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October 29, 2018

Dr. Mary Gable
Assistant State Superintendent
Division of Student Support, Academic Enrichment and Education Policy
Maryland State Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

Dear Dr. Gable:

The Maryland Association of Boards of Education (MABE) has identified several substantive questions, concerns, and objections regarding the proposed amendments to the State regulations governing local board of education and school system policies and procedures on student grading (COMAR 13A.03.02.08). These proposed regulations were approved on July 24, 2018 by the State Board for publication in the Maryland Register for public comment, with publication on September 28, 2018 and the opportunity for public comment extending through October 29, 2018.

MABE recognizes the interests of the State Board and MSDE in ensuring that each local school system adopts and implements sound local policies and procedures for student grading. MABE fully supports the State Board and agency role in exercising administrative and quasi-judicial authority to ensure that local school systems are not operating in an arbitrary, unreasonable, or illegal manner. However, MABE firmly believes that such authority already exists, and that the proposed amendments to longstanding reporting regulations would infringe on local board authority by imposing expansive and prescriptive requirements for the local policies and procedures being reported.

Current State regulations require that each local school system must adopt a grading policy that complies with the State's student records requirements and annually provide this policy to MSDE (COMAR 13A.03.02.08.A.-B.). The proposed regulations would transform this policy reporting requirement to a lengthy set of new requirements including specifications for the content of the locally adopted policies as well as procedures, information including the names of personnel administering the policies and procedures, and an annual performance audit on the operation of each local school system's grade change policies and procedures (COMAR 13A.03.02.08.A.-D.).

MABE believes that that structure and content of the proposed regulations warrants major revisions to address the need for clarification on the distinction between policy and procedure. The proposed regulations appear to be intended to require that locally adopted grading policies include a prescriptive set of procedural and administrative components not typically included in local board policy. Therefore, MABE requests the removal of prescriptive requirements regarding procedures and administrative practices from the proposed State regulations.

The proposed regulations would require specified content of local policies including grading scales, methodology for calculating final course grades and weights, and the role of attendance in grading. In each instance, the regulations would inappropriately require local policies on grading and reporting to include "explanations" of these policies (COMAR 13A.03.02.08.B. (1)-(4)). MABE requests that the references to requiring "explanations" of policy components be removed. Specifically, MABE requests clarification of the reference to the "explanation of how attendance factors into the student's grade" under COMAR

13A.03.02.08.B.(4) to address the distinction between attendance impacting a student's grade and the determination of whether a student receives credit for a course.

MABE also requests the removal of the proposed requirement that each local grading and reporting policy include "grade change procedures with explanation" (COMAR 13A.03.02.08.B.(5)). MABE opposes this provision for the same rationale as stated above, but in this instance the proposal would require not only an explanation of the adopted grade change policy but also the procedures developed under the policy. Local boards take very seriously their governance role regarding student grading policies, and respect the appropriate administrative roles of superintendents and staff to carry out grading procedures and practices.

The proposed regulations would require that each local policy include provisions on "how and when the school system will audit the validity of grade changes each year" (COMAR 13A.03.02.08.B.(5)(d)). MABE requests the removal of this provision based on the absence of statutory authority to impose a new requirement in regulations to conduct annual audits of grade change policies, procedures, and administrative decisions. Similarly, MABE opposes the adoption of COMAR 13A.03.02.08.C.(2) because it would impose the requirement that by October 1 of each year each school system must submit a copy of the "grade change validity audit" referenced indirectly as a policy component under COMAR 13A.03.02.08.B.(5)(d).

MABE is concerned that the proposed mandate for a "timeline for final grade changes that cannot exceed 30 school days following the last day of the grading period" does not appropriately reflect the local decision-making process and prerogative to adopt procedures which may allow for appeals extending well beyond 30 school days. Therefore, MABE requests the removal of COMAR 13A.03.02.08.B.(5)(a). Similarly, MABE requests the clarification or removal of COMAR 13A.03.02.08.B.(5)(e) which appears to require that the grading policy must include not only the grade change procedures but also the procedures for appeals arising from complaints regarding grading decisions.

Again, MABE is concerned that the proposed regulations would mandate a prescriptive set of procedural and administrative components not typically included in policy. Therefore, it follows that MABE is very concerned that the annual reporting requirement, unchanged in the proposed regulations, would now refer to reporting on the full scope of policy, procedures and administrative decisions and outcomes arising under those policies and procedures.

For these reasons, MABE respectfully requests that the State Board and MSDE pursue a collaborative process with local school systems to review and consider amendments to the current, succinct, State regulations and the impact of any major revisions on the tradition and legal framework providing local discretion in adopting and administering student grading policies. MABE believes that the withdrawal of the proposed regulations should allow ample time for such dialogue.

MABE appreciates this opportunity to provide constructive feedback on the proposed regulations governing the annual reporting of local school system grading policies. Please direct any questions or concerns regarding these comments to MABE's Director of Governmental Relations, John R. Woolums, Esq., at jwoolums@mabe.org or 410-841-5414.

Copy:

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