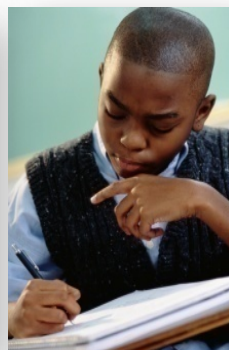


Draft 2015 Legislative Positions for the  
Legislative Committee's consideration  
at its October 20, 2014 meeting.

# *2015 Legislative Positions*



***We're in it for the kids!***

**Maryland Association of Boards of Education**

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## Introduction

On behalf of the Maryland Association of Boards of Education (MABE), representing all school boards 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 works collaboratively with all stakeholders to assure that all students achieve all that can be envisioned as learners, dreamers, and producers. 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 section of MABE's website, [www.mabe.org](http://www.mabe.org), provides access to information and resources regarding MABE's Legislative Committee and state and federal advocacy issues.

### **MABE's top priorities for the 2015 Legislative Session include:**

- **Support for continued governance autonomy for local boards of education to set education policy and school budgets; 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 legislative or regulatory initiatives which would have the effect of reducing local board governance or budgetary authority, or which create unfunded mandates.
- **Support a two-year delay in administering the High School Assessments (HSAs) in English 10 and Algebra I as "high stakes" graduation requirement tests** - MABE does not oppose administering the new HSAs developed by the Partnership for Assessment of Readiness for College and Careers (PARCC), but strongly opposes linking student scores on these new tests to high school graduation for the next two school years in order to develop cut scores and alternative assessments..
- **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 2016 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, healthy, and safe learning environments. Therefore, we greatly appreciate the State's consistent investment in school construction and renovation projects. The FY 2016 school construction budget should provide at least \$350 million to ensure that all Maryland schools are better learning environments to prepare our students to be college and career ready.
- **Support for sustained local government investments in education** - Funding from Maryland's twenty-three counties and Baltimore City plays a critical role in combining with state and federal funding to support teaching and learning. MABE strongly supports the Maintenance of Effort reforms enacted in 2012. MABE also supports sustaining adequate local capital funding essential to financing the construction and renovation of high quality school facilities in partnership with the State.

On behalf of all twenty-four local boards of education, MABE looks forward to your support for MABE's legislative priorities in 2015. 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](mailto:jwoolums@mabe.org); or myself, at [Mary.Schaefer@fcps.org](mailto:Mary.Schaefer@fcps.org).

Sincerely,

Joy Schaefer, Chair  
MABE Legislative Committee

## LOCAL BOARD OF EDUCATION GOVERNANCE

### BACKGROUND

Maryland's nationally recognized success in providing a high quality public education throughout the State is the direct result of the policies and priorities adopted by each of the twenty-four local boards of education. Maryland's local boards recognize and affirm that a basic premise of our nation's system of public education is that public schools should be governed locally. Most importantly, Maryland's twenty-four local boards of education have a proven record of striving to continuously improve their abilities to govern in a manner that best meets the needs of the students.

Local boards must continue to play a vital role in governing the local school system, advocating for public education, and engaging local communities and promoting participation by parents and other community members in the education process. Local board governance is needed so that everyone feels a responsibility for, and ownership of, Maryland's public schools and our students' futures. By retaining local decision-making authority, boards can best balance educational practices, available resources to implement those practices, community 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" (§§4-101 and 4-108, Education Article). The State Board establishes, through regulations, statewide policies and mandates, and each local board establishes policies and procedures for its public schools. Regarding funding, the Bridge to Excellence in Public Schools Act of 2002, and the decade of funding that followed, has provided significant increases in state funding for public schools according to a standards-based approach to school financing. Under this approach, the state is to ensure that school systems have adequate resources to meet student performance standards, while providing maximum local flexibility to allocate resources.

