



# 2019 *Final Draft* LEGISLATIVE POSITIONS

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## 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, the association 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 monitors and adopts positions on legislation and regulations affecting public education. The Advocacy sections of MABE's website, [www.mabe.org](http://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 2019 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. Specifically, MABE is seeking approval of enhanced local school calendar flexibility.** 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. Specifically, MABE is seeking passage of the Kirwan Commission legislation to update and enhance the constitutional adequacy and equity of state and local funding. A top priority for MABE is establishing a per pupil funding allocation for all prekindergarten students.** MABE urges the Governor and General Assembly to support increased funding of public education in the FY 2020 State Budget. Local boards of education are committed to preparing all students to be globally competitive in college and careers, and the increased funding and reforms in the Kirwan Commission bill are essential in these times of rapid change, rising expectations, and increased costs.
- **Support for robust State funding for school construction and renovation projects. Specifically, MABE is seeking funding of at least \$400 million and implementation of the process reforms in the 21<sup>st</sup> Century School Facilities Act consistent with the law's intent to enhance local flexibility.** MABE requests an FY 2020 school construction budget of at least \$400 million to support local boards in providing safe and sustainable optimal learning environments to prepare our students to be college and career ready.
- **Support for sustained local government investments in education. Specifically, MABE is seeking to update state law to ensure local funding increases above maintenance of effort include the local share for students in prekindergarten, special education, economically disadvantaged, and English learner state funding categories.** 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 updating the maintenance of effort law to require local funding contributions to support targeted funding for our highest needs students.

On behalf of all 24 local boards of education, MABE looks forward to your support for MABE's legislative priorities in 2019. 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).

(Signature)

Julie Hummer, 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. 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.

MABE is participating in the implementation of the Every Student Succeeds Act (ESSA) and State Accountability Plan, and on the Kirwan Commission on Innovation and Excellence in Education, to ensure the continued governance role of local boards in making educational policy and resource allocation decisions in the best interests of students.

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** legislative and funding recommendations of the Kirwan Commission to update and enhance Maryland's nationally recognized standards-based school finance system, consistent with preserving local board governance.
- ✓ **Supports** increased funding for all students and targeted increases for prekindergarten, English learners, economically disadvantaged students, and students receiving special education services. MABE also supports sustaining funding programs including the Geographic Cost of Education Index (GCEI), Guaranteed Tax Base, inflation factor, and hold harmless grants.
- ✓ **Supports** increased funding for public education in the FY 2020 State Budget, including the phase-in of dedicated gaming revenue in the Education Trust Fund.
- ✗ **Opposes** efforts to reduce state funding or shift funding responsibilities from the state to county governments.
- ✗ **Opposes** proposals to reduce or eliminate the governance and decision-making authority of local boards and administrators as a condition for receiving increased state funding.

### BACKGROUND

Local boards are charged with providing an excellent education for all students, including students who require additional services, and complying with myriad state and federal mandates. Maryland is deeply engaged in education funding reform through the Kirwan Commission on Innovation and Excellence in Education. The adequacy study completed in 2016 recommends a nearly \$2 billion increase in state aid and nearly \$1 billion increase in local aid for public education. These increases represent the commitment Maryland must make to fully and equitably fund a high quality public education for all of Maryland's more than 890,000 students.

The Kirwan Commission has developed funding and policy proposals to provide local school systems, schools, and students with reasonable opportunities to achieve Maryland's high state standards. The Commission has aligned its funding and policy recommendations with the "Nine Building Blocks for a World-Class State Education System" developed by the National Center on Education and the Economy (NCEE). MABE continues to advocate for the preservation of local board governance authority over curriculum and instruction and education program administration relating to specific funding and policy recommendations of the Kirwan Commission.

In 2002, the legislature acted on an adequacy study by passing the Bridge to Excellence in Public Schools Act. This landmark law restructured the education financing system to enhance the adequacy, equity, flexibility and accountability of public school funding. Since 2008, state education funding has remained relatively flat. New unfunded mandates and cost shifts, such as teacher retirement costs, have negatively impacted school system and county government budgets. At the same time, Maryland has continued to raise academic standards in English/Language Arts, Science, Government, Algebra, Career Technology Education, and other subjects.

