



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

March 3, 2022

**HB 850
Schools, Prekindergarten Programs, and County Boards of Education -
Discrimination**

House Ways & Means Committee

Position: OPPOSE

The Maryland Catholic Conference offers this testimony on behalf of the families of approximately 50,000 students served by more than 150 PreK-12 Catholic schools in Maryland in OPPOSITION to House Bill 850. The Conference represents the public policy interests of the three (arch)dioceses serving Maryland, the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders.

House Bill 850 places requirements on public and nonpublic schools that are not currently in law and frustrate day-to-day operational practicalities in both educational forums. It does not define “discrimination”, making for an overbroad and vague concept within the bill.

This bill is also unnecessary relative to nonpublic schools, as stringent and effective nondiscrimination protections already placed in state programs for those schools and they are working. This bill is a clear attempt to challenge conscience protections for faith-based schools participating in state programs. Catholic schools have complied with all state and federal nondiscrimination provisions and comply with every requirement already placed up them through state-funded programs.

Additionally, creating “disability” as a protected class against “discrimination” does not account for the fact that not all schools, whether public or nonpublic, can accommodate each student, as to do so would be to the student’s detriment if a school was not equipped to accommodate them. In fact, public schools that cannot accommodate students with particular disabilities often have to place those students with nonpublic providers.

Lastly, this bill does not provide First Amendment Free Exercise Clause protections for nonpublic schools, of which the majority are faith-based. This bill could unconstitutionally force many faith-based schools to abandon exceptions for religious entities already placed in law by forcing them to choose between participating in an otherwise available state benefit for their students or remaining a religious institution. The exception for religion in the bill is merely curriculum-related and wholly insufficient.

The majority of states in the U.S. provide assistance for nonpublic school students and families. However, other state programs do not subject schools to requirements such as those put

forth by House Bill 850. Moreover, since 1965, the federal Elementary and Secondary School Act (n/k/a the Every Student Succeeds Act or ESSA) has provided for the equitable inclusion of nonpublic school students in federal education programs without imposing government regulations like those promulgated by House Bill 850.

This legislation will deprive children, many of them from minority, low-income families, of the benefits of state programs that make their school day better and more productive. This bill is detrimental to more than 80,000 of the 120,000 preK-12 nonpublic school students in the state whose schools are eligible for the longstanding Nonpublic Student Textbook Program (approximately 400 schools), and nearly 200 schools that participate in the DeGrange Nonpublic Aging Schools Program. To even greater detriment, the bill would effectively take away scholarships from thousands of FARMs-eligible, low-income, state scholarship recipients, the majority of who are minorities and/or English language learners.

For each of the aforementioned reasons, we request this committee to report unfavorably on House Bill 850.