Local board governance autonomy and flexibility must be preserved as we implement state and federal education reforms. MABE and local boards believe the optimum role for the U.S. Department of Education and MSDE is to provide technical assistance to ensure high quality public education, without undue authority to dictate specific programs and services. However, conditions attached to the No Child Left Behind Act, federal waivers from NCLB, and Race to the Top grant program have resulted in a substantially increased federal and state role in monitoring and enforcing local school system policies and operations. Today, MSDE and local school systems are collaborating to develop new state standards and student assessments, educator evaluation systems, and school technology programs, to support Maryland's College and Career Readiness Standards.

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

### 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 a sound system of public education.
- ✓ **Supports** local board control of, and accountability for, appropriations within the budget categories outlined in state law.
- ✓ **Supports** adequate and equitable state funding for state mandated programs and priorities, and that local board governance autonomy and flexibility are respected in funding conditions.
- ✗ **Opposes** legislative proposals which would have the effect of reducing or circumscribing local board authority or creating unfunded mandates.
- ✗ **Opposes** legislative proposals to allow the involvement of the local government in the appointment and operation of the local board of education and office of the superintendent.

## STATE EDUCATION FUNDING

### BACKGROUND

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 1999 the General Assembly formed the Commission on Education Finance, Equity, and Excellence. The commission determined that per pupil funding was significantly inadequate to provide all students the resources needed to meet Maryland's performance standards. In 2002, the legislature enacted the Bridge to Excellence in Public Schools Act, based on the commission's recommendations. The Act called for a \$1.3 billion increase in state funding, to be phased-in through FY 2008, and restructured the education financing system to enhance the adequacy, equity, flexibility and accountability of state public school funding.

The Bridge to Excellence Act eliminated many categorical programs, in favor of increased per pupil funding for all students, and increased per pupil funding for students with special needs including special education, limited English proficiency, and economic disadvantage. The Act strengthened local accountability by requiring master plans for student achievement to be reviewed and approved by the State Board of Education; and the 2004 Fiscal Accountability Act mandated new school system audits. The Bridge to Excellence Act helped support the federal mandates under the No Child Left Behind Act; and funded the newly mandated full-day kindergarten and targeted pre-kindergarten. State per pupil funding is wealth equalized to provide relatively more funding per pupil in less wealth counties based on the value of taxable income and property. 2013 legislation passed to rectify state education funding discrepancies relating to the timing of and calculation of Net Taxable Income (NTI).

Many new education programs have been mandated, and new costs imposed, on local school systems since 2002 when the Bridge to Excellence Act passed, and since 2008 when it was fully funded. School systems are implementing new state standards aligned with the Common Core, requiring investments in curriculum, assessments, educator evaluation systems, professional development, and technology. Maryland has enacted special education requirements that exceed federal requirements. Employee retirement health plans now require costly investments in OPEB accounts. School safety has emerged as a critical need. And shifting hundreds of millions in teacher retirement costs to local governments and boards of education is limiting local investments in school operations.

The Bridge to Excellence Act was founded on the adequacy study conducted by the consulting firm, Augenblick and Myers; and the Act called for an updated study in 10 years. In 2014, Augenblick, Palaich, and Associates was awarded a \$1.05 million state contract to update the adequacy study, and to convene a stakeholder group to guide this work. Local boards of education are committed to preparing all students to be globally competitive in college and careers; reforms that require major changes in instruction, student assessments, educator evaluations, professional development, and technology.

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

### MABE POSITIONS

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

- ✓ **Supports** sustaining a robust level of school funding in the FY 2016 State Budget, including the Geographic Cost of Education Index (GCEI) and an inflation factor, to support Maryland's standards-based school finance system.
- ✓ **Supports** legislation to create a commission to study and make legislative and funding recommendations in order to update Maryland's school finance system.
- ✓ **Supports** a per pupil funding allocation for prekindergarten students, including a 0.5 FTE for half-day students and 1.0 FTE for full-day students, without any off-setting reduction in compensatory education funding.



