2014, 351 schools received funding under the textbook program. Only 90 of those schools self-reported that they have 20% or more students eligible for the Free And Reduced Meal program. Yet in 2014, a mere 23 schools reported actually serving Free And Reduced Meals.

Private and religious schools are not subject to the same state civil rights laws that protect public school students and teachers from discrimination.

The ACLU has received calls from potential legal clients who report children or teachers being asked to leave/fired from private religious schools based on their sexual orientation. The ACLU has not been able to help these students and teachers because these private, religious schools are not required to serve everyone - they can discriminate without fear of legal repercussions.

While we appreciate that HB 1343 attempts to address this issue by including that eligible schools must comply with Title 20, Subtitle 6 of the State Government Article and that they do not discriminate in student admissions on the basis of race, color, national origin or sexual orientation, this simply is not sufficient. State Gov. §20-604 explicitly allows religious schools to discriminate on the basis of sexual orientation. That is, these schools that want public money are allowed – under law – to fire or refuse to hire lesbian and gay teachers.

As for the students, they are not protected either. First, the school is only prohibited in discriminating in admissions. Discipline, suspension, expulsion, bullying – all of the protections public schools provide for their students – are not provided for in HB 1343. Second, children are not protected based on ethnicity, gender identity, language, or disability. Third, if a school does discriminate in admissions based on one of the four listed categories, the student has no remedy. There is nothing that student can do if he or she is refused admission based upon a protected category.

HB 1343 entangles church and state

Finally, in nearly any imaginable form, this bill diverts general funds to private schools, the primary beneficiaries of which are religious schools with religious curriculum, entangling the state in promoting religious education. Several schools that receive textbook funds from the State³ – that now would be eligible for further funding under this bill – use fundamentalist Christian Protestant religious textbooks that state that traditional African religions are “false religious beliefs”, call Islam a “false religion”, insult Roman Catholicism and call the early Roman Church a “monstrous distortion of Biblical Christianity”, and call Hindus “evil” and “pagans.”⁴

Furthermore, the student assistance organizations themselves are largely religious. A quick skim of other states with tax credit programs reveals a large number of religious organizations acting as these assistance organizations – and thus themselves receiving

³ <http://www.broadfording.com/page.aspx?id=290596>, <http://www.bethelchristianacademy.com/curriculum.html>, <http://www.cca4100.info/#!/parentstudent-handbook/c23iu>, <http://www.fcamd.org/academics>, to name a few.

⁴ http://www.rethinkingschools.org/special_reports/voucher_report/v_into162.shtml

monies under this type of arrangement.⁵

Tax dollars from Maryland citizens, who have varied religious beliefs, or none, should not support private schools that were established for the very purpose of promulgating their religious beliefs.

For the foregoing reasons, we urge an unfavorable report on HB 1343.

How “BOAST/MEC” Abandons Maryland’s Educational Funding Policy

	Public Schools	Private Schools/ MEC
Funding Based upon:		
• Enrollment	√	No
• Number of students in poverty	√	No
• Number of students in special education	√	No
• Local wealth	√	No
Accountable for:		
• Student performance	√	No
• Student retention	√	No
• Student graduation rates	√	No
• Student demographics and achievement gaps	√	No
• Special education	√	No
• No Child Left Behind	√	No
• Discipline and suspension policies	√	No
• Educating every student regardless of income, disability, religion, and achievement	√	No
• No religious doctrine with state funds	√	No
Local funding required	√	No

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⁵ See, e.g., www.newpa.com/opportunity-scholarship-organizations/#axzz428o1UT7E; www1.ctso-tuscon.org/faq

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