

January 27, 2023

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Legislative Committee Meeting

MABE’s Legislative Committee met on Monday, January 23 to deliberate and decide MABE’s position on pending legislation and review the bill status of bills on which MABE has already taken positions.

The [Legislative Committee](#) is led by Karen Yoho, Chair, and Brenda Wolff, Vice Chair, and includes representatives from all 24 boards of education. The committee guides the association’s lobbying activities in Annapolis, and invites policy and legislative leaders as guest speakers to exchange ideas. During the legislative session, MABE’s bill testimony reflects the association’s resolutions as annually updated and adopted by the full membership, and legislative priorities and positions as adopted by the Legislative Committee.

MABE’s Legislative Committee leaders and Board of Directors officers have been meeting with committee leadership in Annapolis to engage on pending funding and policy issues, and to advocate for MABE’s legislative priorities.

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.
- Support for full State funding for Maryland’s outstanding public schools.
- Support for increased State funding for school construction and renovation projects.
- Support for sustained and increased local government investments in education.

MABE’s [Legislative Positions & Priorities for the 2023 Session](#) include additional information on these priorities and position statements on other major policy areas.

Health Curriculum Standards

On Monday, Jan. 23, following a bill summary and discussion the Legislative Committee voted to oppose [House Bill 119/Senate Bill 199, Primary and Secondary Education - Comprehensive Health Education Framework - Established](#) (Sponsors: Del. Atterbeary; Sen. Lam).

Legislative Committee

2023 Meeting Calendar

- Feb. 13, 2023
- March 6, 2023
- March 27, 2023
- April 24, 2023

MABE’s Legislative Committee meetings are held virtually by Zoom on Monday mornings, 10:00 to 12:00, unless otherwise indicated. Meeting agendas and materials are posted on the [MABE website](#).

This legislation would require the Maryland State Department of Education (MSDE), in collaboration with the Maryland Department of Health (MDH), to develop a comprehensive health education framework and require each local board of education to engage the local community and create an age-appropriate curriculum that is consistent with the state framework. In addition, the bill requires local boards to establish a method by which a parent or guardian may opt out of certain topics.

MABE's opposition to these health curriculum bills is firmly grounded in the association's adopted legislative positions, which affirm that MABE:

- 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; and
- Opposes any efforts by the General Assembly to legislate curriculum or testing matters inconsistent with MABE's adopted resolutions and legislative positions.

MABE opposes [HB 119/SB 199](#) for the reasons outlined above and to avoid setting the precedent that other content standards, curriculum, and instructional materials may become the subject of legislation.

MSDE very recently approved a revised health education framework in 2022, and local boards have been engaging their local communities to devise their local curriculum. MABE strongly supports this process of state standard development followed by local curriculum development.

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. The State Board of Education has approved regulations that contain more specific requirements to provide instructional programs in specific content areas and 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. MABE endorses this process and not shifting to legislating on curriculum matters.

Contact the committee members to voice your opposition to these health curriculum bills and support for local board governance and community engagement on curriculum.

- Contact [Ways & Means Committee Members](#). The Committee's hearing on [HB 119](#) is on February 1st.
- Contact [Senate Education, Energy, and Environment Committee Members](#). The Committee's hearing on [SB 199](#) is on February 8th.

Resources:

- [HB 119 - Health Education Framework & Curriculum - Bill Text](#)
- [MABE's Legislative Position on Assessments & Curriculum](#)
- [MD Comprehensive Health Education Framework](#) (2022)

Bargaining on Class Size

MABE is opposing [House Bill 85/Senate Bill 206](#) - **Education - Collective Bargaining - Certificated Employees - Class Size** (Sponsors: Del. J. Lewis; Sen. Beidle). This bill would authorize local school systems and teachers associations to negotiate on the topic of class size. The legislation would repeal a decades-old exclusion of class size from permissible subjects for negotiation and inclusion in collective bargaining agreements.

As desirable as smaller class sizes may be to both the school system and teachers, there are very sound reasons to maintain the longstanding rule that class size issues are not appropriately managed at the bargaining table.

