

MARYLAND ASSOCIATION OF BOARDS OF EDUCATION



2017 LEGISLATIVE POSITIONS

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MABE 

Maryland Association of Boards of Education
2017 Legislative Positions

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2017 Legislative Positions

Introduction

On behalf of the Maryland Association of Boards of Education (MABE), representing all 24 local boards of education in Maryland, I thank you for your support for public education and respectfully request your consideration of MABE's positions on legislative issues. Founded in 1957, MABE is a private, non-profit organization to which all the school boards in the State voluntarily belong. MABE challenges, leads, and assists local boards to create and maintain excellent public schools for all of Maryland's children.

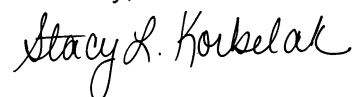
MABE is uncompromisingly committed to the academic success of all students. Just as local boards of education are the primary voice for public education at the local level, MABE is the primary voice for local boards in the State of Maryland. MABE represents the local school board point of view to the General Assembly and State Board of Education and therefore monitors and adopts positions on pending legislation and regulations affecting public education. The Advocacy sections of MABE's website, www.mabe.org, provide information on MABE's advocacy before the General Assembly, State Board of Education, and federal government.

MABE's top priorities for the 2017 Legislative Session include:

- **Support for continued governance autonomy for local boards of education to set education policy and school budgets which provide educational benefits for all students; and opposition to unfunded mandates** - MABE supports continued autonomy for all local boards to adopt education policies that promote high standards for academic and fiscal accountability. Therefore, MABE opposes any executive, legislative or regulatory initiatives which would have the effect of reducing local board governance or budgetary authority, or which create unfunded mandates.
- **Support for full State funding for Maryland's outstanding public schools** - MABE urges the Governor and General Assembly to support increased funding of public education in the FY 2018 State Budget. Local boards of education are committed to preparing all students to be globally competitive in college and careers. Increased state investments in public education are essential in these times of rapid change, rising expectations, and increased costs.
- **Support for robust State funding for school construction and renovation projects** - MABE places a high priority on providing students high quality, equitable, healthy and safe learning environments. Therefore, MABE urges the Governor and General Assembly to support increased investments in school construction and renovation projects. MABE requests an FY 2018 school construction budget of at least \$350 million to support local boards in providing optimal learning environments to prepare our students to be college and career ready.
- **Support for sustained local government investments in education** - Funding from Maryland's 23 counties and Baltimore City plays a critical role in combination with state and federal funding to support teaching and learning. Therefore, MABE strongly supports the maintenance of effort reforms enacted in 2012 to guarantee stable local investments in public education.

On behalf of all 24 local boards of education, MABE looks forward to your support for MABE's legislative priorities in 2017. If you have any questions regarding MABE's legislative positions, please contact MABE's Director of Governmental Relations, John R. Woolums, Esq., at (410) 841-5414 or jwoolums@mabe.org; or me, at stacy.korbelak@aacps.org.

Sincerely,



Stacy Korbela, Chair
MABE Legislative Committee

LOCAL BOARD OF EDUCATION GOVERNANCE

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** local board governance of education policy and administration, and believes that this principle is fundamental to an effective system of public education that promotes high standards of academic and fiscal accountability.
- ✓ **Supports** local board control of, and accountability for, appropriations of the school system budget.
- ✓ **Supports** adequate and equitable state funding for state mandated programs and policies, and that local board governance autonomy and flexibility are respected in funding decisions.
- ✗ **Opposes** executive, legislative, and agency actions and proposals which would have the effect of reducing or circumscribing local board authority or creating unfunded mandates.

BACKGROUND

MABE believes the principle of local governance by boards of education is fundamental to a sound system of public education; and that a sound system of public education is fundamental to sustaining the well-educated citizenry essential to a flourishing democracy. By retaining decision-making authority at the local level, local boards of education can best balance educational practices, available resources to implement those practices, public input, and academic and financial accountability.

Maryland statute provides that “educational matters that affect the counties shall be under the control of a county board of education” and that local boards “determine, with the advice of the county superintendent, the educational policies of the county school system.” Local boards of education exercise this governance authority in compliance with state and federal laws and in conjunction with the State Board of Education, which adopts statewide regulations and policies in accordance with state and federal statutory authority.

Each local board plays a vital role in governing the local school system and engaging local communities and promoting participation by parents and other community members in the education process. Local boards are the primary advocates for local, state and federal funding to support the teaching and learning of students and efficient and effective school system administration. Through MABE’s board development program and other professional development activities, each board is striving to continuously improve its ability to govern in a manner that best meets the needs of all students in the local school system.

Local governance authority of boards of education in Maryland and throughout the nation is often challenged by state, federal and private sector initiatives. In Maryland, when state initiatives impose new requirements on local school systems, the legislature and State Board have typically engaged in collaborative development and implementation of new programs and services. MABE appreciates the strong historical record of the General Assembly and State Board’s recognition and support for the governance role of local boards.

In 2016, the Governor issued executive orders intruding upon the education policymaking authority of the State Board of Education and all local boards regarding the local board adoption of school year calendars and the State Board’s waiver criteria. The Attorney General’s office advised that Maryland’s Court of Appeals would likely find such action outside the Governor’s authority and within the State Board’s “comprehensive” and “exclusive” power over educational policy and public school administration. Again, MABE believes the education policymaking roles of the State Board and local boards should be preserved, and that executive and legislative initiatives should be developed and implemented collaboratively.

For additional information, see [MABE’s Resolution on Local Board Governance Authority](#).