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." Courts have interpreted this to mean funding must be sufficient to provide all students with "an adequate education measured by contemporary educational standards"; and if sufficient funding is not provided, the State is failing to meet its constitutional duty. MABE is confident that through incremental implementation of funding recommendations developed by the Kirwan Commission, Maryland can fulfill its constitutional mandate to fully fund and support an adequate, equitable, and excellent education for all students.

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 \$400 million for school construction and renovation projects for FY 2020 to provide the State's share of approved projects to build, renovate, and improve schools.
- ✓ **Supports** continued improvements to the state school construction program, including the recently enacted 21<sup>st</sup> Century School Facilities Act, which are consistent with MABE's adopted resolutions and legislative positions.
- ✓ **Supports** continued state and local investments in projects to enhance school safety and security and support the safety, security, and student health programs and services mandated in the Safe to Learn Act of 2018.
- ✓ **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 or prototypes, or other proposals which limit local authority over school facility design, construction, maintenance, procurement, programs 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; and 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 according to a formula based on a local jurisdiction's taxable wealth and other factors. 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.

In 2016, the Speaker of the House and President of the Senate established the Knott Commission on 21<sup>st</sup> Century School Facilities 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 supported the 21<sup>st</sup> Century School Facilities Act of 2018 because it reflects local school system priorities for increased funding and process reforms to enhance state and local efficiency and flexibility while ensuring quality and accountability. The Act also reformed the structure and operation of the Interagency Commission on School Construction (IAC) in governing the public school construction program and eliminated the role of the Board of Public Works.

While MABE recognizes the need for the State to address the critical needs of schools with the greatest relative deficiencies, including facility conditions, capacity, and educational functionality, MABE firmly believes that state funding should also continue to support all school systems with approved construction, renovation, and systemic projects.

MABE appreciates the State's investments in the annual capital budget and targeted investments to support school safety projects, HVAC projects, and energy efficiency projects. In 2018 additional funding was provided for school safety, HVAC, and r school systems with significant enrollment growth, totaling over \$60 million in FY 2018. Importantly, the State is fulfilling the 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 and learning environments 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** growth in local funding in addition to the minimum maintenance of effort amounts, including increases based on inflation and other factors, and to provide supplemental local per pupil funding for prekindergarten, English learners, low-income students, and students receiving special education services.
- ✓ **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.

### BACKGROUND

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" (MOE) 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. MABE places the highest priority on ensuring sustained local government investments in public education in accordance with the state MOE law. Adequate local funding is essential to the current and continued success of Maryland's public schools. Maryland's public school students deserve the affirmative commitment of all county governments to provide annual increases in public education funding which exceed the minimum maintenance of effort funding level.

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, but has not kept pace with rising costs of doing business and providing an excellent education for all students.

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 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, major reforms were enacted to mandate MOE as the annual funding floor, and reform the waiver and enforcement processes. The law now requires counties to apply for a waiver if they believe they cannot meet MOE, but also expands the factors the State Board must consider. A key provision allows counties to override local charters limiting or capping local taxes, but only for education funding. The law also mandates 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.

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. 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: lead testing and remediation of school drinking water (2017); adopting the goal of 45% of high school graduates having career technology education (CTE) certification by 2025 (2017); providing parental consent in special education decisions (2017); restricting the suspension of elementary students through second grade and requiring in-school restorative practices (2017); mandating annual reviews with teacher unions of student assessment policies (2017); requiring translations of special education individualized education programs (IEPs) into native languages (2016); expanding prevailing wage rate rules to increase labor costs (2014); requiring CPR & defibrillator instruction (2015); and mandating college and career readiness high school assessments, remediation classes, and dual enrollment requirements (2014).

In 2012, the legislature permanently shifted hundreds of millions of dollars in teacher retirement costs to local governments and boards of education. 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](#).



## 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 an excellent education for all of Maryland's students.
- ✓ **Supports** increased state funding to support the work of local school systems to ensure that the Safe to Learn Act is implemented with fidelity; and increased state and local funding for programs addressing gangs, drugs, human trafficking, behavioral health, and the impact of systemic violence in communities, schools, and our students' lives.
- ✓ **Supports** local discretion to adopt programs and policies to ensure school safety and security.
- ✗ **Opposes** the unfunded mandate to expand the responsibility of public schools to provide "adequate school health services" to include behavioral health services.
- ✗ **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.

