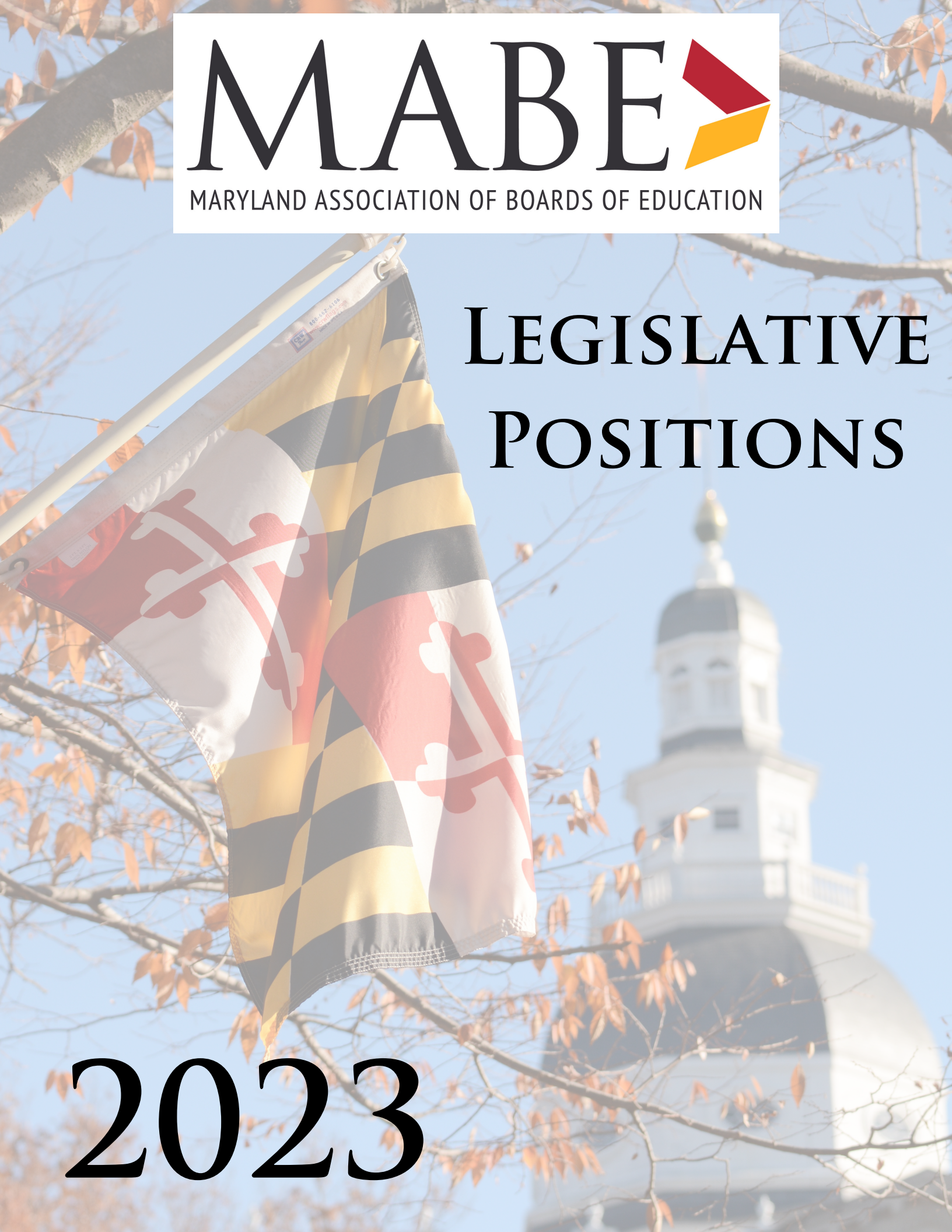
MABE

MARYLAND ASSOCIATION OF BOARDS OF EDUCATION

Legislative Positions



2023

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Maryland Association of Boards of Education
2023 Legislative Positions

Introduction

On behalf of the Maryland Association of Boards of Education (MABE), representing all 24 local boards of education in Maryland, we 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 priorities and positions on funding and policy issues that reflect the input of all 24 boards.