STATE EDUCATION FUNDING

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** sustaining full funding for public education in the FY 2018 State Budget, including the Geographic Cost of Education Index (GCEI) and inflation factor, to support the successful administration and operation of local school systems and the teaching and learning of the more than 870,000 public school students across the state.
- ✓ **Supports** legislative and funding recommendations, including those of the Commission on Innovation and Excellence in Education, consistent with updating and enhancing the funding provided by Maryland's nationally recognized standards-based school finance system.
- ✗ **Opposes** any effort to reduce state funding and/or shift funding responsibilities from the state to county governments.

BACKGROUND

Maryland is now embarking on the next phase of education funding reform, building on the recommendations of national experts, through the newly formed Commission on Innovation and Excellence in Education. The new education funding adequacy study conducted by national experts recommends a \$1.9 billion increase in state aid for public education. This increase represents the commitment Maryland should make in order to fully and equitably fund a high quality public education for all of Maryland's more than 870,000 prekindergarten through 12th grade students.

Specifically, the experts conclude the current amount of per pupil funding is inadequate for all students, and in need of significant additional per pupil increases for students receiving special education services. The study further recommends increased access to high quality prekindergarten programs. These recommendations address MABE's longstanding support for additional resources in these critical areas of need.

The adequacy study is grounded in the fact that school systems are implementing Maryland's College and Career Readiness Standards; a reform movement which is requiring major local investments in curriculum, assessments, educator evaluation systems, professional development, and technology. These new and significantly higher learning standards have already been adopted in mathematics, reading and English language arts, science, and other subjects. MABE believes Maryland's school systems, educators, and students deserve the resources needed to meet these standards. The work is underway but State funding has not kept pace.

The Maryland State Constitution places a high priority on public education by requiring the General Assembly to "establish a thorough and efficient system of free public schools" and to "provide by taxation or otherwise for their maintenance." In 2002, the legislature enacted the Bridge to Excellence in Public Schools Act which resulted in a \$1.6 billion increase in state funding, phased in through FY 2008. This landmark law restructured the education financing system to enhance the adequacy, equity, flexibility and accountability of state public school funding.

Since 2008, state education funding has remained relatively flat. Key programs such as the GCEI have not been fully funded; and new unfunded mandates and cost shifts have negatively impacted local school system and county government budgets. MABE will vigorously oppose any effort to reduce state funding and/or shift funding responsibilities from the state to county governments; actions which would reduce levels of education programs and services for students, and erode the state's progress toward an adequate and equitable education for all students in Maryland's public schools.

For additional information, see [MABE's Resolution on Adequate and Equitable Education Funding](#).

SCHOOL FACILITIES FUNDING

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** a state funding level of at least \$350 million for school construction and renovation projects for FY 2018 to provide the State's share of approved projects to build, renovate, and improve school facilities throughout Maryland.
- ✓ **Supports** improvements to the state school construction program, including recommendations of the 21st Century School Facilities Commission, consistent with MABE'S adopted resolutions and legislative positions.
- ✓ **Supports** the pursuit of innovative funding policies and strategies to maximize the capacity of State and local bonding authority in support of school facility project funding.
- ✗ **Opposes** any State mandated school sizes for schools, or other proposals which limit local authority over school facility design, construction, maintenance, procurement or operations.

BACKGROUND

For MABE and Maryland's 24 local school boards, the mission to provide all of Maryland's students with high performing school facilities conducive to learning is a top priority. The Maryland Constitution requires that the State provide a "thorough and efficient" system of public education. MABE believes that this includes the duty to equitably provide safe, high quality school facilities in which all students can learn.

State and local governments share public school construction costs on a basis that varies depending on the local jurisdiction's taxable wealth. The State's share of eligible project costs varies from 50% to 100%. However, because architectural, engineering, site development and other costs are ineligible for State funding, local jurisdictions actually pay a larger share of project costs than these percentages indicate.

The Task Force to Study Public School Facilities in 2002 found significant underfunding of critical school facility needs and resulted in legislative and regulatory changes. Reforms enacted in 2004 enhanced opportunities to use alternative financing methods to fund projects and adopting the goal of providing \$250 million per year in state funding. Today it is widely recognized that \$350 million per year better reflects the base amount of the state share of the costs of construction to meet school facility needs.

For MABE, key areas of concern include rising costs of construction, unmet demands for new construction and renovations to upgrade aging schools and increase capacity, and escalating costs of deferred maintenance. Other cost drivers include Maryland's prevailing wage requirements and Leadership in Energy and Environmental Design (LEED) standards. MABE supports optimizing local flexibility to achieve cost savings and efficiencies through alternative methods of project delivery, alternative financing, and cooperative purchasing.

In 2016, the Speaker of the House and President of the Senate established the 21st Century School Facilities Commission to: review existing educational specifications; identify best practices and efficiencies from the construction industry; identify a long-term plan for jurisdictions with growing or declining enrollment; identify innovative financing mechanisms including public-private partnerships and alternatives to general obligation debt; and evaluate the appropriate role for state agencies in the school construction process.

MABE appreciates the State's investments in the annual capital budget and past investments of \$25 million for energy efficiency projects, \$25 million for school safety projects, and \$25 million for HVAC projects. In addition, the legislature enacted an initiative to provide more than \$1 billion in state and local funding for school facilities in the Baltimore City Public School System over a ten-year period. These initiatives demonstrate the State's commitment to investing in high quality school facilities for all students.

For additional information, see [MABE's Resolution on School Facility Funding](#).

LOCAL FUNDING & MAINTENANCE OF EFFORT

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** the maintenance of effort law enacted in 2012 because it provides for a legally enforceable minimum amount of local funding, allows for multiple exceptions and waivers, and provides reasonable state and local mechanisms to increase education funding.
- ✗ **Opposes** legislation to provide additional school budget authority to local governments or weaken the maintenance of effort law enacted in 2012.

