

MONTGOMERY COUNTY BOARD OF EDUCATION
Rockville, Maryland

November 9, 2010

MEMORANDUM

To: Members of the Board of Education

From: Laura Steinberg, Staff Assistant for Legislative and Inter-Governmental Relations

Subject: 2011 Legislative Platform

Attached for your consideration is a Legislative Platform for the 2011 session of the Maryland General Assembly. Proposed additions to and deletions from the 2010 Legislative Platform have been reviewed by the Board's Strategic Planning Committee and are recommended for your approval (see attachment).

The Montgomery County Board of Education adopted its first legislative platform in 2001, in preparation for the 2002 legislative session. Since that time, the development, adoption, and distribution of a platform statement prior to the beginning of each legislative session has enhanced the effectiveness of Board advocacy on state budget and legislative issues.

The platform provides a vehicle for summarizing the Board's positions on priority issues without precluding the consideration of additional legislative and budget issues that arise during the legislative session. Similar to previous years' efforts, the 2011 document will be distributed to members of the General Assembly, partner organizations, and the community before and during the legislative session, and will be posted on the Board of Education's web site.

The major recommendations fall within three categories, Funding/Accountability, Local Board Authority, and Students. Among the recommendations are:

Funding/Accountability

Pension/Retirement

- Continue full funding of the teacher retirement program and maintain as a state-funded categorical program.

Maintenance of Effort

- Continue current maintenance of effort provision.
- Prohibit penalizing school systems for noncompliance.

School Construction

- Provide adequate state capital funding in FY 2012.
- Consider expanding the state's bonding capacity to meet growing school facilities needs across the state.

Operating Budget

- Full commitment to funding incorporated in Bridge to Excellence (BTE), including the Geographic Cost of Education Index (GCEI) and student transportation.
- Maintain teacher retirement as state funded categorical program.

Special Education Non-Public Tuition

- Restore the 80/20 cost-sharing formula of the Non-public Tuition Assistance Program.

Public Funding for Private Schools

- No appropriation of public funds, direct aid, tax credit, or vouchers for private and parochial schools.

Local Board Authority*Curriculum*

- Support local control of educational policy, administration, and curriculum.

Charter Schools

- Maintain local boards as the sole authority for establishing public charter schools.

Students*Compulsory Age of Attendance*

- Raise the compulsory age from 16 to 18.
- Ensure adequate supports to address issues that cause students to leave school.

Early Childhood Education

- Support statewide initiatives that provide funding for and access to affordable, high quality, early childhood programs aligned with school system learning standards and goals.

Nutrition and Health

- Expand *Maryland Meals for Achievement* to include all eligible schools that choose to apply.

School Safety

- Fund innovative initiatives that address gang prevention and involvement and speak to strategies that ensure a safe and secure learning and working environment for students and staff.

Attachment

*Legislative Platform DRAFT Changes: ~~Deletions~~ and Additions***FUNDING/ACCOUNTABILITY**

Today's investments in the Montgomery County Public Schools are key to a prosperous economy, strong business growth, and students' ability to compete for good jobs in the global, high-tech economy. If we do not invest adequate funds now, the preparedness of our youth to support our future economic health will be in serious jeopardy. Our school system cannot afford any unfunded mandates, significant additional workload burdens, or shifting of costs to our county. Any legislation that shifts or imposes new costs must have a designated and sufficient revenue source.

Pension/Retirement

In 2006, the General Assembly approved legislation that significantly improved Maryland's teacher pension system. The improvements provide critical support to employees and enhance the ability to attract and retain highly qualified staff to serve public school children in our county and across the state. Improvements in the pension system would be compromised by any shift in funding responsibility from the state to local governments that have no fiduciary obligation for the payment of teacher pensions. Additionally, transfer of responsibility from the state to the counties would in effect reverse the Bridge to Excellence commitment to increasing the state share of education funding.

The Montgomery County Board of Education supports:

- Maintaining the teacher retirement program as a state-funded categorical program.
- Full state funding of the teacher retirement program.

The Montgomery County Board of Education opposes:

- Any shift in funding responsibility from the state to the counties.
- Any imposition of a cap on the state's share of teacher retirement funding.

