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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. 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 vigorously advocates for the association's positions on funding and policy issues that reflect the input of all 24 boards.

### Equity & Excellence

MABE is uncompromisingly committed to the academic success of all students. MABE's legislative platform reflects the association's adoption of an equity core value, equity resolution, and equity lens. For MABE, educational equity in Maryland means providing access to essential academic, social, emotional, and economic supports in order to engage each student in rigorous well-rounded instruction toward them achieving their highest potential as learners and citizens. MABE pledges to reflect the core value of equity in the decision-making processes of the association including the priorities and positions of the legislative committee.

### The COVID-19 Pandemic & Public Education

MABE recognizes the historic and devastating impacts of the ongoing public health and economic crisis resulting from the COVID-19 coronavirus. This is also an educational crisis, forcing school closures, emergency meal distribution, transitions to digital and distance teaching and learning, and reductions in available revenues to sustain and advance Maryland's outstanding but already inadequately and inequitably funded public education system. The following positions represent MABE's commitment to equity and excellence and to a strong educational recovery from the ongoing crisis on behalf of each of our nearly 1 million students.

### MABE's top priorities for the 2021 Legislative Session include:

- **Support for governance authority for local boards of education to adopt education policies and school system budgets reflecting local priorities and resources.** MABE supports broad discretion for local board decision-making authority in exercising legislative, judicial, and executive functions in accord with state and federal law and principles of equity and excellence for all students. MABE opposes state initiatives which would reduce or eliminate local board governance or budgetary authority or create new unfunded mandates.
- **Support for full State funding for Maryland's outstanding public schools.** Specifically, MABE supports enacting the Blueprint for Maryland's Future legislation to fulfill the State's constitutional duty to adopt a school funding system that ensures equity and excellence in every school. MABE supports increased state funding in the state budget for FY 2022 and opposes legislative and executive proposals to reduce education funding.
- **Support for increased State funding for school construction and renovation projects.** Specifically, MABE supports enacting the Built to Learn Act to launch a \$2 billion school construction program in the Maryland Stadium Authority; and at least \$400 million in the FY 2022 capital budget to support all 24 school systems in designing, building, operating, and maintaining high quality learning environments for all students.
- **Support for sustained and increased local government investments in education.** Funding from Maryland's 23 counties and Baltimore City plays a critical role in combination with State and federal funding. Therefore, MABE strongly supports preserving the "maintenance of effort" guarantee that local funding must be sustained and increased from year to year.

On behalf of all 24 local boards of education, MABE looks forward to your support for MABE's legislative priorities in 2021. 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).

## 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.

State law 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 exercise this governance authority in compliance with state and federal laws and in conjunction with the policies and regulations adopted by the State Board of Education.

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. MABE advocates that the General Assembly, Governor, and State Board engage in collaborative development of new policies and programs. MABE appreciates the strong historical record of the General Assembly’s recognition and support for the governance role of local boards.

In 2019, MABE successfully supported the Community Control of School Calendars Act to reverse the Governor’s 2016 executive order prohibiting locally adopted school calendars starting before Labor Day or extending beyond June 15. MABE’s participation and leadership on the Kirwan Commission on Innovation and Excellence in Education from 2016 to 2020 focused on securing increased State and local funding essential to supporting a world class college and career-ready education for all students through programs supported by all local boards. MABE believes the successful development and implementation of state laws, including the Blueprint for Maryland’s Future Act, relies on the governance role of local boards in advancing equity and excellence for all students through locally adopted educational policies and budgets allocating limited resources.

The COVID-19 pandemic has tested the mettle of each of Maryland’s 24 local boards by imposing unforeseeable hardships on students, families, teachers, and communities. Local boards are at the helm with their local superintendents making funding and policy decisions that are aligned with available state health and educational recovery standards and informed by ongoing community engagement.

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** the policy and funding recommendations of the Kirwan Commission as contained in the Blueprint for Maryland's Future Act of 2020 to update and enhance Maryland's school finance system, consistent with preserving local board governance authority.
- ✓ **Supports** increased State funding in response to the COVID-19 pandemic for digital and distance learning including expanded broadband service, mental and behavioral health staff and services, school facilities operations and maintenance, and targeted interventions to recover lost learning time.
- ✓ **Supports** legislation to ensure that the September 30, 2020 enrollment count does not negatively impact the level of mandated state and local funding for FY 2022 or in future years.
- ✗ **Opposes** efforts to reduce state funding or shift funding obligations from the State to local governments.

