

February 23, 2021

On Tuesday, February 23, 2021, Board President Clarence Crawford convened the meeting, which included members attending in-person and remotely. He was joined by members, including: Vice President Jean Halle, Gail Bates, Shawn Bartley, Charles Dashiell, Jr., Susan Getty, Vermelle Greene, Rose Li, Rachel McCusker, Joan Mele-McCarthy, Lori Morrow, Warner Sumpter, Holly Wilcox, and student board member Jason Wu.

[Link to meeting agenda, materials, and video](#)

## Public Comments

The State Board heard public comments from the following:

- Chris Lloyd, chair of the Professional Standards Teacher Education Board (PSTEB), provided an update on the work of his board, including a special meeting to consider the State Board's recommendations as PSTEB develops revised regulations.
- An individual voiced support for reducing or eliminating statewide assessments in English Language Arts and Mathematics in the spring of 2021 to provide ample time to
- Kelly Griffith, President of the Public School Superintendents Association of Maryland (PSSAM), spoke in favor of the State seeking a federal waiver from administering all assessments in the spring of 2021 or, in the alternative, a waiver to allow shortened assessments in English Language Arts and Mathematics only.
- Jack Smith, Montgomery County Schools Superintendent, referenced the Biden Administration's statements indicating that waivers from administering assessments are not likely to be granted. He focused on reducing the length of any assessment and accommodating all students, including those attending in-person or virtually.
- Cheryl Bost, President of the Maryland State Education Association (MSEA), urged approval of waivers from administering the brand new State assessments, thereby allowing teachers to focus on instruction. She shared her disappointment with the U.S. Dept. of Education's decision to not allow waivers from administering the assessments altogether.
- Leigh Mann, Accountability Coordinator for the Anne Arundel County public school system, spoke in favor of much broader waivers from assessments the pending waivers of Science and high school Government assessments. She stressed that now is not the time to launch brand new assessments.
- Stacy Shack, the Accountability Coordinator for the Baltimore County public school system, requested the State Board's support for either eliminating or significantly reducing the amount of time devoted to English Language Arts and Math assessments. She stressed her opposition to committing the very limited number of in-person instruction days to State testing.

- An individual spoke in favor of a national child abuse registry.
- An individual described the social isolation resulting from virtual learning and spoke in favor of a return to in-person instruction.

## **Proclamations**

### **Black History Month**

Dr. Salmon read Governor Hogan's [proclamation](#) of February as Black History Month.

### **Gifted and Talented Education**

Dr. Salmon read Governor Hogan's [proclamation](#) of February as Gifted and Talented Education Month.

### **Career and Technology Education Month**

Dr. Salmon read Governor Hogan's [proclamation](#) of February as Career and Technology Education Month.

## **School Reopening**

Dr. Salmon updated the State Board on the response from local school systems to her call and Governor Hogan's statewide reopening of schools for in-person learning beginning in March. She announced that 18 of 24 school systems are currently or soon will be conducting in-person learning at least two days a week by the end of March. She praised Kent County for having conducted hybrid teaching throughout the entire school year. The many other school systems already provided some degree of hybrid instruction before the call for reopening in March.

Dr. Salmon also updated the board on school meal programs, technical assistance being provided to local school systems on tutoring, and other strategies for a full education recovery from the COVID pandemic.

## **State Assessments for Spring 2021**

The State Board received an update from Dr. Salmon on the department's recommendations for administering student performance assessments in the current 2020-2021 school year. She recommends an adjusted schedule that includes administering only the mathematics and English language arts assessments for grades 3-8 and the Algebra and English assessments in high school.

This recommendation would eliminate the requirements to administer Science assessments in grades 3-8 and high school and the high school Government assessment. The Mathematics and English Language Arts assessments would be administered to assess student performance, as required by federal law, but not to trigger accountability measures such as school rankings and designations of schools as in need of improvement. This flexibility is made possible through recently

announced waivers available from the U.S. Department of Education (USDE Letter to Chief State School Officers, February 22, 2021).

Also, the assessments to be administered in the spring of 2021 will be the initial statewide launch of the new tests developed through the Maryland Comprehensive Assessment Program (MCAP), transitioning from many years of using the tests developed by a multi-state consortium, the Partnership for the Assessment of Readiness for College and Careers, known as the PARCC assessments.