MABE's top priorities for the 2023 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. Specifically, MABE advocates that state and local initiatives not reduce local board governance or budgetary authority or create unfunded mandates.
- **Support for full State funding for Maryland's outstanding public schools.** MABE supports annual state and local education budgets commensurate with the full costs of implementing new and enhanced statutory and regulatory requirements and expectations. Specifically, MABE advocates for sustained increases in state and local funding in FY 2024 and beyond to support the Blueprint for Maryland's Future law to fulfill Maryland's constitutional duty to adopt and fund a school funding system that ensures equity and excellence in every school and college and career readiness for every student.
- **Support for increased State funding for school construction and renovation projects.** MABE supports annual state and local capital and operating budgets commensurate with the costs of designing, building, renovating, operating, and maintaining high quality learning environments for each student in our 1,400 public schools. Specifically, MABE advocates for a state capital improvement program of at least $450 million in addition to the Built to Learn program to expand Prekindergarten and Career and Technical Education school facilities called for by the Blueprint for Maryland's Future and to support other locally prioritized school facility needs.
- **Support for sustained and increased local government investments in education.** Funding from Maryland's 23 counties and Baltimore City plays a critical role in the success of public education programs, services, and facilities. Specifically, MABE advocates for state laws mandating investments of local property and income tax revenues in public education, including a strong "maintenance of effort" guarantee that local funding must be sustained and increased from year to year.

MABE's 2023 legislative priorities and positions reflect the commitment to vigorous advocacy for funding and policy decisions that enable each local board to succeed in providing educational excellence and equity for each of our nearly 900,000 students. For MABE, educational equity means providing access to essential academic, social, emotional, and economic supports and to engage each student in rigorous well-rounded instruction toward them achieving their highest potential as learners and citizens.

On behalf of all 24 local boards of education, we look forward to your support for MABE's legislative priorities and positions in 2023. If you have any questions, please contact MABE's Director of Governmental Relations, John R. Woolums, Esq., at (410) 570-7365 or jwoolums@mabe.org.

Karen A. Yoho

Karen A. Yoho, Chair
MABE Legislative Committee

Brenda Wolff

Brenda Wolff, Vice Chair
MABE Legislative Committee

LOCAL BOARD OF EDUCATION GOVERNANCE

MABE POSITIONS

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

- ✓ **Supports** local board governance of education policy and administration and believes that this principle is fundamental to an effective system of public education that promotes high standards of academic and fiscal accountability.
- ✓ **Supports** local board control of, and accountability for, appropriations of the school system budget.
- ✓ **Supports** adequate and equitable state funding for state mandated programs and policies and that local board governance autonomy and flexibility are respected in funding decisions.
- ✘ **Opposes** executive, legislative, and agency actions and proposals which would have the effect of reducing or circumscribing local board authority or creating unfunded mandates.

BACKGROUND

MABE believes the principle of local governance by boards of education is fundamental to a sound system of public education; and that a sound system of public education is fundamental to sustaining the well-educated citizenry essential to a flourishing democracy. By retaining decision-making authority at the local level, local boards of education can best balance educational practices, available resources to implement those practices, public input, and academic and financial accountability.

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.

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 the Blueprint for Maryland's Future Act, and other state laws, relies on the insights, collaboration, and leadership of local boards which implement these laws through educational policies and budgets allocating limited resources on behalf of all students.

The local governance authority of boards of education in Maryland and throughout the nation is often challenged by state, federal, and private sector initiatives. MABE appreciates the strong historical record of the General Assembly's recognition and support for the governance role of local boards. As Maryland implements the Blueprint for Maryland's Future, MABE advocates that the General Assembly, Governor, State Board, Accountability and Implementation Board, and others engage in collaborative development of policies and programs that reflect the diversity of the 24 local boards and their local communities, priorities, and resources.