Maintenance of Effort

The *Bridge to Excellence in Public Schools Act of 2003 (BTE)* requires significant increase in state funding without modifying the minimum maintenance of effort (MOE) requirement for county governments. Maintenance of effort, conceived as a floor to ensure a basic level of local support for education, requires each district receive the same local appropriation per pupil in the subsequent year that was provided during the current year. Even when fully funded, MOE does not address other rising costs of commodities such as fuel, unfunded mandates, or other inflationary increases to annual budgets, including salary and employee benefit increases. Funds for one-time projects do not count toward the requirement, if approved by the Maryland State Department of Education.

If a county cannot afford to pay the minimum amount because of serious economic trouble, it may petition the state board of education for a waiver. ~~However, the state board does not take into account agreements between local governments and boards of education when reviewing waiver requests. Moreover,~~ Currently, school systems, not local governments, are penalized if MOE is not met by a local government effectively creating a double penalty: loss of local aid coupled with denial of any increase in basic state aid. **Schools and students should be held harmless from the consequences of any unusual or unforeseen fiscal circumstances.**

FUNDING/ACCOUNTABILITY

If a county does not expect any increase in state school aid, the MOE law does not provide for any penalty. Counties thus have no incentive to maintain local effort if they expect no state aid increase. Current law provides that if a MOE waiver is granted, the required local contribution for the succeeding year is based on the previous year's (higher) amount per student. If a county simply violates the requirement and accepts the penalty (or if there is no penalty), then the required local contribution for the succeeding year is at the lower per student amount based on the year in which the county is in violation. Thus, by violating the MOE law the county receives an additional benefit of future lower required funding.

The Montgomery County Board of Education supports:

- Continuing the current maintenance of effort provision that mandates the county governing body to appropriate funds to the school operating budget in an amount no less than the product of enrollment for the current fiscal year and the per pupil local appropriation for the prior fiscal year.
- Requiring that local education funding amounts are no less than the previous year's level, despite fluctuation in enrollment.
- Holding school systems harmless for MOE non-compliance by local governments by requiring the state to transfer from state disbursements or county state aid to school system state aid the amount by which counties failed to meet MOE.
- Requiring use of a previous year's MOE amount if a county violates the MOE requirement.

The Montgomery County Board of Education opposes:

- Any amendments to statute or regulations regarding
 - Legal requirements to satisfy the minimum maintenance of effort requirement;
 - Limiting the application of the non-recurring cost exemption;
 - The process for requesting waivers from the maintenance of effort requirement;
 - Criteria by which waivers would be automatically granted
- Blanket legislative waiver with no clear funding requirement.

Capital Budget/School Construction

State construction funds continue to be inadequate to meet the substantial capital funding needs. School construction costs dramatically exceed state and local appropriations. Enrollment growth, coupled with maintenance needs in older schools, continues to put enormous pressures on school facilities. Limited state funding has forced Montgomery County to forward-fund critical projects that are eligible for state funding. Moreover, without adequate funding, over-reliance on portable classrooms and increasingly aging facilities will become the norm.

The Montgomery County Board of Education supports:

- Adequate state capital funding for ~~FY 2014~~ FY2012 to address school facility needs.
- Expanding the state's bonding capacity to meet Maryland's growing school facility needs.
- Establishing that the distribution of school construction funds be equal to the percentage share of student enrollment statewide.

FUNDING/ACCOUNTABILITY

- Revising current standards for the Interagency Committee square footage allowances for new and modernized schools to eliminate penalty for building additional classrooms intended to reduce class size in support of student achievement.
- Developing a mechanism to ensure locally forward-funded projects remain eligible for state funding, even after the project has been completed.
- Changing the Public School Construction Program to address inequities in funding needs related to the size and location of an LEA.
- Establishing incentives for green and energy efficient school construction.

The Montgomery County Board of Education opposes:

- Any effort to reduce the \$1.23 million Aging School Program funds legislated for Montgomery County.
- Any reduction to the state and local cost share formula.
- Any change to the threshold requirements for prevailing wages.

MCPS, as a quasi-state agency, is not required to submit permits to municipal agencies, other than for storm water management and forest conservation, but nevertheless has voluntarily complied with the municipal permitting process. Over time, irregularities in the interpretation of applicable codes by county and municipal permitting authorities have created unnecessary and costly changes to both MCPS facility designs and construction timing.

Generally, state construction is subject to review, approval, and inspection by state regulatory agencies. However, given the limitations on state resources, state regulatory agencies are not in a position to provide permitting services for MCPS projects.

The Montgomery County Board of Education supports:

- Local legislation that authorizes MCPS projects to be reviewed and permitted through the Montgomery County Department of Permitting Services.