Dr. Salmon emphasized that the State cannot know the true extent of learning loss without administering the State assessments, which are aligned with the State's content standards. She also highlighted that there would be no consequences resulting from these assessments: "We must temporarily delink assessment from accountability and find creative solutions to the challenge of administering assessments during the pandemic."

Dr. Jennifer Judkins, Assistant State Superintendent for Assessment, Accountability, & Information Technology, presented the department's plan for conducting assessments in the spring of 2021, including the elements of the testing calendar under the waiver the department is requesting from the U.S. Department of Education, including:

- Students will test only in mathematics and English Language Arts (ELA).
- The testing windows have been extended through June 4, 2021.
- Allowable time for these assessments: 2.6 hours for math and 4.6 hours for ELA (more prolonged due to writing component) School systems have flexibility in setting up testing times.
- One or more sections may be administered on a testing day, allowing regular instruction to occur on all testing days.

Board member Li asked about the superintendents' testimony in favor of local diagnostic assessments and the variations of such assessments across the 24 school systems. Dr. Salmon responded that there is no uniformity or alignment with State standards. Ms. Li also urged additional efforts to reduce the amount of testing time. Dr. Salmon agreed and noted the 2-day turn-around time for testing results, which she believes teachers will appreciate. Other board members reiterated concerns about the 4.6 hours planned for the ELA assessments.

Board member McCusker asked about the purpose of administering the tests. Dr. Salmon responded that the primary purpose of conducting these assessments is to inform the department's monitoring teams that will be working through the summer and next school year to assist local school systems in schools and with groups of students within schools. Dr. Salmon also noted that the testing platform is not new, only the test questions, so teachers and students should not have to make adjustments. Board member Morrow asked whether parents may opt-out of these tests, and Dr. Salmon responded that they might not do so.

Ms. McCusker shared her concerns about the availability of devices, noting that in her school, the computers from the mobile carts used for testing were sent home with students, and those students returning to in-person learning are not allowed to bring their devices from home. Board member Sumpter urged the inclusion of as many students as possible and the importance of disaggregating

the results, especially from groups such as special education and by race and gender. Board member Greene asked whether the results would be reflected on the Maryland Report Card. Dr. Salmon responded that they would not, and that accountability issues would be further discussed at next month's meeting.

Board President Crawford moved the question of approving the set of testing recommendations proposed by the department. Ms. Li's amendment to the motion also asked the department to make a concerted effort to reduce further the amount of testing time passed by a vote of 10 to 4. The vote on the amended motion to approve the testing plan passed 12-2.

[Presentation](#)

### **Graduation and Drop-Out Rate Report**

Dr. Salmon introduced Chandra Haislet, who presented the graduation rates, drop-out rates, and post-secondary enrollment data for the 2019-2020 school year. She highlighted improvements in the four-year cohort graduation rate overall and for many student groups. The drop-out rates for student groups also improved, with Hispanic students continuing to have the highest rate but dropping from just over 21% to 20%.

[Presentation](#)

### **2021 Legislative Session Update**

Zachary Hands, MSDE Director of Government Relations, highlighted pending bills for the State Board's consideration and decisions. He began by presenting legislation, Senate Bill 785 - State Board of Education Membership and Terms – Capability and Capacity Study of Education Agencies, introduced by Senate President Ferguson to establish appointees' qualifications to the State Board of Education.

Mr. Hands then presented House Bill 1278/Senate Bill 825 - Department of Legislative Services - Study - Capacity and Accountability of State Department of Education, to require the Department of Legislative Services to contract with a consultant to study and make recommendations on capacity and accountability within MSDE and the department's ability to carry out the Education Article, as well as implement the Blueprint for Maryland's Future.

Mr. Hands also shared that House Bill 465 - State Superintendent of Schools - Qualifications and Senate Confirmation, an emergency bill to require the State Superintendent of Schools to be appointed by the State Board of Education with the advice and consent of the Senate, has already passed in the House. The bill specifies that the State Superintendent may not be a current member of the State board or have been a member at any time during the year immediately preceding the appointment.

Board President Crawford and Vice President Halle stated their intent to testify in opposition to these bills in Annapolis. Board members voiced concerns with the pending legislation's political and prescriptive nature to significantly alter the appointment processes for both the State Superintendent and members of the State Board. A key concern raised was the impact of a new

Senate confirmation requirement on selecting the new State Superintendent, a newly hired Superintendent who may be reluctant to accept the position given the prospect of a Senate confirmation decision months later.

