
CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW
EBONY M. THOMPSON, CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

February 5, 2025

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 25-0002 – Study and Report – Absences in Baltimore City
Schools

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 25-0002 for form and legal sufficiency. The bill is for the purpose of requiring the Baltimore City Public School System (“City Schools”) to prepare a report exploring the causes of student absences to better identify solutions to address the most persistent barriers students face to attending school; requiring City Schools to collaborate with certain City agencies to propose recommendations to address the root causes of unexcused absences found in the report; and providing for a special effective date.

The Mayor and City Council of Baltimore cannot require City Schools employees to create a report exploring the causes of student absences or to collaborate with certain City agencies. Section 4-302 of the Education Article of the Maryland Code and Section (30) of Article II of the Baltimore City Charter authorize the Mayor and City Council of Baltimore to establish and maintain a system of free public schools subject to the applicable provisions of the Education Article of the Code of Maryland. Section 4-303 of the Education Article of the Maryland Code establishes the Baltimore City Board of School Commissioners (“BCBSC”) to oversee the operation of the Baltimore City Public School System.

“Under Maryland law, the City of Baltimore exercises no supervisory authority over City Schools or its employees; rather, these powers are vested in BCBSC.” *Gaskins v. Baltimore City Public Schools*, No. JKB-15-2961, 2016 WL 192535, at *6 (D. Md., 2016); *see also* Md. Code, Educ. § 4-303(d) (“The board shall have the authority and be responsible for *all functions* relating to the Baltimore City Public School System....Notwithstanding any provision of local law...the board may adopt rules and regulations and prescribe policies and procedures for the management, maintenance, operation, and control of the Baltimore City Public School System.” (emphasis added)). Similarly, the Mayor and City Council cannot require employees in the Office of the

State's Attorney for Baltimore City to collaborate with City Schools or certain City agencies. Md. Const. art. V, § 9 ("The State's Attorney shall perform such duties and receive such salary as shall be prescribed by the General Assembly.").

While City Council lacks the authority to require a report from City Schools, City Schools may provide this report voluntarily and City Council may invite City School representatives to share their findings at a City Council hearing. The City Council has an inherent power to investigate "in furtherance of its legislative function." 4 McQuillin Mun. Corp. § 13:7. A resolution is an appropriate way for the City Council of Baltimore to conduct an informational hearing. *See, e.g., Inlet Assocs. v. Assateague House Condominium*, 313 Md. 413, 428 (1988). The City Council of Baltimore has the authority to require City agencies to collaborate with City Schools representatives to propose recommendations to address the root causes of unexcused absences found in the report. Section 2(a) of Article VII of the Baltimore City Charter allows for ordinances to give additional duties to "a department, officer, commission, board or other municipal agency" so long as those duties are "consistent with the Charter and subject to the supervision of a superior municipal officer or agency."

Additionally, there are both grammatical and substantive errors in Section 1(c) of the bill, notably verb tense consistency across the section as well as in the requirement that City Schools identify "a sample of schools to *perform data collection during the fall semester of 2024*...including implementing a data collection plan with sample schools", which is not feasible since Fall 2024 has already passed. City Council Bill 25-0002, Section 1(c)(2) (emphasis added). If City Council Bill 25-0002 were amended to invite representatives from City Schools to prepare a report and share the findings with the City Council of Baltimore, the Law Department could approve this bill for legal form and sufficiency.

Sincerely,



Desiree Luckey
Assistant Solicitor

cc: Ebony Thompson, City Solicitor
Nina Themelis, Mayor's Office of Government Relations
Hilary Ruley, Chief Solicitor
Ashlea Brown, Chief Solicitor
Michelle Toth, Assistant Solicitor