The COVID-19 pandemic tested the mettle of each of Maryland's 24 local boards by imposing unforeseeable hardships on students, families, teachers and other staff, and communities. Local boards are at the helm with their local superintendents making funding and policy decisions that are informed by community and parental engagement, aligned with state and federal laws, and advance education excellence and equity for students.

For additional information, see MABE's Resolution on Local Board Governance Authority.

STATE EDUCATION FUNDING FOR EQUITY & EXCELLENCE

MABE POSITIONS

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

- ✓ **Supports** full funding at the state and local levels for the Blueprint for Maryland's Future Act law enacted in 2021 to reform and enhance Maryland's school finance system.
- ✓ **Supports** full funding for the Blueprint law and other mandated programs in a manner that is consistent with preserving local board governance authority.
- ✓ **Supports** increased State funding to support the array of mandated programs under state law and regulations, including any newly adopted mandates.
- ✘ **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 enacted in 2021. The Blueprint law launches a long-term phase-in of mandated increases in State and local funding for public education that represent the commitment Maryland must make to fully and equitably fund a world class public education for all of Maryland's nearly 900,000 students. The Commission's recommendations and key components of the Blueprint law, 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.

Throughout the pandemic, Maryland and each of the 24 school systems benefited from the substantial amount of federal funding provided to respond to the public health, school facilities, school meals, and teaching and learning needs of students and communities. This federal funding has enabled Maryland to set aside hundreds of millions of dollars in state education funding. MABE is confident that Maryland can fulfill its constitutional mandate to fully fund and support an adequate, equitable, and excellent education for each student if the Blueprint law and other mandated educational programs and related services are fully funded.

For additional information, see MABE's Resolution on Adequate and Equitable Education Funding.

SCHOOL FACILITIES FUNDING FOR EQUITY & EXCELLENCE

MABE POSITIONS

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

- ✓ **Supports** a state capital improvement program of at least $450 million in addition to the Built to Learn program to expand prekindergarten and career and technical education school facilities called for by the Blueprint for Maryland's Future and to provide the State's share of school construction and renovation project costs to guarantee high quality teaching and learning environments.
- ✓ **Supports** continued funding and implementation of the Built to Learn Act and its school construction program financed through the Maryland Stadium Authority.
- ✓ **Supports** continued funding of projects to improve the health and safety of school facilities.
- ✓ **Supports** the pursuit of innovative construction and financing strategies to maximize the capacity of state and local governments to fund high-quality school facility projects.
- ✘ **Opposes** any legislation or school construction program regulations or actions 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. 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 certain costs are ineligible for state funding, local jurisdictions actually pay a larger share of project costs than these percentages indicate.

The 21st Century School Facilities Act of 2018 addressed educational specifications and best practices and created a workgroup to make funding and policy recommendations based on a statewide school facilities assessment. MABE supported the Act and recommendations to enhance state and local efficiency and flexibility while ensuring quality and accountability. MABE strongly supports the workgroup's recommendation in HB 1290 (2022) which states the intent of the General Assembly that beginning in FY 2023 the State should provide at least $450 million annually for school construction in the Capital Improvement Program (CIP). MABE advocates that this $450 million investment become the annual baseline to be supplemented by any other state funding programs, including the Built to Learn program.

The pandemic presented unforeseen challenges in the operation of school facilities including custodial and maintenance services, indoor air quality improvements requiring HVAC upgrades, educational technology upgrades required for distance learning. These initiatives have not only improved the condition of school facilities but also highlighted the need for increased state and local funding for school maintenance staff and building systems (heating/cooling/plumbing/roofing) to improve teaching and learning conditions. New schools and major renovations take years to plan and construct and our students and communities deserve solutions now.