### BACKGROUND

MABE was fully engaged in advocating for the education funding and policy reforms developed by the Kirwan Commission on Innovation and Excellence in Education from 2016 to 2020, and the resulting Blueprint for Maryland's Future Act passed, and vetoed, in 2020. The Blueprint legislation proposes a long-term phase-in of mandated increases in State and local funding for public education, increases that represent the commitment Maryland must make to fully and equitably fund a world class public education for all of Maryland's nearly 1 million students. The Commission's recommendations and key components of the Blueprint for Maryland's Future Act, include:

- Ensuring high-quality early childhood education and care, including expanded full-day prekindergarten for low-income three and four year-olds;
- Elevating teachers and leaders through increased salaries and numbers of teachers, counselors and other staff, including a more diverse workforce;
- Creating a world-class instructional system of college and career readiness pathways, including career and technical education (CTE);
- Increasing per pupil funding for all students and targeting additional funding for students who need it most, including economically disadvantaged students, students receiving special education services, and English language learners;
- Providing comprehensive supports by targeting funding to schools serving high concentrations of students living in poverty to provide community schools which feature before-and after-school, summer academic programs, and student access to needed health and social services; and
- Ensuring excellence for all through enhanced oversight and accountability to ensure that the Commission's recommendations are successfully implemented and produce the desired results.

Maryland's Constitution places the highest 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 Maryland can fulfill its constitutional mandate to fully fund and support an adequate, equitable, and excellent education for all students if the Blueprint for Maryland's Future Act is enacted and fully funded.

The COVID-19 pandemic has not only caused a public health crisis but also an economic downturn and reduction in state and local revenues on which Maryland's public schools rely. MABE continues to advocate for increased state and federal funding to uphold Maryland's constitutional imperative to fully fund public education, and the moral imperative to equitably meet the education needs of each of our nearly 1 million 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 2022 to provide the State's share of approved projects to build, renovate, and improve schools.
- ✓ **Supports** passage of the Built to Learn Act to launch a \$2 billion school construction program financed through the Maryland Stadium Authority.
- ✓ **Supports** additional State funding to support projects identified during the COVID-19 pandemic including HVAC upgrades and other health and safety related projects.
- ✓ **Supports** the pursuit of innovative construction and financing strategies to maximize the capacity of State and local bonding authority in support of high-quality school facility project funding.
- ✗ **Opposes** any legislation or school construction program action which would limit local authority over school facility design, construction, procurement, maintenance, 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.

The COVID-19 pandemic has presented unforeseen challenges in the operation of school facilities including new staff-intensive standards for cleaning, new standards for indoor air quality requiring HVAC upgrades, and social distancing standards impacting facility capacity, and technology upgrades required for distance learning.

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.

The Knott Commission on 21st Century School Facilities created by the General Assembly in 2016 led to the passage of the 21<sup>st</sup> Century School Facilities Act of 2018, which addressed educational specifications; best practices from the construction industry; jurisdictions with growing or declining enrollment; innovative financing mechanisms including public-private partnerships; and the role for state agencies. MABE supported the Act because it reflected 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 called for a major increase in the annual State capital budget and reformed the structure of the Interagency Commission on School Construction (IAC) in governing the public school construction program and eliminated the project funding decision-making role of the Board of Public Works.

Local boards appreciate the State's investments in the annual capital budget and targeted investments to support school safety projects, HVAC projects, energy efficiency projects, and designated funding for school systems with significant enrollment growth. In addition, the State is fulfilling the commitment to fund 21<sup>st</sup> Century school facilities in the Baltimore City Public School System, including net-zero schools. These initiatives demonstrate the State's commitment to investing in high quality school facilities and learning environments for all students.

In this context, MABE supports the Built to Learn Act program within the Stadium Authority; the equitable initiative to address the critical needs of schools with the greatest relative deficiencies in school conditions; and also firmly believes that State funding should be significantly increased to support the prioritized construction, renovation, and systemic projects in each of the 24 school systems.