BACKGROUND

MABE places the highest priority on ensuring sustained local government investments in public education in accordance with the state “maintenance of effort” (MOE) law. Maryland’s twenty-four local school systems are fiscally dependent on state funding, provided primarily through statutory formulas on a per pupil basis; and local government funding, provided in accordance with a statutory “maintenance of effort” provision that requires each county government, including Baltimore City, to provide on a per pupil basis at least as much funding for the local school system as was provided in the prior fiscal year.

Statewide, local funding provides nearly 50% of total education spending, and individual counties allocate approximately half of the property and income taxes they collect to the local board of education. However, less wealthy counties may be funding less than 25% of the total per pupil cost and wealthier counties providing more than 60%, with “wealth equalized” state funding and federal aid making up the difference. In addition, there is no cap on what wealthier counties may provide, only a floor below which no county may fall. The MOE “floor” is subject to adjustments up or down based on enrollment, and may be increased based on funding provided in the prior year above what MOE required. Since enacted, MOE generally has ensured a stable, predictable minimum amount of local funding from year to year.

Local governments have considerable flexibility in determining the annual funding total they provide, based on meeting or exceeding MOE, as well as through a set of waiver and exemption options. In 1996, the legislature adopted two major amendments to MOE proposed by local governments. A county may submit a waiver request to the State Board of Education to provide less than MOE, based on evidence of economic hardship. In addition, a county may seek permission to exempt certain one-time expenditures, or non-recurring costs, from increasing the MOE “floor” for the next year’s budget. Local governments also have considerable budgetary control regarding the annual school system budget, through exercising their authority to revise the total budget requested by the board of education.

In 2012, the major reforms were enacted to clearly mandate MOE as the annual funding floor, and reform the waiver and enforcement processes. The law requires counties to apply for a waiver if they believe they cannot meet MOE, but also improves the likelihood the State Board will grant a waiver by expanding the factors they must consider. The law also creates new types of MOE waivers, including the “rebasement waiver” for counties unilaterally seeking to permanently reduce their MOE amount, and the “recurring cost waiver” for counties and local boards mutually agreeing to do so. The law retains the State Board as the body making waiver decisions, but includes the Departments of Budget and Management (DBM) and Legislative Services (DLS) in making waiver calculations. A provision allows counties to vote to override local charter provisions limiting or capping local taxes, but only for education funding purposes. The law also includes a provision to mandate modest growth in local education funding by holding counties to an MOE standard based on the statewide average of per pupil spending and county wealth, with mandated increases above MOE capped at 2.5%.

For additional information, see [MABE’s Resolution on Maintenance of Effort](#).

UNFUNDED MANDATES

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✗ **Opposes** legislation and state regulations which would impose any new unfunded or underfunded mandate on local school systems.
- ✓ **Supports** providing, or restoring, funding to support currently mandated programs and services.
- ✓ **Supports** repealing mandated programs and services which are not adequately funded.

BACKGROUND

Each year the General Assembly considers legislation to mandate that local school systems adopt new programs, procedures, or reporting requirements. Such proposals are generally referred to as “unfunded mandates” to reflect the fact that any new costs arising from the legislation would be borne with existing resources. Examples of proposed unfunded mandates include expanded physical education, food service, student health, special education, and transportation programs and services.

While MABE believes that education policy should be primarily in the purview of local boards in conjunction with the State Board, we recognize the General Assembly has an appropriate and essential role in enacting legislation on education funding and policy. Therefore, MABE consistently advocates that to the extent possible such legislation be discretionary, or authorizing, rather than mandatory. Similarly, MABE requests the State Board to consider the local board governance role and fiscal impacts on local school systems when exercising its authority to adopt education policies and regulations.

Maryland’s 24 local boards of education are entirely fiscally dependent on local, state, and federal funding. Unlike almost all of the other local boards across the country, Maryland’s boards are not authorized to collect taxes, instead relying on formula and grant allocations from local, state and federal governments. While MABE does not advocate for such taxing authority, legislation or regulations imposing new costs for local school systems do pose a distinct challenge to Maryland’s local boards.

Maryland’s Constitution places a high priority on public education by requiring the General Assembly to “establish a thorough and efficient system of free public schools” and to “provide by taxation or otherwise for their maintenance.” State funding is provided through formulas and grants in the annual State operating budget; and local funding is provided in accordance with the “maintenance of effort” requirement that the local government provide at least as much per pupil funding as in the previous year. In general, neither state funding nor local funding are increased to reflect the increased costs to local school systems of complying with new legislative mandates.

Examples of unfunded mandates include: translations of special education individualized education programs (IEPs) into native languages (2016); prevailing wage rate expansion (2014); CPR & defibrillator instruction (2015); AEDs in middle schools (2015); special education information and resources (2015); college and career readiness high school assessments and dual enrollment requirements (2014); and the shift of teacher retirement costs (2012).

In 2012, the legislature permanently shifted hundreds of millions of dollars in teacher retirement costs to local governments and boards of education. The legislature shifted 100% of the “normal cost” of teachers’ retirement to local boards, with counties obligated to pay the cost, phased in over a four year period. Today, the local cost is rolled into maintenance of effort, with no additional local or state funding mandated to meet rising retirement costs. The shift continues to negatively affect local capacity to invest in public schools and Maryland’s ability to meet the educational needs of all students.

For additional information, see [MABE’s Resolution on Adequate and Equitable Education Funding](#).