Following the tragic school shooting in Newtown, Connecticut in 2012, the State Board approved reforms to require evacuation, shelter in place, lockdown and other drills that all schools must conduct each year. And in 2013, with MABE's support, the Maryland Center for School Safety was created to facilitate coordination and collaboration between local school systems. Tragically, a mass school shooting occurred on Feb. 14, 2018 at Marjory Stoneman Douglas High School in Parkland, Florida; and a school shooting occurred on March 20, 2018 at Great Mills High School in St. Mary's County, Maryland. These events led to broad bipartisan support for the Safe to Learn Act of 2018, which:

- Establishes a School Safety Subcabinet and Advisory Board and increases funding for the Maryland Center on School Safety (MCSS);
- Requires school systems to designate a certified school safety coordinator and to conduct annual safety evaluations of each school;
- Requires local school systems to designate a mental health services coordinator, and requires local assessment teams for the identification of, and intervention with, students or other individuals who may pose a threat to school safety;
- Requires all school resource officers (SROs) and school safety and security personnel to complete a specialized curriculum, and requires school systems to report on schools with assigned SROs and, if not, how adequate local law enforcement will be provided; and
- Provides significant initial funding for school facility upgrades and school safety and security programs.

In addition, Maryland has long-mandated state and local policies on criminal gang activity, bullying (including cyber bullying), background checks for school employees and contractors, and emergency plans and drills to prepare for violent or traumatic events. In 2014, MABE supported legislation to expand the "person in position of authority" law that criminalizes, as a fourth degree sex offense, sexual activity between educators and students. In 2018, a bill passed to require training of all school employees on the prevention of child sexual abuse.

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

## 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 and resources 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 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 procedural safeguards, rights and responsibilities, and information on access to services. 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 2017, legislation was enacted to initiate a multi-year study of the IEP process, staff allocations, and resources for parents. Another bill passed to require parental consent for certain decisions adopted by the IEP team. In these ways Maryland has mandated expanded special education services beyond federal requirements; presenting ongoing fiscal, legal, and service delivery challenges for local school systems.

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 included 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.

In 2018, MSDE received a federal grant for more than \$17 million for the purposes of assisting new and existing charter schools. MABE supports the administration of the MSDE Charter Schools Grant Program in a manner that is consistent with each local board's charter authorizing authority and Maryland's public charter school law.

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 as enacted in the State Budget Bill since 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. Maryland's publicly-appointed or locally-elected school boards direct the operation of school systems in which 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.

Since the 1990s, state funding has been provided for the Aid to Nonpublic Schools Program, which now provides \$6 million for MSDE's purchase of textbooks and computer hardware and software to be distributed to eligible nonpublic schools. In 2013, the Governor and legislature launched the \$3.5 million Nonpublic Aging Schools Program to directly fund private school facility projects in schools eligible for the textbook program.

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. Contrary to legislative intent, data shows that 78 percent of students participating in the program were already enrolled in private schools. To be eligible for 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 agree not to discriminate in student admissions on the basis of race, color, national origin, or sexual orientation.

MABE joins the National School Boards Association (NSBA) in urging Congress to reject using federal funds for voucher programs, including any special education vouchers, or for military children or other specific groups of students. MABE also urges Congress to oppose any amendments to make vouchers part of the Elementary and Secondary Education Act (ESEA) or the Individuals with Disabilities Education Act (IDEA).

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, assessments, and instructional programs in conjunction with the State Board of Education.
- ✓ **Supports** adequate state funding to support mandated assessment programs, including federally required reading/language arts, mathematics, and science assessments, the state's high school assessment in government, and d initiatives under the Every Student Succeeds Act.
- ✓ **Supports** a pause in implementing high stakes graduation requirements based on minimum cut scores on state assessments until new assessments are field tested and administered for multiple years.
- ✗ **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.