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 the increases called for in the Blueprint for Maryland's Future Act for prekindergarten, English learners, low-income students, and students receiving special education services.
- ✓ **Supports** legislation to ensure that the September 30, 2020 enrollment count does not negatively impact the level of mandated state and local funding for FY 2022 or in future years.
- ✓ **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 24 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. 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 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. 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%.

The COVID-19 pandemic has not only caused a public health crisis but also an economic downturn and reduction in local revenues on which Maryland's public schools rely. MABE continues to advocate for increased state and federal funding to forestall any cuts in local funding.

For additional information, see [MABE's Resolution on Maintenance of Effort](#).



## 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, including compensatory services arising from the COVID-19 pandemic.
- ✓ **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, shift the burden of proof, or require payment of expert witness fees, 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.

Local boards recognize that the COVID-19 pandemic and resulting school closures have presented enormous challenges for students, families, and educators. Through each school system's education recovery and reopening plan, school systems are working to provide all students eligible for special education services with access to continuity of learning through distance and in-person instruction and the delivery of other services.

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. The special education services mandated 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. 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 has been introduced to place the burden of proof on the local school system in a due process hearing that is held to resolve special education disputes. In Maryland, and nearly all states, 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 v. Weast*). In 2019, a multi-year study of the IEP process, staff allocations, and resources for parents was completed without recommending shifting the burden of proof.

In 2014, bills passed to ensure that parents are informed of procedural safeguards, rights and responsibilities, and available services. A bill passed in 2016 to require the translation into the parents' native language of individualized education programs (IEPs) and family service plans. In 2017, a bill passed to require parental consent for certain decisions adopted by the IEP team. In these ways Maryland has mandated expanded special education procedures and services beyond federal requirements.

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

## STUDENT ASSESSMENTS & 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, grading policies, and instructional programs and governing statewide laws and regulations consistent with MABE's positions.
- ✓ **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 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) replaced the No Child Left Behind Act (NCLB) of 2001 with a less punitive approach. States continue to be required 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. With teacher association and MABE support the General Assembly enacted the Protect Our Schools Act to outline the State's accountability framework. In the 2018-2019 school year, school performance began to be reported using a 5-star rating system based on academic and nonacademic indicators, including state assessment results, credit for growth, and other measures 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 have been developed to improve teaching and learning at these schools. These reforms are ongoing, requiring new approaches to financial reporting, professional development, and parent and community engagement.

Historically, Maryland has gone beyond federal testing requirements by adopting as high school graduation requirements passing scores on a Government high school assessment and the three federally required high school level tests. For many years, the cut scores were based on Partnership for Assessment of Readiness for College and Careers (PARCC) assessments. Brand new tests were to be administered in grades preK-12 in the 2019-2020 school year, including these high school level tests. In 2019, MABE successfully supported legislation to mandate a pause in implementing high stakes graduation requirements until the new tests are administered for at least one year. MABE continues to support holding school systems, students, and staff accountable without penalizing students by imposing graduation requirements tied to new assessments.

The COVID-19 pandemic completely disrupted the transition to new versions of the student assessments mandated by federal law; tests which Maryland also uses as high school graduation requirements. Instead, local school systems have been conducting diagnostic assessments to identify student achievement levels and gaps caused by lost learning time, and responding with targeted instruction.

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



## STUDENT HEALTH, NUTRITION & FITNESS

### MABE POSITIONS

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

- ✓ **Supports** additional State and federal funding to ensure that all school systems, schools, and classrooms are prepared to offer safe and healthy learning environments for students and staff.
- ✓ **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** a mandate for increased physical education instruction, including minimum minutes per week, without adequate state and local funding.
- ✗ **Opposes** a mandate to expand the responsibility of public schools to provide basic health services to include mental health services, without adequate state, local, and federal funding.

### BACKGROUND

MABE is committed to securing state and federal funding in order to sustain school meal programs and the personnel who have been on the front lines throughout this crisis in meeting the needs of children and families in communities. The pandemic has raised many other student health issues, including the need for expanded telehealth services, Medicaid reimbursement for school health and mental health services including school psychology, and demands for health and safety related equipment, supplies, and staffing services. While federal legislation provided emergency funding in 2020, it was insufficient and provided only temporary assistance.