Operating Budget

The *Bridge to Excellence in Public Schools Act of 2003 (BTE)* was broadly conceived to ensure both adequacy and equity in education funding and relies on the Geographic Cost of Education Index (GCEI) and inflation adjustments to meet that mandate. GCEI was funded at 60% in FY 2009 and fully funded in FY 2010 and FY2011 using federal stimulus funds which will sunset in FY 2012. Last year, the inflation adjustment was eliminated until FY 2012.

The Montgomery County Board of Education supports:

- Full commitment to the funding incorporated in BTE, including the GCEI and student transportation.
- Mandating GCEI funding.
- Resumption of the annual inflation adjustment.
- Additional funding to support English for Speakers of Other Languages by recognizing the additional resources necessary both to educate Limited English Proficient students and to fulfill mandated monitoring and reporting.

FUNDING/ACCOUNTABILITY

- Maintaining teacher retirement as a state funded categorical program.
- Reimbursement for students placed by state agencies at RICA, as well as reimbursement for educational programming.

The Montgomery County Board of Education opposes:

- Any retreat from funding identified in BTE.
- Additional state mandates, unless accompanied by sufficient and ongoing state funding.

Special Education Nonpublic Tuition

The Montgomery County Public Schools (MCPS) and the Maryland State Department of Education (MSDE) share the costs for providing services for special education students who are served in nonpublic schools. The Nonpublic Tuition Assistance Program has been beneficial in supporting our obligation to provide appropriate services to students who require intensive special education services. The program requires local school systems to pay 300% percent of the average per-pupil cost plus 30 percent of any amount in excess; MSDE is required to fund the remaining 70 percent.

The Montgomery County Board of Education supports:

- Restoring the 80/20 cost-sharing formula of the Nonpublic Tuition Assistance Program.

The Montgomery County Board of Education opposes:

- Any attempts to increase the local share of tuition for special education students served in nonpublic schools.

Public Funding for Private Schools

Nonpublic schools are neither subject to state accountability measures nor to the same legal requirements as public schools, such as those set out in special education laws and teacher certification regulations. With the increasing unmet needs in public schools, state funds must be targeted to address the needs of public school students in Montgomery County and throughout the state.

The Montgomery County Board of Education supports:

- Strong accountability for all public dollars spent on education.

The Montgomery County Board of Education opposes:

- Appropriation of public funds for private and parochial schools.
- Direct aid to private and parochial students.
- Tuition tax credits, vouchers, or tax credits as a means of reimbursing parents who choose to send their children to private or parochial schools.
- Continuation or expansion of providing textbooks to private schools.

FUNDING/ACCOUNTABILITY

Comprehensive Master Plan

~~The *Bridge to Excellence in Public Schools Act of 2003* (BTE) requires all Maryland school systems to develop a five year comprehensive master plan that describes goals, objectives, and strategies to improve student performance and to align the district's budget with the plan's goals and objectives. For school systems with robust strategic plans that include goals, objectives, and strategies, creating a separate master plan both requires extensive effort with little added value and duplicates work already done.~~

~~The Montgomery County Public Schools (MCPS) strategic plan, *Our Call to Action: Pursuit of Excellence*, is the outcome of a rigorous, systematic, systemic, results-driven strategic planning process that is responsive to and aligned with student and stakeholder needs. The strategic planning process employed addresses the requirements of, and is aligned with, the *Maryland Bridge to Excellence Act*.~~

~~The Montgomery County Board of Education supports:~~

- ~~▪ Requiring the state superintendent to allow a local school Board's strategic plan to serve as a comprehensive master plan as long as it describes the goals, objectives, and strategies used to improve student achievement, as well as meet state and local performance standards for all students, as specified in the BTE.~~
- ~~▪ Eliminating the state superintendent's ability to require additional information from local boards beyond the requirements of the BTE, without the approval of the General Assembly.~~
- ~~▪ Eliminating the requirement that a county board cannot implement a plan until it is approved by the state superintendent.~~

LOCAL BOARD AUTHORITY

While the Maryland State Board of Education establishes, through regulations, broad statewide policies and mandates, local boards of education are responsible for establishing policies and procedures for the public schools within its jurisdiction. By retaining decision-making authority at the local level, a board of education can best balance educational practices, available resources, public input, and accountability.