## [Bill Report](#)

### **Regulations**

The State Board received presentations on the following proposals to amend education regulations under Title 13A of the Code of Maryland Regulations (COMAR).

- [13A.04.13 - Program in Physical Education \(Permission to Publish\)](#)

The State Board granted permission to publish amended regulations governing physical education. Staff described the amendments as arising from recommendations by the Attorney General's Office and internal MSDE staff review. The changes include new provisions regarding physical education teacher certification in concussion education, limits on substituting other activities for a standards-based physical education program for graduation credit, and assurances that students with disabilities have an equal opportunity to participate in a standards-based physical education program.

- [13A.03.08 - Students At Risk for Reading Difficulties \(Permission to Publish\)](#)

Following extensive discussion, primarily focused on whether expanding the regulations' scope to require reading screenings of students beyond grade 3, the board granted permission to publish the proposed regulations. These extensive regulations implement the Ready to Read Act of 2019 and propose to require a significant expansion of that legislation. The Act requires local school systems to screen students in kindergarten for reading difficulties and screen students in first grade who have not been screened or at-risk for reading difficulties. It also requires supplemental instruction to be provided to students at risk for reading difficulties. According to MSDE, "COMAR 13A.03.08 extends this requirement to grades two and three. It also raises expectations by including additional requirements for progress monitoring, professional learning for school staff, and an annual local school system evaluation of the effectiveness of the implementation of the regulation. In addition, COMAR 13A.03.08 provides structure for screening, supplemental instruction, parent notifications, and timelines."

The board engaged in a lengthy discussion that focused on several board members' desire to extend at least some of the required screenings and interventions above grade 3. Dr. Salmon responded that applying the screening requirement to all students would not be a sound investment of local school system resources.

- [13A.04.02 - Secondary School Career and Technology Education \(Permission to Adopt\)](#)

The State Board adopted final regulations developed under the Strengthening Career and Technical Education for the 21st Century Act (Perkins V) enacted in 2018. The federal law

required States to develop and implement a revised CTE plan. MSDE's Division of Career and College Readiness convened stakeholders to change the vision and direction for CTE. This work informed the development of the Maryland CTE Four-Year State Plan. In May 2020, the U.S. Department of Education approved the Maryland CTE Four-Year State Plan.

The regulations change the definition of CTE from Career and Technology Education to Career and Technical Education, which is in alignment with the federal purpose for CTE. Other changes include:

They required CTE programs to a. align to high-skill, high-wage, or in-demand occupations; b. provide the opportunity for students to earn industry-recognized credentials or post-secondary credits; c. include state-approved Career and Technical Student Organizations as co-curricular learning experiences for CTE students; and d. provide the opportunity for students to engage in work-based learning experiences.

- [13A.04.10 - Program of Instruction in Career Development for College and Career Readiness \(Permission to Adopt\)](#)

The State Board adopted final regulations governing Career Development for College and Career Readiness, which include, in part, the following revisions: Addition of language requiring: a. local school system superintendents to ensure equal access and equitable support in the implementation of career development programs; b. students to update academic and career plans annually; c. students to understand the relationship between educational achievement and career goals; and d. local school system superintendents to submit a description of their career development instructional program as part of the certification process.

## Oral Argument

The State Board heard oral arguments in the following case: *Turning Point Foundation, Inc. v. Prince George's County Board of Education*.

## Opinions

The State Board issued legal opinions in the following cases:

- *The DaVinci Collaborative, Ltd. v. Baltimore City Board of School Commissioners*, adopting the ALJ's proposed decision, reversing the local board's charter school application denial decision, and remanding to the local board.
- *Lynn Nash, et al. v. Montgomery County Board of Education*, denying the request for reconsideration.
- *South Arundel Citizens for Responsible Development "SACReD", et al. v. Anne Arundel County Board of Education*, finding the appeal of the local board's decision to "lift pause" on a Cell Tower project is not subject to challenge, the appeal of the cell tower project under the site lease is untimely, and that the appeal of the forest conservation easement is not moot.

- Turning Point Foundation, Inc. v. Prince George's County Board of Education, adopting the ALJ's proposed decision, and affirming the local board's decision to non-renew the charter school. In a separate decision, the State Board dismissed a motion for a declaratory ruling.
- ReeSource Pest, Inc. v. Howard County Board of Education, dismissing the appeal of the local board's decision to cancel and reissue bids as moot.