## SCHOOL FACILITIES FUNDING

### 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 remains a top priority. The Maryland Constitution requires that the state provide a "thorough and efficient" system of public education, and MABE believes that this includes the duty to provide safe, high quality school facilities in which all students can learn.

The Public School Construction Program was created by the General Assembly in 1971 to increase the State participation in school construction costs and to equalize public school facilities throughout the State. State and local governments share public school construction costs on a basis that varies among local school jurisdictions depending on the jurisdiction's taxable wealth. The State's share of eligible project costs varies from 50% to 90%. However, because certain costs, such as architectural, engineering, and site development costs, are ineligible for State funding, local jurisdictions actually pay a larger share of total project costs than the these percentages indicate.

The Task Force to Study Public School Facilities was created by the Bridge to Excellence in Public Schools Act of 2002. The Task Force surveyed statewide facilities needs and recommended revisions to the school construction program which were included in the School Facilities Act of 2004. The survey focused on 31 minimum standards deemed essential for complying with current federal and state facility requirements and found that statewide facility needs totaled nearly \$4 billion. The School Facilities Act revised State and local cost share formulas, reduced the State rated capacity for grades 1 to 5 from 25 to 23 students per classroom, enhanced opportunities to use alternative financing methods to fund projects, and adopted the goal of providing \$250 million per year. Since FY 2006, the Governor and General Assembly have demonstrated a strong commitment by annually meeting or exceeding this goal. However, many costs remain unmet associated with maintenance and renovation or replacement of our oldest school buildings.

In 2008, the High Performing Buildings Act required new or renovated state buildings, including schools, to be constructed as high performance, or "green", buildings. The Act requires that new buildings meet or exceed the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) criteria for a silver rating. In 2012, the legislature restricted \$25 million to fund projects specifically designed to improve the energy efficiency of school buildings. In 2013, the Governor designated \$25 million for school safety related projects and another \$25 million for HVAC-related projects. In addition, the legislature enacted a school construction and renovation funding initiative to provide more than \$1 billion in state and local funding for the Baltimore City Public School System over a ten-year period. In 2014 legislation passed to require that prevailing wage rates apply to school construction and major renovation projects receiving 25% or more in state funding; a major shift from the 50% state share previously required. This dramatic expansion of prevailing wage requirements warrants increased state investments to compensate local governments and boards of education for the increased project costs, and to mitigate a decrease in the number of projects being approved and completed.

For additional information, see [MABE's Resolution on School Facility 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 2016 to provide the State's share of approved projects to build, renovate, and improve school facilities throughout Maryland.
- ✓ **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.

## LOCAL FUNDING & MAINTENANCE OF EFFORT

### BACKGROUND

Maryland's twenty-four local boards of education are fiscally dependent on annual appropriations of federal, state and local funding. State funding provides a substantial per pupil amount which is "wealth equalized" to provide relatively more per pupil funding for less wealth jurisdictions, and vice versa. "Wealth" is based on local income and property tax capacity. 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 30% of the total per pupil cost and wealthier counties providing more than 70%, 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. This funding floor, established in law since 1986, is referred to as the "maintenance of effort" (MOE) amount; the annual local appropriation necessary to maintain the per pupil amount of funding the local government provided in the prior year.

The MOE "floor" is subject to adjustments up or down based on enrollment, and may also 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. Importantly, 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, and to set specific funding amounts for each of the fourteen categories defined in statute.

In 2012, the legislature enacted major reforms to the MOE law to clearly mandate MOE as the annual funding floor, and reform the waiver and enforcement processes. The new 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 new 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 new law retains the State Board as the body making waiver decisions, but also includes the Departments of Budget and Management (DBM) and Legislative Services (DLS) in making waiver calculations. The new law did not require counties that funded below MOE in FY 2012 to restore those cuts, and allowed counties with the maximum 3.20% local income tax rate to rebase at the reduced amount. The new law allows counties to vote to override local charter provisions limiting or capping local taxes, but only for education funding purposes. The law also ensures modest growth in local education funding beginning in FY 2015 by holding counties to an MOE standard based on the statewide average of per pupil spending and county wealth, with mandated increases capped at 2.5%.