SPECIAL EDUCATION

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** increased state and federal funding to support high quality special education programs and services.
- ✓ **Supports** maintaining the State's share of the total costs for nonpublic placements of students.
- ✗ **Opposes** legislation to mandate expanded special education services beyond federal requirements.
- ✗ **Opposes** legislation to provide unilateral parental consent conditions, or shift the burden of proof, in special education decisions and disputes including IEP meetings and due process hearings.

BACKGROUND

Local boards of education place a very high priority on ensuring that students receive high quality special education programs and instruction to meet the unique needs of every disabled student. MABE, on behalf of all local boards of education, assures the General Assembly that Maryland's professional educators and school administrators are working within a very comprehensive federal and state legal and educational framework to serve special education students.

Maryland, and all other states, are mandated to provide a wide array of special education services in compliance with the federal Individuals with Disabilities Education Act (IDEA) and federal and state regulations. IDEA requires that eligible disabled students receive special education and related services if they are between the ages of 3 and 21, meet the definition of one or more of the categories of disabilities specified in IDEA, and are in need of special education and related services as a result of the disability. The special education services mandated and governed by IDEA must meet the legal standard of providing a Free Appropriate Public Education, or FAPE, and do so in the least restrictive environment.

When IDEA became law in 1975, the federal government promised to fund 40 percent of the additional cost of educating children with disabilities and yet has never provided more than 20 percent of the additional cost. Maryland, by contrast, has provided additional special education funding through the weighted per pupil cost formulas in the Bridge to Excellence Act. In addition, current law requires that for each student in a nonpublic special education placement, local school systems pay 300% of the local share of the "basic cost", or average per pupil amount spent by the local school system. Any costs above this are shared between the State (70%) and school system (30%).

Since 2013, state legislation opposed by MABE has been introduced to place the burden of proof on the local school system in a due process hearing that is held to resolve disputes about the identification, evaluation, or educational placements of children with disabilities. In Maryland, the party initiating the action in a special education due process hearing, whether the parents or the school system, bears the burden of proof. This is consistent with the assignment of burden of proof in the American legal system; and with a 2005 Supreme Court case arising from a special education due process complaint against the Montgomery County school system (*Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49 (2005)).

In 2014, bills passed to require school systems to inform parents of a child with a disability of procedural safeguards, rights and responsibilities, and information about access to habilitative services; and to provide online access to lists of all special education service delivery models. A bill passed in 2016 to require the translation into the parents' native language of individualized education programs (IEPs) and individualized family service plans (IFSPs). In 2016, legislation opposed by MABE was rejected to require unilateral parental consent for decisions adopted by the IEP team.

For additional information, see [MABE's Resolution on Special Education](#).

CHARTER SCHOOLS

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** local control and authority over public schools, including public charter schools, and supported passage of the Public Charter School Act of 2003, and secured amendments to the Charter School Improvement Act of 2015, to ensure that Maryland's charter school law is aligned with this principle.
- ✗ **Opposes** legislation which would diminish the local board's role as sole chartering and oversight authority, or otherwise weaken the charter school law's academic or fiscal accountability requirements.

BACKGROUND

The Public Charter School Act of 2003 created Maryland's public charter school program "to establish an alternative means within the existing public school system in order to provide innovative learning opportunities and creative educational approaches to improve the education of students." The law defines a public charter school as a new public school or conversion of an existing public school to which parents choose to send their children, and which is nonsectarian, tuition-free, open to all students, in compliance with State and federal health, safety, and civil rights laws, and operated in pursuit of a specific set of educational objectives. The law also requires charter schools to comply with provisions of law and regulation governing other public schools unless waivers are granted by the State Board.

The law reserves chartering authority to local boards, including the responsibility to review all applications, and approve or deny applications based on an assessment of the applicant's capacity to achieve innovative educational goals and operate a public school. Local decisions regarding charter schools may be appealed to the State Board to ensure that local decisions are not arbitrary, unreasonable, or illegal. Since 2003, issues concerning charter school applications and renewals, funding requirements, and facilities have been addressed through legal opinions of the State Board of Education.

In 2011 legislation was enacted to expand the access of charter schools to surplus school property. If the county government has no plans for the property, the school board must notify their charter schools that the property is available. In 2012, bills opposed by MABE would have dramatically reformed the charter school law by removing local boards as the primary charter authorizer, and granting the State Board de novo review of local board charter school decisions.

The Public Charter School Improvement Act of 2015 includes major revisions to local and state board chartering authority, provides greater flexibility for successful charter schools, and calls for a study to determine appropriate levels of funding (Senate Bill 595). The law establishes a program through which a high performing charter school may become eligible for exemptions from a broad range of local board policies upon renewal. In addition, charter schools may be exempted from the lottery-based enrollment process based on student characteristics and geography. Importantly, following passage of the Charter School Improvement Act of 2015, the local board of education is the sole chartering authority for granting a charter. MABE collaborated with other education stakeholders in support of many of the key provisions of this legislation.

Each local board has developed charter school policies, many boards have reviewed and decided upon charter proposals, and more than 50 charter schools have been approved and are operating in several local school systems. MABE believes local board authorizing control is key to the fact that Maryland's charter schools have not experienced the financial or academic failures seen in other States.

For additional information, see [MABE's Resolution on Public Charter Schools](#).

VOUCHERS & PUBLIC FUNDING FOR NONPUBLIC SCHOOLS

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** strong public accountability measures for every public dollar spent, including public dollars dedicated or diverted to private and parochial schools.
- ✓ **Supports** the repeal of the BOOST program enacted in the State Budget Bill in 2016.
- ✗ **Opposes** private and parochial school vouchers, tuition tax credit programs, or other proposals that would threaten public school funding and public control over the use of public dollars.
- ✗ **Opposes** providing public funding for textbooks, transportation, or technology purchases that divert public funds to financially support private and parochial schools.
- ✗ **Opposes** legislation mandating that public schools accommodate private or home schooled students in academic or extracurricular programs offered in the public schools.