The 2015 Every Student Succeeds Act (ESSA) represents a comprehensive revision of the No Child Left Behind Act (NCLB) of 2001. Maryland's state accountability plan under ESSA was approved by the U.S. Department of Education on January 10, 2018 and includes the academic standards and assessment requirements adopted by the State Board of Education and aligned with the Protect Our Schools Act of 2017. Maryland will continue to administer mathematics, reading/language arts, and science assessments in grades 3 through 12. However, the set of indicators to measure academic progress, progress towards English language proficiency, and school quality/student success are all new under ESSA.

In the 2018-2019 school year, school performance will be reported using a 5-star rating system based on academic and nonacademic indicators, including state assessment results, credit for growth, and other measures of success such as chronic absenteeism, school climate surveys, and evidence of access to a well-rounded curriculum. In addition, ESSA requires that the lowest-performing schools be identified for comprehensive school improvement (CSI) and others for targeted school improvement (TSI), and local plans must be developed to improve teaching and learning at these schools. These reforms are ongoing and challenging, requiring new approaches to financial reporting, professional development, and parent and community engagement.

At the same time, Maryland continues to go beyond federal testing requirements by setting passing scores on four state tests in Algebra, English, Science, and Government. For many years, the cuts scores were based on Partnership for Assessment of Readiness for College and Careers (PARCC) assessments. In the 2019-2020 school year, brand new tests will be administered in grades preK-12, including these high school level tests. Therefore, MABE supports a pause in implementing high stakes graduation requirements based on minimum cut scores on state assessments until the new tests are field tested and administered for multiple years.

The legislature formed the Commission to Review Maryland's Use of Assessments and Testing in Public Schools in 2015. In 2017, legislation passed to require procedures for mutual agreements with teachers unions on a limited amount of time that may be devoted to federal, State, and locally mandated assessments. In 2016, a bill passed to limit the administration of the kindergarten readiness assessment (KRA); and in 2017 a bill passed to require agreements with teachers unions on prekindergarten assessments.

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

## 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 and resources 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 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 2017, legislation passed to prohibit a child enrolled in a public prekindergarten program through second grade from being suspended or expelled from school, subject to limited exceptions. A student may be suspended for up to five school days if the school administration, in consultation with a school psychologist or other mental health professional, determines that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports. MABE supports reasonable guidance and regulations to implement this law; and anticipates the need for additional state and local funding to meet the staffing, professional development, and facility demands imposed by law's new mandate for the use of restorative in-school practices.

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 to provide healthy food for all students and expand access for economically disadvantaged students.
- ✗ **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 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 behavioral 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. MABE supports the state’s Hunger-Free Schools Act, passed in 2015 and extended in 2017, to allow school systems to utilize CEP. Also passed in 2017 with MABE’s support, the Grab & Go Meals in High Schools program allows breakfast to be served in any part of the school. In 2018, a bill passed with MABE support to phase-in state responsibility for the student share of the costs of reduced-price breakfasts and lunches.

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. Physical education programs must 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 supported 2011 legislation to ensure that coaches, parents, and students are fully informed about identification and responses to concussions.

In 2017, MABE supported the Start Talking Maryland Act to expand the existing drug education program in public schools to include a unit on opioids; require each local board to provide naloxone and authorize school personnel to administer it at every school; and require local boards or local health departments to employ community action officials. In 2015, a bill passed to require school counselor certification in areas of social and emotional development and indicators of trauma, abuse, depression, and other behavioral health issues. A 2016 bill requires age-appropriate education on awareness and prevention of sexual abuse and assault; and a 2017 bill requires suicide risk response training for all educators.

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 employees.
- ✓ **Supports** legislation to reinstate the authority of local boards to hear appeals in employee discipline cases, as opposed to binding arbitration, especially in cases involving the safety of students.
- ✗ **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, 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.

In 2018, a "grounds for discipline" bill passed to allow school employees disciplined by the superintendent, through suspension or termination, to appeal not to the local board but to an outside arbitrator for a final and binding decision. MABE strongly opposed this initiative to remove the local board role of reviewing the superintendent's decision and ensuring a high quality and safe learning environment for all students by responding to the immorality, misconduct, insubordination, incompetency or willful neglect of teachers and administrators.