Local boards have always placed 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. In 2020, the COVID-19 pandemic and school closures resulted in the emergency adoption of dramatic and costly changes in the preparation and delivery of millions of school meals. Fortunately, federal and state laws provide a strong foundation for high quality school meal services for Maryland's students. The 2010 Healthy, Hunger-Free Kids Act mandated reforms in school meal programs to improve the nutritional value of school meals. This legislation also created 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. Since 2015, the Grab & Go Meals in High Schools program has allowed breakfast to be served in any part of the school. And legislation passed in 2018 to phase-in state responsibility for the student share of the costs of reduced-price breakfasts and lunches.

The pandemic also resulted in the statewide cancellation of interscholastic sports and other opportunities for students to engage in organized physical activities. Local boards are committed to providing quality physical education programs in Maryland's public schools, including yearly instruction for all students in grades kindergarten through 8, and elective classes for students in grades 9 through 12. These programs must provide a "challenging instructional program that advances the student's knowledge, confidence, skills, and motivation to engage successfully in a lifelong healthy and active lifestyle." MABE has supported legislation to require that new elementary schools include gymnasiums rather than multi-purpose cafeterias, and legislation to ensure that coaches, parents, and students are fully informed about the risks and responses to concussions.

In 2017, MABE supported the Start Talking Maryland Act to expand drug education programs to include a unit on opioids; and require schools to provide naloxone. Other recent legislation includes a 2015 bill to require school counselor certification to include social and emotional development and indicators of trauma, abuse, depression, and other behavioral health issues; a 2016 bill requiring age-appropriate education on awareness and prevention of sexual abuse and assault; and a 2017 bill requiring suicide risk response training for all educators. In 2020, legislation passed to allow caregivers to administer medical cannabis to students on school premises.

For additional information, see [MABE's Resolution on Student Health and Fitness](#).

## STUDENT BEHAVIOR & DISCIPLINE

### MABE POSITIONS

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

- ✓ **Supports** local flexibility to adopt and administer equitable student discipline policies and procedures to ensure the rights, dignity, and safety of all students and staff and to provide a school environment conducive to teaching, learning, and social and emotional growth for all students.
- ✓ **Supports** adequate federal, state, and local funding to support any mandated student discipline reforms or behavioral support programs.
- ✗ **Opposes** legislation and regulations that would unduly limit the authority of boards of education or the professional judgment of school administrators.

### BACKGROUND

Every local board of education places a high priority on establishing policies and procedures concerning student rights and responsibilities and educationally appropriate disciplinary and behavioral responses when school policies are violated. Maryland's state and local policies on student discipline continues to evolve as changes are adopted by the General Assembly and the State Board of Education.

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 regulations to mandate new local 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 discipline policies and regulations by 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. Under this recent law, the numbers of student suspensions/expulsions in these early grades has been reduced by half. In 2019, a law passed requiring schools to use of restorative approaches to student discipline. Local discipline regulations are now required to state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational. In 2020, a new law requires the Maryland State Department of Education to develop guidelines for schools on a trauma-informed approaches. MABE supported this bill based on the growing awareness about the critical and detrimental role that trauma has in the lives and learning of many students; trauma that can impact learning, behavior and relationships in school. MABE looks forward to continued investments and innovations in state and local programs and services to not only better respond to disciplinary infractions but also better prepare educators and other school staff to help students feel supported and safe to learn.

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

## 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 in school law and restorative approaches, 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](#).

## EMPLOYEE RELATIONS & COLLECTIVE BARGAINING

### MABE POSITIONS

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

- ✓ **Supports** the current Maryland law defining the scope of bargaining between school systems and the employee associations representing educators and other employees.
- ✓ **Supports** the use of a balancing test for appeals from bargaining disputes to determine whether the impact of a negotiated matter on the school system as a whole outweighs the direct impact on employees.
- ✗ **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 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 recommendations and Blueprint for Maryland's Future Act would create 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 the Blueprint's provisions 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](#).