BACKGROUND

Maryland's public schools are committed to and required to serve all of the State's school-aged children who are not enrolled in other educational institutions or programs, regardless of religious preferences, ability to pay tuition, or special needs. Public laws and State Board of Education regulations govern public education, and publicly-appointed or locally-elected school boards direct the operation of local school districts. In each district, students are exposed to a wide variety of courses and programs aimed at educating and preparing them for graduation, college and career readiness, and full participation in their nation, state, and local communities. In pursuit of these goals, local and state accountability measures are used to ensure that the public schools are fulfilling their mission.

Generally, nonpublic schools, including non-sectarian and parochial schools, are not subject to the same legal regulations as public schools, such as special education laws and teacher certification regulations. A limited but notable exception is the array of nonpublic special education schools serving public school students. However, the vast majority of nonpublic school programs are not linked to state or federal student performance accountability measures, or special education provisions of the federal Individuals with Disabilities Education Act (IDEA). In addition, many parochial schools instruct their students in particular religions, a practice that is unconstitutional in public schools and which public funds may not directly support.

In 2016, the state budget bill was amended in conference committee to establish the \$5 million Broadening Options and Opportunities for Students Today (BOOST) Program to provide vouchers for students who are eligible for the free or reduced-price lunch program to attend eligible nonpublic schools. To be eligible to participate in the BOOST program, a nonpublic school must participate in the Aid to Non-Public Schools Program for textbooks and computers administered by MSDE; and comply with Title VI of the Civil Rights Act of 1964; the State Government Article; and not discriminate in student admissions on the basis of race, color, national origin, or sexual orientation. MABE continues to strongly oppose this program as an unwarranted expansion of the State's direct public funding of private and parochial education.

For many years, state funding has been provided for the Aid to Nonpublic Schools Program, which provides funding to nonpublic schools for the purchase of textbooks and computer hardware and software. However, the FY 2016 State Budget included \$10 million but was amended to specify that if the GCEI is not fully funded in FY 2016, an additional \$4 million in Cigarette Restitution Funds provided to increase funding for the Aid to Nonpublic Schools Textbook and Technology Program shall be redirected toward GCEI. In 2013, the Governor and legislature launched the \$3.5 million Nonpublic Aging Schools Program to directly fund private school facility projects.

For additional information, see [MABE's Resolution on School Choice & Funding for Nonpublic Schools](#).

TESTING AND CURRICULUM

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** local decision-making authority in developing curriculum and assessments, in conjunction with the State Board of Education.
- ✓ **Supports** adequate state funding to support mandated assessment programs, including the PARCC tests, high school assessments, college and career readiness assessments, and state initiatives under the Every Student Succeeds Act.
- ✗ **Opposes** any efforts by the General Assembly to legislate curriculum or testing matters inconsistent with MABE's adopted resolutions and legislative positions.

BACKGROUND

MABE believes that in creating the State Board and local boards of education the General Assembly has appropriately delegated the responsibility for the development of curriculum and student assessments. The State Board establishes state standards and graduation requirements; and local boards implement locally-developed curriculum to ensure that state standards are met and students are prepared to meet graduation requirements. In this way, state and local boards and educators collaborate to ensure that all students, schools, and school systems are held accountable for their work.

Maryland's approach to academic standards, curriculum, and student assessments continues to be influenced by the federal No Child Left Behind Act (NCLB) of 2001, which mandated new student assessments and curricular reforms. Maryland complied with NCLB by approving new academic standards and curricular frameworks, and adopting the Maryland School Assessments (MSAs) in reading, mathematics, and science in grades 3 through 8, and grade 10; and three high school assessments. Maryland went beyond NCLB's testing mandates when the State Board adopted as graduation requirements passing scores on four High School Assessments (HSAs) in Algebra/Data Analysis, English, Biology, and Government. The HSAs in English, Algebra, and Biology served as the NCLB tests at the high school level. In addition, the State Board approved the Bridge Plan for Academic Validation which allows students not passing the HSAs to complete projects for credit toward graduation.

Maryland is implementing the Maryland College and Career Readiness Standards (MCCRS) based on the Common Core State Standards (CCSS) in English/language arts and mathematics. Maryland's assessments have been developed through the Partnership for Assessment of Readiness for College and Careers (PARCC); and Maryland administers PARCC tests in reading and mathematics in grades 3 through 8; two PARCC high school assessments in Algebra I and English 10; and the HSAs in Science and Government. Additionally, 2013 legislation mandates that high school juniors take assessments to demonstrate college and career readiness and mandates transitional courses for seniors.

The 2015 Every Student Succeeds Act (ESSA) represents a comprehensive revision of NCLB; and requires mathematics and reading or language arts assessments in each of grades 3 through 8 and at least once in grades 9 through 12. Science assessments must be administered not less than one time during grades 3 through 5; grades 6 through 9; and grades 10 through 12. Under ESSA, Maryland must develop a new state accountability plan to assure the federal government that the State has an accountability system that is based on challenging academic standards.

The legislature formed the Commission to Review Maryland's Use of Assessments and Testing in Public Schools in 2015 to assess the State's use of and approach to mandated assessments and testing. In 2016, legislation passed to require annual reports on the purposes and time allotted to locally, state and federally mandated student assessments; but legislation was rejected to set a cap on the total amount of time a school system spends on such testing.

For additional information, see [MABE's Resolution on Curriculum and Assessments](#).

