

December 20, 2019

Dr. Karen B. Salmon  
State Superintendent of Schools  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, Maryland 21201

Warner I. Sumpter, Brig. Gen. (Ret.)  
President  
Maryland State Board of Education  
200 West Baltimore Street  
Baltimore, Maryland 21201

Dear Dr. Salmon and President Sumpter:

The Maryland Association of Boards of Education (MABE), representing Maryland's 24 local boards of education, requests the consideration of the following concerns as the State Board considers regulations (COMAR 13A.03.02.08) mandating that local grading policies include strict limitations on a student's eligibility to receive course credit, and therefore to graduate, based on unexcused absences from school. This provision is included in a larger set of proposed amendments to the regulations governing graduation requirements (COMAR 13A.03.02.01-.12). In addition, MABE requests an amendment to the section of the proposed regulations (COMAR 13A.03.03.09) to implement the law passed in 2019 to ensure that students' results on the new high school assessments to be administered in the spring of 2020 do not affect their eligibility for graduation in 2020 or in any subsequent year in which they will graduate.

### **Low Threshold of Unexcused Absences Should Not Limit Course Credit Eligibility**

The pending regulations purport to strictly limit a student's eligibility for course credit on a threshold of 5% of unexcused absences in a marking period (4.5 days), or school year (9 days). MABE recognizes that the regulations also provide an exception for students who present "compelling mitigating circumstances supporting the awarding of credit." The proposed attendance standard is not based on any new federal or state law or consistent with current State law and regulations governing student attendance and grading policies. Local boards do not believe the proposed regulations satisfy a simple test of reasonableness based on the low threshold of unexcused absences triggering severe academic consequences for students, and do not believe the exception based on "compelling mitigating circumstances" is a practicable or equitable remedy, or burden of proof, for all students impacted by a new attendance standard.

### **Best Interests of the Students**

Local school systems are concerned about the unintended consequences of adopting a standard for attendance and course eligibility that is not in the best interests of students and does not reflect best practices in student grading and attendance policy making. School systems cite available research on best practices for grading policies which counsel against linking student attendance and grading policies and, more specifically, policies that mandate academically punitive responses to non-academic behavior. Technically, if the regulation is

adopted, a student who misses a few days of each marking period could be forced to repeat an entire school year. Practically, many students will not do so, but rather drop out, thereby resulting in catastrophic damage to their ability to achieve lifelong educational and economic success.

Local boards are deeply troubled that a foreseeable outcome of the proposed regulations would be to disincentivize to continued engagement or re-engagement of students who have already exceeded the 4.5 day threshold. MABE urges the State Board to consider the inequitable and disproportionate consequences for those students most likely to reach a low threshold of unexcused absences, least likely to be able make a case in support of “compelling mitigating circumstances,” and therefore most likely to suffer the negative academic consequences.

### Equity

MABE shares the concerns raised by local school systems that the proposed regulations raise serious equity concerns. Therefore, MABE requests that the State Board apply the equity policy adopted by the Board on October 22, 2019, and the Equity Lens adopted by MABE in 2018, which is provided below:

- Who are the under-represented groups affected by this policy, program, practice, decision, or action? What are the potential impacts on these groups?
- Does this policy, program, practice, decision, or action worsen existing disparities or produce other unintended consequences?
- How have you intentionally involved stakeholders who are also members of the communities affected by this policy, program, practice, decision, or action? Can you validate your assessments in #1 and #2, having considered this stakeholder reaction?
- What are the barriers to more equitable outcomes (e.g. mandated, political, emotional, financial, programmatic, or managerial)?
- How will you (a) mitigate the negative impacts and (b) address the barriers identified above?

MABE believes that removing the proposed amendment is consistent with the application of the Equity Lens and the State regulations on Educational Equity (COMAR 13A.01.06). However, if the State Board determines to pursue the adoption of this amendment, MABE requests that prior to final action an equity analysis be completed and considered by the Board.