MABE opposes adding class size as a topic for collective bargaining because reducing class size is so closely tied to the planning, timing and funding of school construction projects.

Class size disputes will, unavoidably, involve school facilities issues not contemplated when bargaining laws and procedures were adopted. This is because class size is inherently a question of physical space. Adding class size as a bargaining subject does not change the fact that state and local investments in expanding school facilities – adding classrooms to provide more space for smaller class sizes - are outside the control of the parties negotiating at the bargaining table.

MABE opposes adding class size as a topic for collective bargaining because the annual negotiations cycle is already contentious. Adding class size to the scope of bargaining would only make an already complex and time-sensitive process more likely to bog down in irreconcilable disputes.

Negotiating class size would introduce a new hurdle to the ability of school systems and teachers associations to finalize contracts by the end of the fiscal year and contract term.

The Blueprint for Maryland's Future is already requiring major updates and revisions to each of Maryland's 24 collective bargaining agreements. Adding class size to the topics which may be negotiated and included in bargaining agreements would introduce an unanticipated complicating factor into the entire transition to implement the Blueprint.

Again, as desirable as smaller class sizes may be to both the school system and teachers, the Blueprint is not designed to provide funding for additional teachers or new classrooms to achieve smaller class sizes. Class size should continue to be an educational matter factored into the budget and policy decisions of superintendents and local boards.

- Contact House and Senate committee members to voice your opposition to these bills to shift class size to become a new subject for collective bargaining and contentious disputes at the bargaining table.
- Contact [Ways & Means Committee Members](#). The Committee's hearing on [House Bill 85](#) is on February 1st.
- Contact [Senate Finance Members](#). The Committee's hearing on [Senate Bill 206](#) is on February 9th.

Burden of Proof in Special Education Cases

MABE is opposing [House Bill 294, County Boards of Education - Due Process Proceedings for Children with Disabilities - Burden of Proof](#) (Sponsor: Del. Atterbeary). This bill would shift the burden of proof from parents to the school system in legal disputes arising in special education cases.

What is the Burden of Proof?

The burden of proof is a legal standard which requires parties (in this case parents/guardians) to provide evidence to demonstrate that a claim or complaint is valid [in this case that current special education services are not providing the student with a Free and Appropriate Education (FAPE) under federal special education standards].

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 Maryland's Individualized Education Program (IEP) process, staff allocations, and resources for parents was completed without recommending shifting the burden of proof.

Why MABE Opposes Shifting the Burden of Proof

Since 2013, state legislation has been introduced to place the burden of proof on the local school system in a due process hearing to resolve special education disputes. MABE has consistently opposed these bills as: 1. Unnecessary to ensure that special education services are provided because there are already very strong federal and state due process protections, 2. Costly and wasteful of local and state funds for lawyers and litigation, 3. Costly and wasteful of teacher and staff time that should be devoted to educating and serving students, and 4. Leading to many more student placements in nonpublic special education schools resulting in increased local and state costs.

Shifting the burden of proof to school systems would set the presumption that school systems are not meeting a student's needs and impose a new workload and legal liability on school systems and staff to prove that they are, in fact, doing so. While school systems are confident they can demonstrate that appropriate services called for in IEPs are being provided, shifting the burden of proof away from parents would result in the unlimited potential for such complaints to be filed, and unlimited burden on the school system to devote staff time and legal resources to refuting such claims.

How Maryland Has Made Progress Without Shifting the Burden of Proof

Maryland has mandated expanded special education procedures and services beyond federal requirements – and done so without shifting the burden of proof. Examples include 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. In 2022, legislation passed to prohibit public schools from using seclusion as a behavioral health intervention for a student and to limit the use of physical restraint as a behavioral health intervention.

Contact the committee members to voice your opposition to [House Bill 294, County Boards of Education - Due Process Proceedings for Children with Disabilities - Burden of Proof](#).

- Contact [Ways & Means Committee Members](#). The Committee's hearing on [House Bill 294](#) is on February 8th.