Local boards appreciate the State's investments in the annual capital budget and targeted investments to support school safety projects, HVAC and lead remediation projects, energy efficiency projects, and designated funding for school systems with significant enrollment growth. In addition, the State is fulfilling the commitment to fund 21st 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. MABE urges the legislature to consider the impacts of any new facility standards in the context of the enormous challenges school systems confront to meet the current array of mandates, including the Blueprint requirement to provide full-day prekindergarten for four-year olds in FY 2025.

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 law for prekindergarten, English learners, low-income students, and students receiving special education services.
- ✓ **Supports** the maintenance of effort law enacted in 2012 because it provides for a legally enforceable minimum amount of local funding, allows for multiple exceptions and waivers, and provides reasonable state and local mechanisms to increase education funding.
- ✘ **Opposes** legislation to provide additional school budget authority to local governments or weaken the maintenance of effort law.

BACKGROUND

Maryland's 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 2012 law also mandated modest growth in local education funding for counties falling below the statewide average of per pupil spending and county wealth. The Blueprint law eliminates this "escalator" without mandating significant increases in local funding. Therefore, MABE supports continued state monitoring of the role of local funding in implementing the Blueprint. In addition, MABE urges the legislature to consider the role of local funding capacity and budget allocations to support and sustain any new or expanded programs and costs resulting from new legislation.

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, local, and federal funding and resources to support high quality special education programs and services.
- ✓ **Supports** maintaining the State's required 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 each student. 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. The Blueprint for Maryland's Future law and other recently enacted laws further enhance funding levels and the quality of early intervention and special education 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 historically provided additional special education funding through per pupil cost formulas. In addition, non-public special education placements are supported by local school systems paying 300% of the local share of the average per pupil, with costs above this amount 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, the General Assembly's multi-year study of the IEP process, staff allocations, and resources for parents was completed without recommending shifting the burden of proof.

As a meaningful alternative to shifting the burden of proof, bills passed in 2014 to ensure that parents are informed of procedural safeguards, rights and responsibilities, and available services; and in 2017 to require parental consent for certain decisions adopted by the IEP team. Other bills include a 2016 law to require the translation of IEPs into the parents' native language, and a 2021 bill to clarify the independent evaluation process. In 2022, legislation passed to prohibit public schools from using seclusion as a behavioral health intervention for a student and to prohibit, with exceptions, a public or nonpublic school from using physical restraint as a behavioral health intervention. In these ways Maryland has mandated expanded special education procedures and services beyond federal requirements.

The Blueprint for Maryland's Future, other state laws, and the Maryland Leads grant program, provide funding and policy reforms to invest in special education programs and services, enhance the positive role of early screenings and interventions to identify and respond to learning difficulties, reduce the identification of students for special education services, and improve the lifelong learning outcomes for students.

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 the adoption of statewide laws and regulations reflecting a commitment to local governance, professional judgment of local educators, and community engagement.
- ✓ **Supports** adequate state funding to support mandated assessment programs, including required English/language arts, mathematics, science, government, and other tests and screenings required by law or regulations.
- ✗ **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 oversees the adoption of state assessments, instructional content standards, and graduation requirements; and local boards may adopt locally-developed priorities on curriculum, instruction and additional graduation credit requirements, and ensure that state standards are met. In this way, the State Board, local boards, superintendents, educators, and parents collaborate to ensure that all students, schools, and school systems are held to high standards.

In Maryland, the authority to adopt curriculum, courses of study, and the selection of textbooks resides with each local board of education and superintendent. Examples of state laws establishing curriculum are limited, including specific subject matters such as agriculture, computer science, and cardiopulmonary resuscitation. State regulations contain more specific mandates to not only "provide an instructional program" in specific content areas but also to "include the content standards set forth" in the curricular frameworks. The MSDE Protocol for Developing and Revising Standards defines the state frameworks as guides for school systems as they develop local school curricula.