For additional information, see [MABE's Resolution on 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, and allows for multiple exceptions and waivers.
- ✗ **Opposes** legislation to provide additional school budget control to local governments, including line item or sub-categorically budget authority.

## UNFUNDED MANDATES

### BACKGROUND

Maryland's twenty-four local boards of education are entirely fiscally dependent on local, state, and federal funding. Unlike almost all of the other more than 14,000 local boards across the country, Maryland's boards are not authorized to collect taxes, instead relying on formula and grant allocations from other government entities. Therefore, legislation or regulations imposing new costs for local school systems pose a distinct challenge to Maryland's local boards of education.

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." However, notwithstanding the constitutional mandate for adequate tax financed state funding, most school systems receive the majority of their annual funding from their local government. Maryland's county governments, and Baltimore City, are authorized to collect not only property taxes but also a local income tax. Most counties allocate at least 50 percent of their total revenue from these two major revenue sources to their local public school system. The stability of local funding from one year to the next is maintained through the "maintenance of effort" requirement that annual funding be at least as much as the prior year on a per pupil basis.

State funding, by contrast, is the subject of annual appropriations not tied to previous budgets, but historically the state has provided significant increases over prior year amounts. In 2002 the General Assembly enacted the Bridge to Excellence Act, as recommended by the Thornton Commission, and embarked on a course to dramatically increase state aid for education through annual adjustments in newly adopted per pupil funding formulas. Beginning in fiscal year 2003, the General Assembly approved increasing education budgets that culminated in the FY 2008 budget which honored the pledge to fully fund a constitutionally adequate and equitable public school finance system. However, the economic recession experienced since 2007 has resulted in severe limitations on increases in education funding levels.

Each year the General Assembly considers enacting legislation which would 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, significant, unfunded mandates include expanding mandated prekindergarten and mandating daily physical education. While MABE believes that education policy should be in the purview of local boards in conjunction with the State Board, we recognize that the General Assembly has an appropriate and essential role in crafting the Education Article of the Maryland Code. Therefore, MABE consistently advocates that to the extent possible such legislation be discretionary, or authorizing, rather than mandatory. MABE also recognizes the authority and independent leadership of the State Board in crafting education guidance and regulations. Likewise, MABE advocates that the State Board rely on accurate assessments of fiscal impacts of proposed policies and regulations on local boards.

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

### 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 mandates for programs and services which are not adequately funded.



## SPECIAL EDUCATION

### 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, without the need for shifting the burden of proof in due process hearings as proposed in this legislation.

Maryland, and all other states, are mandated to provide a wide array of special education services in accordance and compliance with the federal Individuals with Disabilities Education Act (IDEA) and corresponding 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 providing 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 from county, State, and federal sources.

In 2013, state legislation was 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. West* 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.

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

### LEGISLATIVE POSITIONS

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

- ✓ **Supports** continued state funding and significant increases in federal funding to support high quality special education programs and services.
- ✗ **Opposes** legislation to shift the burden of proof in special education disputes from those filing legal complaints to the local school system defending against such complaints.
- ✗ **Supports** maintaining the State's share of the total costs for nonpublic placements of students.

## CHARTER SCHOOLS

### 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 Act 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.

Following the Act's 2003 passage, the State Board issued opinions defining "commensurate funding" to mean the average per pupil amount resulting from dividing the total annual school system budget by the annual enrollment count for the school system in the previous year, minus a two percent reduction for required central office functions. In 2007, Maryland's highest court upheld this funding formula. To date, each local board has developed charter school policies, many boards have reviewed and decided upon charter proposals, and more than 40 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 seen the financial or academic failures experienced in other states.