Budget Highlights - FY 2024 Education Funding

Highlights of Governor Moore’s Education Budget

The FY 2024 budget provides record funding for K-12 education, investing \$8.8 billion in Maryland’s public schools – funding Blueprint for Maryland’s Future programs and exceeding statutory funding formulas with \$37 million in education hold harmless grants. Per pupil funding for K-12 education grows from \$9,199 to \$10,015, an increase of 9%. Direct aid to local schools grows by \$740 million (10%).

“Education is central both to fighting poverty and powering the Maryland economy. Our greatest future asset is our children, and to the extent that all of our children, regardless of where in the state they live, can graduate from high school prepared either for a successful career or to go on to college, we can transform the state into a more equitable and wealthier society. Education is perhaps the best example that equity and wealth need not compete but can be mutually reinforcing.” (Source: “Maryland Budget Highlights FY 2024, Maryland Department of Budget and Management”)

State Aid by Major Program (FY 2022-2024) State Funds (\$ in Millions)

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>Difference</u>	<u>Percent Difference</u>
Public Schools					
Foundation Programs	\$3,413.3	\$3,817.4	\$3,961.0	\$143.6	3.8%
Compensatory Aid	1,286.6	1,295.2	1,686.1	390.9	30.2%
English Language Learners Grant	334.3	422.5	470.7	48.2	11.4%
Special Education - Formula Aid	311.1	401.3	464.1	62.8	15.7%
Special Education - Nonpublic	126.7	141.4	145.6	4.2	3.0%
Student Transportation	288.1	336.0	363.4	27.4	8.2%
Guaranteed Tax Base	49.9	45.8	46.8	1.0	2.1%
Head Start/Pre-Kindergarten	29.6	29.6	29.6	0.0	0.0%
Blueprint Programs	811.9	595.4	603.4	8.0	1.3%
Other Education Programs	91.7	146.1	149.4	3.3	2.3%
Subtotal Direct Aid	\$6,743.1	\$7,230.6	\$7,920.0	\$689.4	9.5%
Retirement Payments	779.0	724.6	768.6	43.9	6.1%
Total Public School Aid	\$7,522.1	\$7,955.2	\$8,688.5	\$733.3	9.2%

Specific Highlights include:

- Funding to support low-income students grows by \$475 million (32%) over FY 2023. This includes \$84 million in additional grant funding to expand wrap-around services in schools with high concentrations of poverty;
- Grants for students learning English jump by \$48 million (11%);
- Formula funding for students with disabilities grows by \$63 million (16%) over FY 2023.
- A proposal to allocate \$500 million in surplus General Fund cash as a contribution to the Blueprint for Maryland's Future Fund to extend the fund's solvency an additional year through FY 2026.
- \$22 million for bonuses for non-certificated education support professionals employed by public schools across Maryland.
- \$51 million for supplemental instruction for struggling learners, an increase of \$1.3 million over FY 2023.
- \$15 million for a new teacher recruitment incentive program to address chronic staffing shortages in schools throughout the State.

State Budget Resources:

- [FY 2024 State Budget Education Highlights](#)
- [FY 2024 Budget Book - Detailed Education Section](#) (pp. 64-143 of Vol. II)

Major Increase in Comp Ed Enrollment Count

The [Fiscal Briefing Report](#) presented to the General Assembly by the Dept. of Legislative Services (DLS) highlights an enormous “unexpected surge” in the number of students reported as qualifying for free and reduced-price meals and the compensatory education component of state education funding formulas.

FY 2024 is the first State Budget impacted by the shift to using Medicaid enrollment to determine students in low-income households. The use of forms to determine eligibility for free and reduced-price school meals was the norm before the pandemic, but was also generally known to be very inaccurate. One of the major flaws was the sharp, but artificial, decline in the completed forms for high school students. Another factor was the reluctance of families to provide household income data. So the shift to using Medicaid figures is, presumably, a more accurate reflection of the level of household incomes of many public school students' families. The effect is dramatic. According to DLS:

“Fall 2022 enrollment figures show 110,503 more students qualifying for free and reduced-price meals than in fall 2021. As a result, the compensatory education component of the State’s K-12 education formulas grows by \$390 million in fiscal 2024. Over the five-year forecast period, this translates to more than \$1.6 billion in additional compensatory education costs and results in more schools qualifying for concentration of poverty grants.”