Collective Bargaining

~~Currently, local boards of education and employee organizations must negotiate all matters that relate to salaries, wages, hours, and other working conditions. Among prohibited matters are school calendar and class size. If a board and employee organization cannot agree on whether an item is mandatory, illegal, or permissible, the State Board of Education is responsible for resolving the dispute.~~

~~If and when negotiations reach an impasse, current law requires an arbitrator to try to bring the board and employee organization into agreement. If unsuccessful, a fact finding report is written for the benefit of all parties. The report is advisory and intended to assist in finding agreement. However, if no agreement is reached, then the local board of education is authorized to make a final decision regarding items that were negotiated.~~

The Montgomery County Board of Education supports:

- ~~▪— Maintaining that matters for bargaining are considered to be mandatory, illegal, or permissive.~~
- ~~▪— Ensuring that decision makers regarding negotiated matters have an expertise in education and are committed to act in the interest of all key stakeholders.~~
- ~~▪— Ensuring that policy decisions that affect the education of students be made with full consideration of and input from staff, students, their parents, and the local community.~~
- ~~▪— Ensuring that the fiscal implications associated with any changes to collective bargaining are fully considered.~~
- ~~▪— Preserving the current two prong test to determine the distinction between matters that are predominantly working conditions and those that are predominantly educational policy in bargaining.~~
- ~~▪— Promotion of interest based bargaining as an effective, collaborative strategy for negotiation between willing parties.~~
- ~~▪— Further scrutiny of the potential impact of binding interest and binding grievance arbitration on negotiations in the absence of developed standards or consideration of specific exceptions.~~
- ~~▪— In the event of a jurisdictional change at the state level over collective bargaining for public education, that irrespective of the change, the precedent setting value of decisions rendered to that point carries over.~~

The Montgomery County Board of Education opposes:

- ~~▪— Allowing class size, school calendar, or any matter already covered by statutory law to be a permissible subject of negotiation.~~
- ~~▪— Mandating specific content in a negotiated agreement.~~
- ~~▪— Including in impasse proceedings any permissive subject of negotiations upon which the parties have not mutually agreed to negotiate.~~

LOCAL BOARD AUTHORITY

Curriculum

In creating the State Board and local boards of education, the General Assembly has delegated to them the responsibility for content standards and curriculum. The State Board establishes state standards and the local boards adopt and implement locally developed programs with local funding to ensure that these standards are met. Local boards of education can best balance educational practices, available resources, public input, and accountability.

The Montgomery County Board of Education supports:

- Maintaining the authority of local boards of education to determine educational policy, curriculum, and administration.
- Retaining decision-making authority at the local level.

The Montgomery County Board of Education opposes:

- Any efforts by the General Assembly to legislate curriculum, firmly believing that this role belongs to local boards of education in conjunction with the State Board.

Charter Schools

In 2003, the General Assembly enacted legislation that created a charter school program. While the *Maryland Public Charter School Act* establishes an alternative means within a public school system to provide teaching and learning, there remains the need for a strong accountability system to ensure that any public charter school funds are appropriately spent.

The Montgomery County Board of Education supports:

- Reaffirming that the sole authority for establishing public charter schools is vested in local boards of education with an appropriate procedure for appeals of local decisions.
- Defining “commensurate funding” as resources equal to what is allocated to similar schools in the district, excluding central administrative expenditures and other expenditures that may be provided in kind.

The Montgomery County Board of Education opposes:

- Efforts to expand charter school authority beyond local school boards.
- Efforts to weaken academic or fiscal accountability requirements.
- Funding requirements that give charter schools more resources per student than other public schools in each district.
- Any attempt to deprive charter school employees of the rights and responsibilities of other public employees.

STUDENTS

The Montgomery County Board of Education is committed to providing a high-quality, world-class education that ensures success for every student through excellence in teaching and learning. A high-quality education is the fundamental right of every child. The Montgomery County Public Schools is steadfast in ensuring that all students will receive the respect, encouragement, and opportunities they need to build the knowledge, skills, and attitudes to be successful, contributing members of a global society.

Compulsory Age of Attendance

Currently, Maryland requires children between the ages of 5 and 15 to attend school. Upon turning 16, a student is permitted on his/her own to permanently withdraw from school. While school staff must conduct and document an exit interview with any student who seeks to drop out, parental approval is not required.

The decision to drop out can be life changing. While students drop out for a myriad of complex reasons reflecting their unique life circumstances, it is often the culmination of a longer process of disengaging from instruction. For drop outs, the consequences can be severe. In our changing economy, workers need at least a high school diploma to compete in the workforce. A 2007 Maryland Task Force to Study Raising the Compulsory Public School Attendance Age to 18 noted that students who drop out of high school face “harsh futures” characterized by lower wages, disproportionate representation in prisons, and shorter overall life spans. The costs to society were also described, including greater dependency on public assistance among dropouts and high incarceration costs for the population.