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 were introduced, but not enacted, to dramatically reform the charter school law including removing local boards as the primary charter authorizer, and to grant the State Board de novo review of local board charter school decisions. In 2013, a commission was formed to review the operation of Maryland's charter school law and more than 50 public charter schools.

For additional information, see [MABE's Resolution on Public 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 because it was aligned with this principle. Further, MABE believes that:
  - 1) local boards of education must retain the sole authority to grant charters and maintain overall accountability and funding control;
  - 2) local boards must continue to receive full local, State, and federal funding allocations;
  - 3) local boards must retain the option to decertify any public charter school;
  - 4) public charter schools and students must be held to the same academic standards, including student assessments, as other public schools and students;
  - 5) parochial schools and private schools must be ineligible for conversion to a charter school;
  - 6) public charter schools must be allowed to request exemptions from rules and regulations which inhibit their flexible operation and management.
- x **Opposes** legislation which would diminish the local board's role as primary chartering authority, or otherwise weaken the Charter School Act's academic or fiscal accountability requirements.

## PUBLIC FUNDING FOR NONPUBLIC 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 accountability measures, such as the Bridge to Excellence Act's annual master plans, the federal Elementary and Secondary Education Act's (ESEA) testing requirements, or 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.

The General Assembly has repeatedly considered legislation to facilitate private funding of tuition scholarships, or private school vouchers, through an income tax credit program administered by the Maryland State Department of Education or other agency. The voucher program proposed in legislation would be funded by generous tax credits, typically of 60 to 75 cents on the dollar, and thereby divert millions of dollars away from the State's General Fund. MABE strongly opposes this legislation as an unwarranted expansion of the State's indirect public funding of private and parochial education.

In 2013, the Governor and legislature launched a new grant program to directly fund private school facility projects. This program is in contrast to the indirect diversion of revenue which would be caused by tax credit financed voucher proposals; and in contrast to the existing textbook and computer loan program which provides no direct payments of state aid to private schools. This new nonpublic Aging Schools Program to fund private and parochial school facility projects represents a significant shift in public policy, and is opposed by a broad coalition of Maryland's public education advocates.

For additional information, see [MABE's Resolution on School Choice & 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.
- ✗ **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.

## TESTING AND CURRICULUM

### 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; 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.

The federal No Child Left Behind Act (NCLB) of 2001 mandated an array of new student assessments and curricular reforms. NCLB mandated that each state define what constitutes adequate yearly progress (AYP) in increasing student achievement in reading and mathematics toward the goal of all students reaching proficient levels on uniform state assessments by 2014. NCLB required all states and local school systems to test all students on state learning objectives and adopt “research-based” curriculum. Maryland complied with NCLB by adopting the Maryland School Assessments (MSAs) in reading, mathematics, and science in grades 3 through 8, and grade 10. At the same time, the State Board approved a voluntary statewide curriculum, with which local curriculum must be aligned. In 2009, the State Board amended its regulations to clarify the state curriculum was no longer voluntary.

The State Board adopted regulations in 2004 to tie high school graduation beginning in 2009 to passage of four High School Assessments (HSAs) in Algebra/Data Analysis, English II, Biology, and Government. The HSAs in English II, Algebra, and Biology serve as the NCLB tests at the high school level. In 2008, the State Board approved the Bridge Plan for Academic Validation which allows students not passing one or more HSAs to complete projects for credit toward the minimum score required to graduate. The Government HSA was abolished in 2011, but restored 2012 by legislation that also mandates a new middle school assessment in social studies.

Maryland is developing and implementing the Maryland College and Career Readiness Standards (MCCRS) which involves developing a new state accountability system, curriculum and assessments, and educator evaluation systems, based on the Common Core State Standards (CCSS). The National Governors Association and the Council of Chief State School Officers developed the CCSS as higher academic expectations in English/language arts and mathematics based on the knowledge and skills students should master by the end of each grade level to be on track for success in college and careers. Maryland’s new assessments have been developed through the Partnership for Assessment of Readiness for College and Careers (PARCC). 2013 legislation mandates that all high school juniors are given CCSS assessments to demonstrate college readiness; and mandates new transitional courses for seniors. In these ways, the CCSS and related initiatives represent unprecedented nationwide education reform that will continue to test the boundaries of local, state, and federal decision-making in the education arena.