SCHOOL SAFETY & SECURITY

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** federal, State, and local government funding for local public school safety programs, facility upgrades, and the wide array of behavioral health and public safety services provided by other public and private entities, which are essential to maintaining safe and secure schools and access to a quality education for all of Maryland's students.
- ✓ **Supports** local discretion to adopt programs and policies to maintain and improve school safety and security.
- ✗ **Opposes** legislation which attempts to address student safety concerns by prescribing specific tools or approaches, or imposes unfunded mandates on local boards of education.

BACKGROUND

Safety and security in public schools is extremely important to local boards of education for the protection of students and staff, as well as necessary to environments conducive to teaching and learning. MABE believes that safety in public schools is the joint responsibility of local boards of education, school administrators and staff, students, parents and guardians, law enforcement and other public safety agencies, human services agencies, and the community in general. Threats to public school safety may be caused by factors within and outside the school. School safety issues arise in the daily operation of school facilities and services such as school buses, science labs, kitchens, and boiler rooms; in the daily administration of student discipline; and in developing and practicing emergency plans to respond to acts of violence and natural disasters.

School safety is defined in regulations adopted by the State Board: "All students in Maryland's public schools, without exception and regardless of race, ethnicity, region, religion, gender, sexual orientation, language, socioeconomic status, age, or disability, have the right to educational environments that are safe, appropriate for academic achievement, and free from any form of harassment." Maryland is nationally recognized for legislation passed in 2008 to mandate new local bullying policies aligned with a model state policy. Similarly, the Safe Schools Act of 2010 was enacted as a comprehensive approach to mandating state and local policies and programs intended to address gangs in schools.

In response to the tragic events of September 11, 2001, federal, state and local education officials joined with public safety and emergency management officials to review existing school safety policies and improve coordination through comprehensive emergency plans. In 2004, the State Board of Education adopted regulations requiring local school systems to adopt emergency plans and conduct drills to prepare for violent or traumatic events on school grounds. Following the tragic school shooting in Newtown, Connecticut in 2012, the legislature called for a review of all emergency plans and the State Board adopted new regulations to specify the types of emergency drills that all schools must conduct each year. In 2013, the State budget included \$25 million to support projects such as facility risk assessments, security cameras, photo identification systems for visitor sign-in, lockset changes for interior and exterior doors, hardening glass areas, relocating school office areas to a school's primary entrance area, and moving relocatable classrooms to improve supervision.

In 2014, legislation supported by MABE passed to expand the "person in position of authority" law that criminalizes as a fourth degree sex offense sexual activity between educators and students. In 2015, legislation passed to require that local school systems require contractors and subcontractors to conduct background checks to ensure that no employee is assigned to work on school premises with direct, unsupervised, and uncontrolled access to children if the employee has been convicted of specified crimes. In addition, a bill passed to exempt qualified retired law enforcement officers from the prohibition against carrying or possessing a deadly weapon on public school property.

For additional information, see [MABE's Resolution on Safety in Public Schools](#).

STUDENT DISCIPLINE

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** local flexibility to create and enforce consistent and fair disciplinary standards in order to respond to infractions of the rules committed by individual students.
- ✓ **Supports** increased state and local funding to support restorative justice programs.
- ✗ **Opposes** legislation or regulations that would unduly limit the authority of school administrators and boards of education to ensure the safety of all students and staff and to provide a school environment conducive to teaching and learning for all students.

BACKGROUND

Every local board of education places a high priority on establishing policies and procedures concerning student discipline, based on a framework established by the General Assembly and the State Board of Education. State law reflects the legislature's recognition that principals and superintendents have broad discretion to make student discipline decisions "as warranted" (Section 7-305 of the Education Article). State regulations long mirrored this deference to local decision making, as well as placing a clear emphasis on maintaining a safe learning environment for all students.

From 2009 to 2014, the State Board of Education engaged in a comprehensive review and reform of Maryland's student discipline regulations and guidelines. MABE supported the State Board's initiative to require local boards of education to reform their student discipline policies to:

- Prohibit "zero tolerance" policies;
- Reflect a philosophy that fosters positive behavior;
- Provide continuous education services to all suspended and expelled students; and
- Hold school systems accountable for reducing and eliminating disproportionate impacts of student discipline policies on minority students.

In 2014, the State Board adopted state regulations to mandate new local school system policies and regulations, including:

- Definitions of expulsion, extended suspension, long-term suspension, and short-term suspension;
- Standards and conditions for excluding students from school through extended suspensions or expulsions;
- Mandates to provide excluded students with educational and behavioral support services;
- Requirements to provide "minimum education services" to students suspended or expelled out of school, including daily classwork and assignments from each teacher that must be reviewed, corrected and returned on a weekly basis;
- Mandates for MSDE to develop a method to analyze whether there is a disproportionate impact on minority students, or a discrepant impact on special education students; and
- The mandate that local boards revise student discipline policies and regulations by the beginning of the 2014-2015 school year.

In addition to these significant reforms, MABE has collaborated with the legislature and MSDE on initiatives to improve the student discipline process to promote successful classroom strategies and student attendance. Such efforts include legislation enacted to require elementary schools with high suspension or truancy rates to implement a Positive Behavioral Interventions and Support (PBIS) program. Local boards of education are engaged in improving communication between schools, parents and students regarding local codes of discipline, sharing best practices to reduce suspensions, and further expanding PBIS training and implementation. MABE pledges to continue to collaborate with the legislature and MSDE in the development of policy initiatives to improve the student discipline process to promote student attendance and learning.

For additional information, see [MABE's Resolution on Student Discipline](#).