Also passed in 2018 was a bill to require school systems to provide unions with routine access to "new employee processing," which is when new employees are advised of specified employment-related matters. This bill was in response to the *Janus v. AFSCME* Supreme Court decision holding that mandatory representation fees for non-members of public sector unions are unconstitutional. In 2017, bills passed to require procedures for mutual agreements with teachers unions on the amount of time devoted to federal, State, and locally mandated assessments; and another bill passed to require agreements with teachers unions on the use of prekindergarten assessments. In addition, a whistleblower protection act for school employees was enacted.

In 2010, the Fairness in Negotiations Act created the Public School Labor Relations Board (PSLRB) to replace the State Board of Education as the arbiter of scope of bargaining and contract disputes. MABE 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.

The Kirwan Commission has developed recommendations for a statewide salary and professional advancement ladder for educators and administrators, and other significant reforms to the education, certification, professional development, and compensation of teachers, principals and other educators and school personnel. MABE supports recommendations for increased state funding and other policy reforms consistent with local decision-making on salaries and benefits relative to local priorities, available resources, and negotiated agreements.

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** increased federal funding to states and local school systems to support the costs of implementing federally mandated programs and services.
- ✓ **Supports** federal guidance, policies, and regulations consistent with ESSA to provide more state and local board of education flexibility in crafting student, school and school system accountability systems.
- ✓ **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 2001 was known as the No Child Left Behind Act (NCLB). MABE believes that ESSA provides an 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.

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 2010 Maryland adopted the Common Core State Standards and enacted related 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 ESEA waivers with additional conditions. Today, ESSA includes provisions barring the federal government from conditioning funding in this way.

Maryland's state accountability plan under ESSA was approved by the U.S. Department of Education on January 10, 2018. This state plan includes the academic standards and assessment requirements adopted by the Maryland State Board of Education and aligned with the Protect Our Schools Act of 2017. MABE is participating in the development of state policy to ensure that state actions under ESSA adequately respect the governance role of local boards of education. ESSA requires comprehensive interventions and supports for the lowest performing schools, and targeted programs in schools with low-performing groups of students. These and other provisions will require substantial federal, state and local investments in the years ahead.

MABE will continue to advocate for federal legislation, regulations, and appropriations to support sound implementation of ESSA, the Individuals with Disabilities Education Act (IDEA), the Perkins Career & Technical Education Act, school-based Medicaid reimbursable services, and other federal programs.

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 research-based evidence that either elected boards or appointed boards are more effective or accountable.
- ✗ **Opposes** bills granting initial 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, eighteen are comprised entirely of locally elected members; Anne Arundel County is transitioning from an all-appointed to all-elected board; the Baltimore City Board of School Commissioners is appointed by the Mayor; and four are hybrid boards are comprised of both appointed and elected members.

The following nineteen boards are elected:

Allegany County	Kent County
Anne Arundel County <sup>1</sup>	Montgomery County
Calvert County	Queen Anne’s County
Carroll County	St. Mary’s County
Cecil County	Somerset County
Charles County	Talbot County
Dorchester County	Washington County
Frederick County	Wicomico County
Garrett County	Worcester County
Howard County	

The following board is appointed:

Baltimore City <sup>2</sup>

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

Baltimore County <sup>3</sup>	Harford County <sup>5</sup>
Caroline County <sup>4</sup>	Prince George’s County <sup>6</sup>

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<sup>1</sup> The Anne Arundel County Board began the transition in 2018 to an elected board, with staggered terms through 2024 when all members stand for election (HB 716, 2017).

<sup>2</sup> The Baltimore City Board is appointed by the Mayor of Baltimore (HB 562, 2017); and effective in the 2022 election, the Board will become a hybrid board with two additional members elected at large (HB 558, 2016).

<sup>3</sup> The Baltimore County Board began the transition in 2015 to a hybrid board comprised of 4 appointed members and 7 members elected by district, effective in the 2018 election (SB 290, 2014).

<sup>4</sup> The Caroline County Board began the transition in 2011 to a hybrid board comprised of 2 appointed and 3 elected members (SB 964, 2009).

<sup>5</sup> The Harford County Board 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 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 (HB 1107, 2013).



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