Raising the compulsory age of attendance alone is not a silver bullet and, in isolation, will not resolve the underlying issues and causes of students dropping out. However, it is critical that our laws and policies limit the ease by which students can drop out of school, knowing the long-term consequences of such action. Additionally, any real or sustainable impact will take place only if requiring students to stay in school beyond age 16 is accompanied by engaging instruction and personal supports.

The Montgomery County Board of Education supports:

- Raising the compulsory age from 16 to 18.
- Providing adequate supports to address the issues that caused students to leave school.

Early Childhood Education

The Montgomery County Public Schools (MCPS) believes that investments in early childhood education are both wise and essential to ensuring success for every student. The Task Force on Universal Preschool Education recently recommended creation of a voluntary, free, standards-based universal preschool program for all four-year olds. MCPS is a significant partner in Montgomery County’s Early Childhood Initiative, which ensures that family-focused programs and services for young children are neighborhood-based, effective, responsive to cultural diversity, make a measurable, positive difference in children’s well-being, and help prepare them for success in school.

STUDENTS

The Montgomery County Board of Education supports:

- State fiscal support for any expansion of local pre-kindergarten services.
- Statewide initiatives supporting high quality early childhood programs, including child care.
- Efforts that encourage the provision of an array of services by a variety of agencies.
- Maximum use of community organizations to provide pre-kindergarten services, with commitment to support of local curriculum requirements.

Nutrition and Health

Thousands of low-income children in Maryland depend on school meals for the nutrition they need to learn and grow. *Maryland Meals for Achievement* provides funding for schools with high concentrations of poverty to provide breakfast to all students, regardless of family income. Most recently, of the 62 eligible schools to apply for the program, only 29 were approved. The Maryland State Department of Education (MSDE) would only accept applications for the currently enrolled schools and a priority list for those eligible but not in the program. Additionally, the *Summer Food Service Program* ensures that children in lower income areas continue to receive nutritious meals during the summer months when school breakfasts and lunches are not available.

The Montgomery County Board of Education supports:

- Expansion of *Maryland Meals for Achievement* as an entitlement to include all eligible schools that choose to apply.
- Efforts to increase federal funding for the *Summer Food Service Program*

The Montgomery County Board of Education opposes:

- Limiting the number of eligible schools from participation in *Maryland Meals for Achievement*.

Safety and Security

Safety in public schools has become increasingly important as threats to national and community security have taken on new meaning. The prevention of disruption and violence has always been a key component of long-term effective school safety strategies. The pursuit of a safe environment must be tempered by a balanced emphasis on the protection of individual student rights.

The Montgomery County Board of Education supports:

- Innovative initiatives and funding that address gang prevention and involvement and promote targeted interventions to reduce gang activity.
- Innovative initiatives and funding that speak to strategies that ensure a safe and secure learning and working environment for students and staff.

The Montgomery County Board of Education opposes:

- Statewide approach to discipline that limits a school system's ability to respond to unique and unusual circumstances.
- Unnecessary mandates on school systems that divert resources from programs that directly help students.

STUDENTS

Home Schooling

Maryland law recognizes home instruction as an alternative to public school enrollment and as a means for students to receive regular, thorough instruction. Currently, home school students are expressly authorized to participate in public school standardized testing.

The Montgomery County Board of Education opposes:

- Any requirement that home school students be allowed to participate in public school athletics or other extracurricular activities.

Student Member of Boards of Education

The position of student member of the Board of Education (SMOB) is established by the Annotated Code of Maryland, with rights varying from jurisdiction to jurisdiction. Some jurisdictions have SMOBs with extremely limited powers, while in at least one instance the SMOB has the same powers as the adult elected member of the Board.

With the exceptions of boundary changes, capital and operating budgets, collective bargaining, negative personnel matters, and school closings, the Montgomery County SMOB has a vote equal to those of the seven adult Board members. The SMOB has a vote on issues such as administrative appointments and policy, as well as a vote on the appeals that the Board decides in its quasi-judicial role.

The Montgomery County Board of Education supports:

- Local legislation expanding the SMOB's voting rights to be equal to those of adult Board members with the exception that the SMOB shall not vote on negative personnel matters.