

February 17, 2017

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MABE Legislative Day Luncheon

MABE's Annual Legislative Day Luncheon was held on Thursday, February 9 in the Miller Senate Building Conference Center.

Inclement weather made traveling from many parts of the state quite a challenge and for some, it was impossible. For those able to attend, the event provided yet another important opportunity meet with Delegates and Senators and to hear from distinguished guest speakers, including:

- Our gracious host - Senator Adelaide C. Eckardt
- Lieutenant Governor Boyd K. Rutherford
- State Superintendent of Schools Dr. Karen Salmon
- Delegate Maggie McIntosh, Chair, Appropriations Committee
- Delegate Anne R. Kaiser, Chair, Ways and Means Committee
- Delegate Eric G. Luedtke, Chair, Education Subcommittee, Ways and Means Committee
- Delegate Kathy Szeliga, Minority Whip
- Senator Paul G. Pinsky, Vice-Chair, Education, Health and Environmental Affairs Committee
- Senator Nancy J. King, Chair, Education Subcommittee, Budget and Taxation Committee
- Senator J. B. Jennings, Minority Leader

Legislative photos are now available on our [Flickr page](#). Also, see our [Legislative Day video](#) for photo highlights and Twitter activity.

MABE Legislative Committee Update

On Monday, February 13 MABE's Legislative Committee met to vote on bill decisions and hear updates on several highlighted bills. The committee voted to support with amendments bills regarding the Open

**2017 Legislative Committee
Calendar**

- March 6, 2017
Bill Review & Decisions
- March 20, 2017
Bill Review & Decisions
- April 3, 2017
Bill Review & Decisions
- May 1, 2017
Session Summary

MABE's Legislative Committee meetings are held in the MABE office on Monday mornings, 10:00 to 12:00, unless otherwise indicated. Meeting agendas and materials are posted on the [MABE website](#).

Meetings Act, the State's Consolidated Plan for the Every Student Succeeds Act (ESSA), and the proposed ban on suspensions and expulsions for students in grades prekindergarten through second grade. MABE also took positions in opposition to the bills to severely limit any use of physical restraint or seclusion of students, or to mandate a new system and procedures for testing lead in school drinking water.

Open Meetings Act Training

[HB 880/SB 450](#) – **Open Meetings Act - Required Training for Members of Public Bodies** (Del. Morales/Sen. Manno) This bill would modify a recent requirement that each public body, including local boards of education, designate an employee, officer, or member to receive training on the Maryland Open Meetings Act. The bill would repeal and replace this requirement with much broader mandate that all members of public bodies, including local boards of education, either complete a training class or submit a letter to the Open Meetings Compliance Board (OMCB) indicating an inability or unwillingness to complete the training. The amendment MABE requests would add the training provided to school board members by MABE to the roster of approved training programs, which now includes the training provided by the Maryland Association of Counties and Maryland Municipal League. The bill is being amended to maintain the requirement that only one individual has received the training, and to add new procedures for circumstances in which no trained person is present. MABE will continue to pursue the amendment to include the training MABE provides. (MABE Position: Support with Amendments)

State ESSA Plan & Local Governance

[HB 978/SB 871](#) – **Education - Accountability - Consolidated State Plan and Support and Improvement Plans (Protect Our Schools Act of 2017)** (Del. Luedtke/Sen. Zucker) This bill would require the State Educational Accountability Program to include at least a certain number of school quality indicators; authorize school quality indicators to include certain factors; prohibit certain school quality indicators from being based on student testing; require that academic and non-academic indicators be given equal weight and prohibiting the total of academic indicators from exceeding 51 percent of the total accountability system score; and govern the process for the local board of education to develop and implement any Comprehensive or Targeted Support and Improvement Plans for schools. The Legislative Committee opposed much of the bill's prescriptive approach to limiting the relative role of assessments and other academic indicators in the overall accountability system. However, much of the bill would protect local control and board governance over the development and approval of the intervention plans, without state intervention, and specifically prohibit any mandated state interventions such as: (i) creating a state-run school district; (ii) converting a public school to a charter school; (iii) issuing scholarships to public school students to attend nonpublic schools through direct vouchers, tax credit programs, or education savings accounts; and (iv) contracting with a for-profit company. (MABE Position: Support with Amendments)

Ban on Suspensions in PreK to Grade 2

[HB 425/SB 651](#) – **Public Schools - Suspensions and Expulsions** (Del. Lierman/Sen. Smith) This bill would prohibit prekindergarten students from being suspended or expelled from public schools; and

authorize the suspension or expulsion of students in kindergarten, first grade, or second grade if the student has knowingly brought a firearm to school or has possessed a firearm at school.