The Blueprint for Maryland's Future law affects curriculum and assessments in several ways. The Blueprint law calls for an internationally benchmarked curriculum that enables most students to achieve college and career readiness (CCR) by the end of grade 10 and then pursue pathways that include International Baccalaureate (IB), Advanced Placement (AP), early college, and/or a rigorous career and technical education (CTE) programs. The Blueprint envisions a fully aligned instructional system including curriculum frameworks, syllabi, and assessments to keep students on track for college and career readiness based on community college entrance standards. The Blueprint also authorizes MSDE to direct school-based curricular reforms if an expert review team and MSDE determine that a school's low performance is due to curricular problems. However, the law specifies that this is a limited exception to the rule that MSDE may not require a local board to adopt the state curriculum standards and may not be construed to restrict a local board's authority to adopt curricula.

Maryland's student assessment and school system accountability system reflects federal standards under the Elementary and Secondary Education Act (ESEA) and corresponding state law. The 2015 Every Student Succeeds Act (ESSA) requires Maryland to administer uniform statewide assessments in mathematics, reading/language arts, and science in grades 3 through 12. These tests are administered by MSDE through the Maryland Comprehensive Assessment Program (MCAP), which Maryland has historically supplemented with additional "high stakes" graduation requirements based on cut scores on high school assessments. MABE advocates for state testing policies that efficiently and promptly inform classroom instruction. As reforms occur under the Blueprint, MABE advocates for a student assessment program that reflects the professional input of local boards, superintendents, and educators on improvements that equitably and efficiently inform instruction and benefit students.

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, nutrition, 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** mandates to expand the responsibility of public schools to provide physical and behavioral health services without adequate state, local, and federal funding.

BACKGROUND

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. MABE advocates that legislation addressing specific student health issues such as diabetes, allergies, medical cannabis, and other chronic and acute conditions reflect the input of school health professionals and the consideration of available staff and resources.

There are many other examples of student health-related laws enacted in recent years. A 2016 law requires age-appropriate education on awareness and prevention of sexual abuse. The Start Talking Maryland Act passed in 2017 to expand drug education programs to include a unit on opioids and require schools to provide naloxone. Another 2017 law requires suicide risk response training for all educators. A 2020 law allows caregivers to administer medical cannabis to students on school premises. In 2021, bills passed to require the provision of menstrual hygiene products, programs and lactation space for pregnant and parenting students, school-based health center use of telehealth, and pandemic-related legislation. A law mandating school-based seizure action plans and staff training passed in 2022.

Local boards recognize the state role in governing student health issues through laws and regulations and advocates that such requirements not be overly prescriptive, costly, or burdensome. MABE advocates that local school systems and our dedicated school nurses and other health professionals are consulted as new requirements for board policies and school-based practices are considered. Student health issues addressed in this manner include diabetes, anaphylactic allergies, sickle cell disease, epilepsy and other seizure disorders, medical cannabis, and concussions. In light of the broad scope and staff-intensive nature of current student health mandates, MABE urges the legislature to consider the costs and benefits of new legislation.

Regarding physical education, MABE supports the State's charge to provide high quality physical education programs by providing a "challenging instructional program that advances the student's knowledge, confidence, skills, and motivation to engage successfully in a lifelong healthy and active lifestyle." State law requires physical education instruction for all students in grades kindergarten through 8, and through elective classes for students in grades 9 through 12. To enhance elementary school programs, MABE supported the law requiring all new elementary schools to include gymnasiums rather than multi-purpose cafeterias.

For many years, MABE has led advocacy for federal and state legislation to improve and expand the scope of school meal programs, including the community eligibility provision (CEP) program providing free meals throughout high-poverty schools. Since 2015, the Grab & Go Meals in High Schools program has allowed breakfast to be served throughout schools; and a 2018 law phases-in state responsibility for the student share of the costs of reduced-price meals. MABE continues to advocate for increased state and federal funding to expand access to nutritional school meals for students before, during and after school.