Several school systems see a 30% to 50% or greater increase in the number of students qualifying for free and reduced-price meals and the state funding provided through the compensatory education formula. Examples: Anne Arundel (54.7%), Carroll (86.3%), Montgomery (70.8%), Queen

Anne’s (81%), and St. Mary’s (67.5%). Again, these enrollment counts are mandating a \$390 million increase in state aid to local school systems in FY 2024. For statewide enrollment counts, see the [Annual Change in Public School Student Enrollment Counts](#) (Fiscal Briefing Table, Appendix 17).

- Additional information: [Video of Fiscal Briefing in the Ways & Means Committee \(1/26/23\)](#)

Capital Budget Highlights - FY 2024 School Construction Funding

The FY 2024 Capital Budget provides \$1.091 billion for public school facilities, highlighted by \$485 million for the traditional public school construction program and \$447 million of Built to Learn Act revenue bonds.

Highlights

- The FY 2024 budget includes \$484,999,784 for design and construction of public school construction projects. Included in this program are funds used for major projects, systemic renovations to existing school facilities, the movement and installation of State-owned relocatable classrooms, science facility renovations, and kindergarten and pre-kindergarten projects.
- The FY 2024 budget includes \$447,231,000 in Revenue Bonds for the Built to Learn Fund. Revenue Bond issuances are currently expected to generate \$1.6 billion in proceeds through FY 2026. Debt service for the Revenue Bonds will be obtained from Education Trust Fund revenues.
- The FY 2024 budget includes \$90 million for the Healthy School Facility Fund. The Healthy School Facility Fund provides grants to public primary and secondary schools in the State to address facility problems that impact the health of students, staff, and other building occupants. Eligible projects include the installation of air conditioning and heating systems, indoor air quality improvements, mold remediation, plumbing upgrades (focused on eliminating the presence of unhealthy levels of lead in drinking water), and roof and window replacements.
- The FY 2024 budget includes \$40 million for the Supplemental Capital Grant Program, which provides grants to local school systems for the construction and renovation of public school facilities in jurisdictions that have enrollment growth that exceeds 150 percent of the statewide average or with more than 250 relocatable classrooms over a five-year period.
- The FY 2024 budget includes \$20 million for the School Construction Revolving Loan Fund, which is to be administered by the Interagency Commission on School Construction (IAC) and may be used only to provide low- or no-interest loans to local governments.

School Construction Funding	
FY 2024	
(Millions of \$)	
GO Bonds/General Funds/Special Funds	
Public School Construction Program	485,000
Supplemental Capital Grant Program	40,000
Healthy School Facility Fund	90,000
School Construction Revolving Loan Fund	20,000
Aging Schools Program	6,109
Nonpublic Aging Schools	3,500
Subtotal GO Bonds/General Funds/Special Funds	644,609
Revenue Bonds - Built to Learn Fund	447,231
TOTAL*	1,091,840
*Does not include \$5M for Arts Classrooms in Baltimore City	

- The Aging Schools Program continues to provide \$6.1 million for capital improvements, repairs, and deferred maintenance work. This funding does not require a local government matching amount.

Additional Information:

- [FY 2024 Capital Budget for School Construction Highlights](#)
- [FY 2024 Capital Improvement Program \(CIP\) for School Construction](#)

Bill Report & Hearing Schedules

Throughout the 2023 legislative session MABE is providing an updated weekly Bill Report containing MABE's positions and the status of all the bills we are tracking, including hearing dates.

- [January 27, 2023 Bill Report](#)

Advocacy Resources

- [MABE's Annapolis Advocacy Center](#)
- [MABE's State Board Advocacy Center](#)
- [MABE's Federal Advocacy Center](#)

For more information, contact John R. Woolums, Esq., MABE's Director of Governmental Relations, at jwoolums@mabe.org or 410-841-5414.

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