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

### 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 any mandated assessment program, including the computer-based PARCC assessments and related technology costs.
- ✓ **Supports** a two-year delay in administering the High School Assessments (HSAs) in English 10 and Algebra I as “high stakes” graduation requirement tests.
- ✗ **Opposes** any efforts by the General Assembly to legislate curriculum or testing matters.

## SCHOOL SAFETY

### BACKGROUND

Safety in public schools is extremely important to local boards of education for the protection of students and staff, as well as a necessary element for a good learning environment. 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 a variety of factors both 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 for disruptive and violent behaviors; 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 identified the need for improved intergovernmental 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, including technological or natural disasters. 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 six types of emergency drills that all schools must conduct each year. In 2013, the 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 passed to expand the "person in position of authority" law that criminalizes as a fourth degree sex offense sexual activity between educators and students.

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

### 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, and the wide array of mental health and public safety services provided by other public and private entities, which are essential to maintaining safe 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, including positive behavior intervention strategies to prevent and mitigate disruptions, and emergency plans to deal with any crisis which may occur in the school.
- ✗ **Opposes** any legislation which attempts to address student safety concerns with a piecemeal, "silver bullet" approach, or imposes unfunded mandates on local boards of education.



## STUDENT DISCIPLINE

### 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 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.

On January 28, 2014, the State Board voted to reform state regulations and mandate new local school system policies and regulations, including:

- New definitions of "expulsion", "extended suspension", "long-term suspension", and "short term suspension";
- New standards and conditions for excluding students from school through extended suspensions or expulsions;
- New mandates to provide excluded students with educational and behavioral support services;
- New requirement 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;
- New 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
- Mandate local boards to review and revise local student discipline policies and regulations by the beginning of the 2014-2015 school year.

In addition to these 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.

For additional information, see [MABE's Resolution on 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.
- ✗ **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.

## STUDENT HEALTH & FITNESS

### 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, continue to be reformed and enhanced to address the alarming national epidemics of juvenile diabetes and obesity. At the same time, child hunger impacts many students as an obstacle to learning.

Local boards of education are committed to providing quality physical education programs in Maryland's public schools within the current State and federal statutory and regulatory framework. 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" (COMAR 13A.04.13.01). COMAR also requires each school system to develop physical education curriculum guides for the elementary and secondary schools under its jurisdiction. However, MABE consistently represents local boards in opposing legislation to mandate the expansion of physical education courses. Such a mandate would result in enormous new costs for facilities and instruction; and MABE does not believe that State legislation is needed to foster the continued improvement of these programs.

MABE supported 2011 legislation to require MSDE and local boards of education 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.

Federal requirements play a major role in State and local education policy, including physical education and school nutrition. 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, which must include a variety of members, such as students, teachers, community members, and representatives of the district's food-service program. The wellness councils are responsible for developing plans to address the types of food sold in schools, physical education, and nutrition. The 2010 Child Nutrition and WIC Reauthorization, entitled the "The Healthy, Hunger-Free Kids Act", mandated major reforms in school meal programs to improve the nutritional value of the meals served to Maryland students each day. Today, school systems are increasingly involved in summer and weekend meal programs; partnerships to help ensure daily access to healthy food for all students.

For additional information, see [MABE's Resolution on Student Health and 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 mental and physical health and fitness.
- ✓ **Supports** the construction of new school facilities with adequate space for physical education.
- ✗ **Opposes** the unfunded mandate for increased physical education instruction, including minimum minutes per week, without consideration of costs and whether there is available space.
- ✗ **Opposes** the unfunded mandate to expand schools' responsibility to provide "adequate school health services" to include behavioral and mental health services.