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. Under Maryland law, local boards have both the responsibility and authority to adopt policies and regulations designed to create safe schools with the goal of maintaining an environment of order, safety, and discipline necessary for effective learning.

Historically, MABE has joined the State Board in supporting reforms to 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.

Under comprehensive reforms adopted in 2014, state regulations include:

- Definitions of expulsion, extended suspension, long-term suspension, and short-term suspension;
- Standards 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 teachers that must be corrected and returned;
- 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.

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 law, the numbers of student suspensions/expulsions in these early grades were reduced by half. In 2019, a law passed requiring schools to use 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. A law enacted in 2020 required MSDE to develop guidelines for schools on a trauma-informed approaches. In 2022, a bill passed to enhance the due protections for students arrested off campus and being reassigned, and to mandate new reports on not only student arrests but also classroom disruptions.

MABE supports 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. MABE urges the legislature to consider the school system capacity to implement new programs and services and to address the severe shortages of school psychologists, school counselors, social workers, and other professionals essential to effectively addressing student behavior and discipline.

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.
- ✓ **Supports** increased state funding to support the work of local school systems to ensure that state laws and regulations, including the Safe to Learn Act, are 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** 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. In 2013, with MABE's support, the Maryland Center for School Safety (MCSS) 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:

- Established a School Safety Subcabinet and Advisory Board and increases funding for MCSS.
- Required school systems to designate a certified school safety coordinator and to conduct annual safety evaluations of each school;
- Required local school systems to designate a mental health services coordinator, and requires local assessment teams to intervene with students and individuals who may pose a threat to school safety;
- Required 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
- Provided significant funding for school facility upgrades and school safety and security programs.

The Center for School Safety has revised and expanded the mandated training for all school security staff and SROs, and the legislature consistently invests in school safety programs and facility upgrades. In 2021, the legislature considered but did not enact bills to reform or eliminate SRO programs. However, police reform laws were enacted regarding the police officers' bill of rights, police misconduct, use of force and arrest procedures, use of body-worn cameras, and training, and impact all law enforcement officers including SROs. In addition, Maryland law mandates local board policies on criminal gang activity, background checks and employer history reviews for employees and contractors, and emergency plans and drills to prepare for violent events and natural disasters. State law also defines educators as "persons in position of authority" and criminalizes as a fourth-degree sex offense sexual activity between educators and students above the age of consent. MABE urges the legislature to continue to invest in the high quality school safety programs described above and consider the input of local boards on legislation raising concerns about the ability to ensure safe learning environments.

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 expand the scope of bargaining to include class size, education policy issues, and other matters precluded by other state law.
- ✘ **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, regulations, or Public School Labor Relations Board decisions 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, ad 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.

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.

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 Blueprint for Maryland's Future law codifies new statewide systems of compensation, working conditions, and professional development for teachers and principals, and increases per pupil funding to support these initiatives. However, the law preserves the role of collective bargaining negotiations to develop these new systems at the local level, including the career ladders. In addition, the law requires teacher preparation programs to be aligned with the Blueprint and increase the diversity of new teachers. 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 state and local 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 nearly 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 urged 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) or Individuals with Disabilities Education Act (IDEA).

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** increased federal funding to states and local school systems to support the costs of implementing federally mandated educational programs and services.
- ✓ **Supports** federal education funding to address public health services, virtual learning, broadband services, school facilities maintenance and systemic improvements, access to school meals, and other programs and services to address pandemic-related learning loss and promote student learning.
- ✓ **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 governs the State's student performance accountability system under ESSA.

The COVID-19 pandemic became the overriding focus of federal appropriations and policy-making in 2020, 2021, and 2022 and MABE has engaged in extensive outreach and advocacy with Maryland's congressional delegation and U.S. Department of Education. MABE priorities include sufficient federal funding to guarantee overall school funding stability for Maryland's 24 school systems and increased funding and flexibility for the E-Rate program and regulatory changes targeted to expand broadband access essential to achieve universal connectivity to digital and distance learning.