## 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** rigid state funding formulas in favor of the flexibility provided by longstanding case law.
- ✗ **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 weakened the charter school law by removing local boards as the primary charter authorizer, and granting the State Board de novo review of local 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.

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.

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 so many other States.

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 religious and other nonpublic schools.
- ✓ **Supports** the repeal of the BOOST program as enacted in the State Budget Bill since 2016.
- ✗ **Opposes** nonpublic 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 nonpublic schools.
- ✗ **Opposes** legislation mandating that public schools allow students enrolled in nonpublic schools or receiving home instruction to participate in public school academic, athletic, or other programs.

### 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. 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. As MABE has supported eliminating the BOOST program, the association has also supported more stringent accountability for antidiscrimination in enrollment and employment practices.

MABE has also joined 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. Similarly, MABE urges Congress to oppose any amendments to make vouchers part of the Elementary and Secondary Education Act (ESEA), Individuals with Disabilities Education Act (IDEA), or COVID-19 related legislation.

For additional information, see [MABE's Resolution on School Choice & Funding for Nonpublic Schools](#).



## FEDERAL EDUCATION FUNDING & POLICY

### MABE POSITIONS

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

- ✓ **Supports** federal education stabilization funding to prevent and prohibit reductions in state and local funding in response to reductions in revenue caused by the COVID-19 pandemic and economic downturn.
- ✓ **Supports** increased federal funding to states and local school systems to support the costs of implementing federally mandated programs and services.
- ✓ **Supports** a prominent role for MABE and local boards in engaging Maryland's federal delegation in developing federal funding, legislation, and policies.
- ✗ **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) in 2015 represented a comprehensive revision of the Elementary and Secondary Education Act (ESEA), which since 2001 was known as the No Child Left Behind Act (NCLB). Unlike the controversial NCLB, ESSA reduced or eliminated many federal requirements, including punitive measures, while increasing the ability of States and school systems to define how school boards and individual schools are held accountable for student achievement. Maryland's Protect Our Schools Act of 2017 now governs the State's student performance accountability system.

The COVID-19 pandemic became the overriding focus of federal appropriations and policy-making in 2020 and MABE engaged in extensive outreach and advocacy with Maryland's congressional delegation and U.S. Department of Education. MABE urged Maryland's members of congress to provide sufficient federal funding to guarantee overall school funding stability for Maryland's 24 school systems, provide limited flexibility in providing special education services during school closures, and increased funding and flexibility for the E-Rate program and regulatory changes targeted to expand access to high speed internet to achieve equity in connectivity and digital and distance learning.

Unfortunately, the substantial amounts of federal funding provided in response to COVID-19 have not included the sufficient aid for states and local governments or education stabilization funds. The Coronavirus Aid, Relief, and Economic Security (CARES) Act became law on May 27, 2020 and provided more than \$2 trillion in response to the public health and economic crisis resulting from the COVID-19 pandemic. However, within the CARES Act the Education Stabilization Fund provided only \$30 billion in education funding for elementary and secondary education. MABE continues to seek federal funding commensurate with the needs of Maryland and other States to sustain levels of education funding in the coming fiscal years.

In response to what was eventually determined in federal court to be an illegal rule, MABE requested that our federal delegation and State Superintendent oppose the federal rule proposed by Education Secretary DeVos to force public school systems to provide an inequitable per pupil amount of CARES Act funding to nonpublic schools, regardless of their students' income. Had this rule taken effect, the amount of funding for public school students would have been severely reduced.

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 full funding and improvements in other federal programs.

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

## 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 mandates.

Examples of unfunded mandates include: lead testing and remediation of school drinking water (2017 and 2019); 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). As laudable as these initiatives are, they were enacted without provisions for funding to support implementation.

As the Maryland economy recovers from the economic downturn caused by the COVID-19 pandemic, MABE is seeking state and federal commitments to, at the very least, sustain current funding levels for public education. Beyond level funding, MABE continues to support the passage and fulfillment of the promise of the Blueprint for Maryland’s Future Act to advance the equity and excellence of public education in Maryland. Therefore, at this time more than ever, MABE requests that no new unfunded mandates be imposed on local school systems.

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

## 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 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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