## EMPLOYEE RELATIONS & COLLECTIVE BARGAINING

### 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, Maryland collective bargaining law remained unchanged, as 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. Importantly, the legislation does not mandate that school systems negotiate matters beyond the previously defined working conditions. In addition, the law prohibits 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 (SB 590) 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 one major provision in the new law. 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 a final determination in light of the funding shortfall.

In 2013, a new "fair share" law passed to require each local board and employee organizations to negotiate a reasonable service or representation fee to be charged to nonmembers of the employee organizations. 2013 saw the proposal of legislation, which did not pass, to amend the law that provides clear local board authority to make the final determination on funding the negotiated contract based on the local government's approved budget. 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.

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

### 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 ne-negotiation procedures and 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 re-negotiate the funds allocated for a negotiated agreement.
- ✗ **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.

## FEDERAL EDUCATION FUNDING & POLICY

### BACKGROUND

The Elementary and Secondary Education Act (ESEA), first enacted in 1965, is the centerpiece of federal education law and funding policy. 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 in the form of the No Child Left Behind Act (NCLB). The primary focus of NCLB was the new federal 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 similarly 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.

When NCLB was signed into law, Maryland already had a nationally recognized state assessment and accountability system, and the General Assembly passed the Bridge to Excellence in Public Schools Act to provide \$1.3 billion in additional state funding to support school improvement. This alignment of federal and state reform enabled Maryland to achieve national recognition. Unfortunately, Congress has never reauthorized NCLB to fix numerous flaws. Instead, the U.S. Department of Education has developed a competitive waiver application process. Maryland and more than 40 other states have been granted ESEA Flexibility Waivers, which condition 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 the General Assembly passed legislation in preparation for submitting a successful Race to the Top application. The Education Reform Act mandated new teacher and principal evaluation and tenure systems, with student assessment results as a key component of the evaluations. Maryland was awarded a \$250 million Race to the Top grant, and was subsequently granted an ESEA Flexibility Waiver. In 2015 Maryland will begin 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); and in the 2016-2017 school year educator evaluations will be based in part on student assessments. In these ways, ESEA and related federal education policies play a major role in the funding and operation of Maryland's public schools.

Other federal laws impacting public education include: the Individuals with Disabilities Education Act (IDEA) that is the federal special education law; the National School Lunch Program that subsidizes school lunches and breakfasts; the Family Educational Rights and Privacy Act (FERPA) that protects the privacy of student records; and the McKinney-Vento Homeless Education Assistance Act that ensures enrollment and educational stability for homeless children.

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

### LEGISLATIVE POSITIONS

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

- ✓ **Supports** federal legislation to amend ESEA in order to provide more flexibility in determining student, school and school system progress.
- ✓ **Supports** increased federal funding to states and local school systems to support the costs of implementing federally mandated programs and services such as student assessments, professional development, teacher and principal evaluations, and data processing and reporting requirements.
- ✓ **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, including requirements to sustain programs initiated but not maintained through grant funding.

## ELECTED, APPOINTED & HYBRID BOARDS OF EDUCATION

### 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 three 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 four boards are appointed:

Anne Arundel County <sup>1</sup>	Baltimore County <sup>3</sup>
Baltimore City <sup>2</sup>	Wicomico County

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

Caroline County<sup>4</sup>  
Harford County<sup>5</sup>  
Prince George's County<sup>6</sup>

<sup>1</sup> The Anne Arundel County Board of Education members are subject to a "retention" election in the election year following their appointment or reappointment. <sup>2</sup> The Baltimore City Board of School Commissioners is appointed by the Governor and the Mayor of Baltimore jointly from nominations submitted by the State Board of Education (HB 1453, 2014). <sup>3</sup> The Baltimore County Board of Education will begin the transition in 2015 to a hybrid board comprised of 4 appointed members and 7 members elected by district. <sup>4</sup> 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). <sup>5</sup> 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). <sup>6</sup> 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.

### 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.



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