STUDENT HEALTH, NUTRITION & FITNESS

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** local board discretion to adopt policies and allocate resources to support improvements in student behavioral and physical health and fitness.
- ✓ **Supports** funding and policy decisions to strengthen school meal programs for economically disadvantaged students.
- ✓ **Supports** the state law mandating gymnasiums to provide adequate space for physical education in the construction of all new elementary school facilities.
- ✗ **Opposes** the unfunded mandate for increased physical education instruction, including minimum minutes per week.
- ✗ **Opposes** the unfunded mandate to expand the responsibility of public schools to provide “adequate school health services” to include behavioral and mental health services.

BACKGROUND

Local boards of education place a very high priority on providing school facilities, school meals, and programs of instruction designed to promote the physical and mental health and fitness of students and to prepare them to maintain a healthy lifestyle as adults. Federal and state standards for student health and fitness, especially regarding nutrition, have been enhanced to address the national epidemics of juvenile diabetes and obesity. At the same time, child hunger impacts many students as an obstacle to learning.

The 2004 reauthorization of the federal Child Nutrition Act (CNA) required all local school districts to put wellness programs in place by the beginning of the 2006-2007 school year. The CNA required school districts to appoint wellness councils responsible for developing plans to address the types of food sold in schools, physical education, and nutrition. The 2010 Healthy, Hunger-Free Kids Act mandated additional reforms in school meal programs to improve the nutritional value of school meals.

School systems are increasingly involved in breakfast, summer and weekend meal programs; programs to help ensure daily access to healthy food for all students. The Healthy, Hunger-Free Kids Act included the community eligibility program (CEP) as an option for school systems with very high percentages of low-income children to provide free breakfast and lunch to all students in the school. The CEP is designed to increase participation by students in their school’s meal programs while also reducing administrative costs. MABE supported the Hunger-Free Schools Act of 2015, which passed to allow school systems to utilize CEP. MABE will continue to support legislation and funding initiatives to promote student access to meals while preserving local program flexibility.

Local boards of education are committed to providing quality physical education programs in Maryland’s public schools. State Board regulations require yearly physical education instruction for all students in grades kindergarten through 8, and elective classes for students in grades 9 through 12. Regulations further require that physical education programs provide an “individualized, developmentally appropriate, and personally challenging instructional program that advances the student’s knowledge, confidence, skills, and motivation to engage successfully in a lifelong healthy and active lifestyle.” MABE opposes bills to expand the scope of physical education programs in light of local funding and facility constraints.

MABE supported 2011 legislation to require MSDE and local boards to develop a program to ensure that coaches, parents, and students are fully informed about identification and responses to concussions. Similarly, legislation has passed to require automated external defibrillators in high school and middle schools, with an AED on-site and an individual trained in the operation and use of an AED present at school-sponsored athletic events.

For additional information, see [MABE’s Resolution on Student Health and Fitness](#).

EMPLOYEE RELATIONS & COLLECTIVE BARGAINING

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** legislation or action by the PSLRB to adopt a balancing test to determine whether the impact of a negotiated matter on the school system as a whole outweighs the direct impact on the teachers or employees.
- ✗ **Opposes** legislation to authorize a local school board and an employee organization to use an alternative procedure to renegotiate the funds allocated for a negotiated agreement.
- ✗ **Opposes** legislation to remove the authority of local boards to hear appeals in employee discipline cases.
- ✗ **Opposes** legislation, or decisions of the PSLRB, that compromise the authority and responsibility of the State Board and local boards to establish educational policy in collaboration with all key stakeholders including parents, students, teachers, and the community.

BACKGROUND

Since 1968, Maryland's public school teachers and most other school employees have enjoyed the right to organize through employee organizations, or unions, and negotiate contracts for salaries and benefits. MABE does not oppose the role of employee organizations or collective bargaining in representing the interests of teachers and other employees. However, MABE does not believe that the scope of bargaining should be expanded to include education policy matters, and opposes a binding arbitration process to resolve either scope of bargaining or contract disputes.

For many years, the State Board of Education exercised its authority to determine whether specific topics were mandatory to be bargained because they dealt with "salary, wages, hours, and other working conditions", or prohibited from being bargained because they dealt with education policy issues such as curriculum, class size, school calendar, and teacher assignments. In 2002, the General Assembly enacted legislation to create a "permissive" category of items that may be collectively bargained; and prohibiting the negotiation of the school calendar, maximum numbers of students in classes, and other matters precluded by applicable law. This law also allowed support personnel in the nine Eastern Shore counties to establish bargaining units.

In 2010, the Fairness in Negotiations Act was enacted to create a new Public School Labor Relations Board (PSLRB) to replace the State Board of Education as the arbiter of scope of bargaining and contract disputes. MABE opposed these changes, but advocated successfully for a provision which ensures that if a county government does not approve sufficient funds to implement a negotiated agreement, the local school board is required to negotiate with the employee organization, but has the authority to make the final determination in response to the available funding. Local boards and local governments agree that this provision is a key statewide protection of local board fiscal control to invest available funding in the best interests of student learning.

In 2016, an unprecedented "grounds for discipline" bill would have allowed school employees disciplined by the superintendent to appeal not to the local board but to an outside arbitrator. MABE strongly opposes this initiative to remove the local board role of ensuring a high quality and safe learning environment for all students by responding to the misconduct of teachers and administrators. Also introduced in 2016, but not enacted, was a bill to make educator evaluations a mandatory subject of bargaining. MABE firmly believes that the collaborative process under the current law should continue to be respected as the best source of local evaluation systems that accurately and fairly assess educators. Our teachers deserve a negotiated contract on compensation and other monetary interests; and our students deserve a rigorous educator evaluation system which is not required to be the subject of contract negotiations.