MABE generally 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. Correspondingly, MABE 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.

However, even as MABE continues to advocate for local policy making discretion, we have pledged to continue to collaborate with the legislature and State Board and Department of Education in the development of policy initiatives intended to improve the student discipline process to promote successful classroom strategies and student attendance. MABE supports reducing the rate of out-of-school suspensions for non-violent behaviors, requiring that educational services be provided to students receiving suspensions or expulsions, and reducing and ultimately eliminating disproportionate and disparate impacts of student discipline policies on minority students. In light of these positions, MABE is requesting amendments to limit the scope of the bill to grades prekindergarten and kindergarten, and to authorize the use of suspension to cases in which the student's behavior has been determined to have caused, or poses an imminent threat of causing, serious physical harm to a student or staff member. (MABE Position: Support with Amendments)

Appropriate Use of Student Restraint

[HB 331/SB 786](#) – **Education - Behavior Intervention Plans - Physical Restraint and Seclusion** (Del. Luedtke/Sen. Zucker) This bill would prohibit the use of physical restraint or seclusion of a student except in very narrow circumstances. MABE recognizes that the statute may be in need of updating, but respectfully requests that any statutory changes more closely reflect the regulations that now govern these practices. During the bill hearing in the House Ways and Means Committee on February 14, the proponents of the bill acknowledged that Maryland regulations, which were comprehensively updated in the early 2000's, continue to put Maryland ahead of the national curve.

Under current law and regulation, "physical restraint" is defined as the use of physical force, without the use of any device or material, that restricts the free movement of all or a portion of a student's body. Under this legislation the use of physical restraint would be limited to situations in which "other less intrusive interventions have been demonstrated by empirical evidence to be ineffective." MABE believes this condition is too restrictive to be practically achievable on a case by case basis. More reasonably, state regulations under COMAR 13A.08.04.05A(1)(a) prohibit the use of physical restraint as follows: (a) The use of physical restraint is prohibited in public agencies and nonpublic schools, unless: (i) There is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate; (ii) The student's behavioral intervention plan or IEP describes the specific behaviors and circumstances in which physical restraint may be used; or (iii) The parents of a nondisabled student have otherwise provided written consent to the use of physical restraints while a behavior intervention plan is being developed.

Again, MABE opposes House Bill 331 and Senate Bill 786 because this legislation would eliminate the limited exception provided in regulations which allows for the use of physical restraint and seclusion if there is “is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate.” (MABE Position: Oppose)

Contact the members of the [House Ways and Means Committee](#) now to voice your opposition to House Bill 331; and before March 8 contact members of the [Senate Education, Health and Environmental Affairs Committee](#) to oppose Senate Bill 786.

Lead Testing & Responses to Results

[HB 270](#) – **Environment - Testing for Lead in Drinking Water - Public and Nonpublic Schools** (Del. Lafferty) This bill would require the Maryland Department of the Environment (MDE), in consultation with the State Department of Education (MSDE), to adopt regulations to require periodic testing for the presence of lead in each drinking water outlet located in an occupied public or nonpublic school building. The bill would authorize MDE to provide waivers for lead free facilities. In addition the bill would impose new reporting requirements. MABE believes the federal standards and federal and state regulations are sufficiently thorough and being implemented in such a way as to ensure the health and safety of students and staff regarding drinking water in schools. (MABE Position: Oppose)

MABE Testimony and Bill Report

For more information on pending legislation, including MABE’s positions, bill status and hearing dates, and MABE’s testimony:

[MABE Bill Tracking Report](#) (Updated 2/17/2017)

[MABE Bill Testimony](#) (Updated 2/17/2017)

Hearing Highlights

Challenge to Local Board Authority to Hear Employee Discipline Cases

On Valentine’s Day, MABE participated on a panel testifying in opposition to “Grounds for Discipline” legislation. The House Ways and Means Committee held a hearing on House Bill 497, which This bill alters the procedures for suspending or dismissing a teacher, principal, supervisor, assistant superintendent, or other professional assistant by authorizing such an individual to request a hearing before an arbitrator instead of the local board of education.