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, the CARES Act's Education Stabilization Fund provided only $30 billion in education funding for elementary and secondary education. Fortunately, the American Rescue Plan (ARP) Act enacted in March 2021 provided much need direct federal aid to states including $2 billion for Maryland. The ARP funding has allowed Maryland to set aside state funding commensurate with the costs to launch the Blueprint law and sustain increased levels of education funding in the coming fiscal years. The ARP Act includes Elementary and Secondary School Emergency Relief (ESSER) funding for direct aid to school systems and competitive state grants. Top priorities within Maryland's ARP ESSER Plan include: addressing the mental health and social-emotional learning needs of students and addressing the impact resulting from the pandemic's disruption to learning. MSDE used ESSER funds to create the Maryland Leads program to provide $169 million in grants focusing on reading instruction, teacher workforce development, tutoring, and other innovative programs.

The federal Infrastructure Investment and Jobs Act enacted in November 2021 does not provide any school construction funding, but does include the expansion of broadband services to expand educational connectivity for students and families, and substantial funding for energy efficient school buses. 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 policy areas.

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 outdated or 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); restricting the suspension of elementary students through second grade and requiring in-school restorative practices (2017); revising prevailing wage rate laws to increase labor costs on school facilities projects (2014, 2021 and 2022); requiring CPR & defibrillator instruction (2015); requiring all staff to be trained on seizure action plans (2022); digital learning tool procurement standards (2022); and mandating the purchasing of electric school buses by 2025 (2022); As laudable as these initiatives are, they were enacted without provisions for funding to support implementation.

In recent years, Maryland is benefitting from an unprecedented amount of federal funding to support the public health, economic, and educational impacts of and responses to the pandemic. This has enabled the State to place in reserves educational funding dedicated for the Blueprint for Maryland’s Future law. MABE cautions that this funding is intended for specific programs under the Blueprint and therefore is not available to fund an array of new and otherwise unfunded educational mandates. MABE urges the legislature to provide state aid sufficient to implement the Blueprint and to identify and secure state funding commensurate with proposed legislation imposing new costs 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 expanding initial board appointment authority to local governments. Local boards of education are entities of the State, not the county government. Because local boards are fiscally dependent on local governments, it is appropriate that local boards remain an independent voice for the school system 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; five are hybrid boards comprised of both appointed and elected members; Anne Arundel County is transitioning from an all-appointed to all-elected board; and as a hybrid board the majority of Baltimore City School Commissioners are appointed by the Mayor.

The following nineteen boards are elected:

Allegany County
Anne Arundel County [1]
Calvert County
Carroll County
Cecil County
Charles County
Dorchester County
Frederick County
Garrett County
Howard County
Kent County
Montgomery County
Queen Anne's County
St. Mary's County
Somerset County
Talbot County
Washington County
Wicomico County
Worcester County

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

Baltimore City [2]
Baltimore County [3]
Caroline County [4]
Harford County [5]
Prince George's County [6]

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[1] 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).
[2] The Baltimore City Board, effective in the 2022 election, is a hybrid board comprised of 9 members appointed by the Mayor of Baltimore and 2 members elected at-large (HB 558, 2016).
[3] 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).
[4] The Caroline County Board began the transition in 2011 to a hybrid board comprised of 2 appointed and 3 elected members (SB 964, 2009).
[5] The Harford County Board began the transition in 2010 to a hybrid board comprised of 3 appointed and 6 elected members (SB 629, 2009); the County Executive appoints the 3 appointed members effective in 2022 (HB 603, 2022).
[6] 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); beginning in 2024 the board will become an all elected board (HB 355, 2022).

Maryland Association of Boards of Education
621 Ridgely Avenue, Suite 300
Annapolis, Maryland 21401-1112
Phone: 410-841-5414 800-841-8197
Fax: 410-841-5480
www.mabe.org