### Student Attendance Already Governed by Other State Regulations

Current State regulations already govern student attendance policies (COMAR 13A.08.01.05) and do so in a manner that provides a comprehensive framework for “promoting regular school attendance” and for responding to excessive unlawful absences. These regulations place on each local school system the responsibility to develop and implement comprehensive student attendance policies. Further, the regulations require that each local policy include rules, definitions, and procedures for policy implementation in the following areas: attendance monitoring procedures, reasons for lawful and unlawful absences, clarifications of special

circumstances, procedures to verify absences and tardiness, penalties, make-up work requirements, case management of chronic attendance cases, and the appeals process.

MABE believes the proposed change to the regulations governing graduation standards is completely contradictory to the state regulations governing student attendance policies. MABE supports the stated objective of the State's student attendance regulations and standard for local board policy making, which is to promote regular school attendance. Again, the proposed change will have the opposite effect.

#### Local Board Governance Authority and Arbitrary Mandate to Divert Limited Resources

MABE firmly believes that the State's regulatory framework for student attendance policies appropriately delegates the policy-making and procedural responsibilities to local boards of education and school system administrations. Local school systems are responsible for allocating limited available resources to support the implementation of policies designed to promote regular school attendance and respond to unlawful absenteeism. MABE believes that the proposed change violates the principle of local control regarding student attendance policies. Local boards and school systems are best situated to consider and weigh the priorities assigned to addressing community needs and the circumstances of students and families.

The current statutory and regulatory approach is consistent with the need to focus limited local and State resources on those students who and schools who need them the most. For example, State regulations already mandate that schools experience high rates of habitual truancy implement a Positive Behavioral Interventions and Supports (PBIS) program. The proposed change would frustrate local efforts to effectively implement such programs, by diverting limited resources away from high priority needs. Notably, while State law and policy consistently focus on the priority issues of habitual truancy and chronic absenteeism, the State has not consistently provided additional resources to support programs such as PBIS. Again, MABE believes that the pending proposal would further diminish local prerogative to allocate resources consistent with local policies.

#### Kirwan Blueprint and Concentration of Poverty/Community Schools Initiative

MABE is supporting the passage of legislation in 2020 to launch a 10-year programmatic and funding initiative to expand State and local investments in early childhood education, teachers, college and career readiness, and targeted funding for students learning English, receiving special education services, living in households with low income, and experiencing concentrated poverty in their communities. The \$4 billion in additional funding identified in the Blueprint for Maryland's Future report of the Kirwan Commission is intended to support students, teachers, and communities toward the goal of many more students succeeding academically. By contrast, the proposed regulation would impose an academic standard and punishment tied to student attendance without the benefit of any additional resources. Therefore, MABE requests that any consideration of regulations imposing new administrative or programmatic burdens local school systems be deferred indefinitely pending the passage and funding provided for the Kirwan Blueprint for Maryland's Future.

## High Stakes Cut Scores Should Not Be Tied to Brand New Assessments

The proposed regulations also include a provision intended to implement legislation passed in 2019, House Bill 1019, entitled "State Board of Education - Public High School Students - Assessments and Graduation Requirements." MABE supported this legislation as a means to ensure that students taking the new State assessments in the 2019-2020 school year not be negatively impacted in any way by their scores on those assessments. This position is consistent with MABE's longstanding support for grace periods in which students are required to take, but not pass, new assessments being field tested for reliability and validity.

Therefore, MABE requests, consistent with legislation passed in 2019, House Bill 1019, that COMAR 13A.03.02.09.C(1) be amended to read as follows:

"C. Exception to Passing Score Requirement.

- (1) In the 2019-2020 school year, for students taking the Maryland Comprehensive Assessment for Algebra I or English 10 for the first time, taking the assessment will meet the graduation assessment requirement.

### Conclusion

In light of these concerns, MABE urges the State Board to adopt the amendment outlined above to the state assessment regulations (COMAR 13A.03.02.09.C(1)); and to reject the proposed amendment to the grading and reporting section of the regulations governing graduation requirements (COMAR 13A.03.02.08).

Sincerely,



Martha James-Hassan  
President

Copy to:

MABE Board of Directors  
Local Board President/Chairs  
Superintendents of Schools/Chief Executive Officers  
Frances Hughes Glendening, MABE Executive Director  
Mary Pat Fannon, PSSAM Executive Director  
Mary Gable, Assistant State Superintendent, MSDE