For additional information, see [MABE's Resolution on Employee Relations and Negotiations](#).

FEDERAL EDUCATION FUNDING & POLICY

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- ✓ **Supports** federal regulations consistent with ESSA to provide more state and local board of education flexibility in crafting student, school and school system accountability systems.
- ✓ **Supports** increased federal funding to states and local school systems to support the costs of implementing federally mandated programs and services.
- ✓ **Supports** local boards of education in playing a prominent role in developing and monitoring Maryland's participation in federal education programs.
- ✗ **Opposes** unfunded federal mandates; and federal guidance, policies, regulations or laws proposed to establish reporting requirements, performance standards, assessments, sanctions or other conditions which do not adequately respect the governance role of local boards of education.

BACKGROUND

The passage of the Every Student Succeeds Act (ESSA), signed by President Obama on December 10, 2015, represents a comprehensive revision of the Elementary and Secondary Education Act (ESEA), which since 2002 has been known as the No Child Left Behind Act (NCLB). MABE believes that ESSA provides a historic opportunity for school boards across the country to help shape how this law will impact their schools, teachers and students. Unlike NCLB, ESSA reduces the specificity of federal requirements while increasing the ability of States and school systems to define how school boards and individual schools are held accountable for student achievement. With the passage of this law, the U.S. Department of Education and States are now embarking on the work to implement its provisions.

ESEA was first enacted in 1965 to provide federal funding to support the education of economically disadvantaged children. Within ESEA, Title I provides Maryland's local school systems with millions of dollars in grant funding based on the numbers of low-income students. In 2001, ESEA was reauthorized as NCLB; and this law included the mandate that each state define what constitutes "adequate yearly progress" (AYP) to increase student achievement in reading and mathematics toward the goal of all students reaching proficient levels on state tests in these subjects by 2014. NCLB also mandated that states develop new curriculum and assessments; increase the numbers of highly qualified teachers, principals, and paraprofessionals; and institute corrective actions in consistently low-performing schools.

In the absence of congressional action to update NCLB, the U.S. Department of Education developed a competitive grant and waiver application process. Maryland and other states were granted ESEA flexibility waivers, which conditioned eligibility on the adoption of the Common Core State Standards, as did eligibility for the Race to the Top grant program. In 2010 Maryland adopted the Common Core State Standards; and in preparation for submitting a successful Race to the Top application the General Assembly enacted legislation to reform the teacher and principal evaluation and tenure system. Maryland was awarded a \$250 million Race to the Top grant, and subsequently granted an ESEA waiver. Today, ESSA includes provisions barring the federal government from conditioning funding in this way.

In 2015, Maryland began to administer new statewide student assessments in English 10 and Algebra I and II developed by the Partnership for Assessment of Readiness for College and Careers (PARCC). Under ESSA, Maryland's federal waiver expired in August of 2016. However, most school improvement provisions extend through the 2016-2017 school year. The first state accountability plan under ESSA will be submitted to the U.S. Department of Education in July of 2017. This state plan will include the academic standards and assessment requirements adopted by the Maryland State Board of Education. Therefore, MABE is also concerned about state actions under ESSA which do not adequately respect the governance role of local boards of education.

For additional information, see [MABE's Resolution on ESEA](#).

ELECTED, APPOINTED & HYBRID BOARDS OF EDUCATION

MABE POSITIONS

The Maryland Association of Boards of Education, representing all local boards of education in Maryland:

- **Takes no position** on whether boards of education should be elected or appointed. There is no evidence that either elected boards or appointed boards are more effective or accountable.
- ✗ **Opposes** bills granting board appointment authority to local county government officials. Local boards of education are entities of the State, not the county government. Because local boards are fiscally dependent on local governments, it is crucial that local boards remain an independent voice for children and their public education needs and that a “check-and-balance” relationship continues between local boards and their respective local governments.

BACKGROUND

Of Maryland’s 24 local boards of education, seventeen are comprised entirely of locally elected members; three are appointed by the Governor; the Baltimore City Board of School Commissioners is appointed jointly by the Governor and Mayor; and four are hybrid boards comprised of both appointed and elected members.

The following seventeen boards are elected:

Allegany County	Kent County
Calvert County	Montgomery County
Carroll County	Queen Anne’s County
Cecil County	St. Mary’s County
Charles County	Somerset County
Dorchester County	Talbot County
Frederick County	Washington County
Garrett County	Worcester County
Howard County	

The following three boards are appointed:

Anne Arundel County¹
Baltimore City²
Wicomico County³

The following four boards are hybrid boards comprised of both elected and appointed members

Baltimore County⁴
Caroline County⁵
Harford County⁶
Prince George’s County⁷

¹ Anne Arundel County Board of Education members are subject to a retention election in the election year following their appointment or reappointment.

² The Baltimore City Board of School Commissioners is appointed by the Governor and the Mayor of Baltimore jointly (HB 1453, 2014).

³ The Wicomico County Board of Education is currently appointed, but was modified in 2016 by referendum to become an elected board, with five members elected by district and two members elected at-large, effective with the 2018 election (SB 145, 2016).

⁴ The Baltimore County Board of Education began the transition in 2015 to a hybrid board comprised of 4 appointed members and 7 members elected by district.

⁵ The Caroline County Board of Education began the transition in 2011 to a board comprised of 2 appointed and 3 elected members (SB 964, 2009).

⁶ The Harford County Board of Education began the transition in 2010 to a hybrid board comprised of 3 appointed and 6 elected members (SB 629/HB 639, 2009).

⁷ The Prince George’s County Board of Education was modified in 2013 to add 4 appointed members to its 9 elected members; 3 members are appointed by the County Executive and 1 by the County Council

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