Panelists included Pamela Murphy, Human Resources Director, Charles County Public Schools; Jon O’Neal, Jon O’Neal, Assistant Superintendent of Administration, Carroll County Public Schools; and Darren Burns, school law attorney with Carney, Kelehan, Bresler, Bennett & Scherr. MABE is confident that the

expertise and profound concerns shared by this panel will help convince the Committee to reject this legislation.

MABE opposes House Bill 497 because it would remove the authority to discipline certificated employees from the local board of education and transfer this responsibility to an arbitrator if requested by the employee. Such a transfer would adversely impact the ability of local boards to respond to employee misconduct consistent with the best interests of the students, the school system, and community. Instead, House Bill 497 would transfer the board responsibility to an arbitrator, an independent third party who is not required to balance of the employee's interests and the school system's on behalf of all students.

The Senate cross-file, Senate Bill 760, will be heard in the Senate Education, Health, and Environmental Affairs Committee on March 8.

Contact the members of the [House Ways and Means Committee](#) now to voice your opposition to House Bill 497; and before March 8 contact members of the [Senate Education, Health and Environmental Affairs Committee](#) to oppose Senate Bill 760.

MABE's Legislative Positions & Priorities

MABE has adopted a comprehensive set of [2017 Legislative Positions](#) on the following issues: Local Board of Education Governance, Education Funding, School Facilities Funding, Local Funding & Maintenance of Effort, Unfunded Mandates, Special Education, Charter Schools, Vouchers & Public Funding for Nonpublic Schools, Testing and Curriculum, School Safety & Security, Student Discipline, Student Health, Nutrition & Fitness, Employee Relations & Collective Bargaining, Federal Education Policy and Funding, and Elected, Appointed & Hybrid Boards of Education.

MABE's Advocacy Centers

MABE strives to be the primary voice for public education in Annapolis. The unity of 24 local school boards lends strength to our increasing importance in the legislative process, ensuring that the Governor, General Assembly, and State Board of Education turn to MABE to help determine what is best for school children.

Annapolis Advocacy Center

MABE's [Legislative Committee](#) holds monthly meetings to guide the Association's lobbying activities in Annapolis, and invites policy and legislative leaders to exchange ideas. The Director of Governmental Relations, in coordination with MABE leadership, conducts direct lobbying activities including [testimony](#) before the General Assembly. MABE adopts and publishes an annual [Legislative Positions](#) publication and a Session Summary. MABE coordinates the Green Street Coalition, which is comprised of legislative liaisons from school systems and the superintendents association, and MABE staff pens the weekly GreenSheet update on legislative activity. Link to [MABE's Annapolis Advocacy Center](#).

State Board Advocacy Center

MABE staff and members of the Board of Directors attend each meeting of the State Board of Education, and staff pens [The Monitor](#), which provides a comprehensive summary of each meeting. MABE frequently informs the State Board of the Association's positions on priority issues through testimony, correspondence, and meetings. Link to [MABE's State Board Advocacy Center](#).

Federal Advocacy Center

MABE encourages all boards of education to engage in advocacy at the federal level to ensure that our federal officials are well informed on the priorities and perspectives of local school systems and the fiscal and policy issues arising under the myriad federal programs impacting public education. MABE's Federal Relations Network (FRN) Committee is comprised of board members appointed to represent the association in communicating NSBA and MABE positions to Maryland's federal delegation, including our two U.S. Senators and eight members of the U.S. House of Representatives. Link to [MABE's Federal Advocacy Center](#).

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