


MONTGOMERY COUNTY BOARD OF EDUCATION
Rockville, Maryland

November 8, 2011

MEMORANDUM

To: Members of the Board of Education

From: Judith R. Docca, Chair, Strategic Planning Committee 

Subject: 2012 Legislative Platform

On October 28, 2011, the Board of Education's Strategic Planning Committee met to review a draft 2012 Legislative Platform. The attached draft Legislative Platform for the 2012 session of the Maryland General Assembly was approved by a unanimous vote of the committee members with Mr. Durso absent and is submitted for the Board's consideration. Proposed additions to and deletions from the 2011 Legislative Platform were made in collaboration with the administration, have been reviewed by the Board of Education's Strategic Planning Committee, and are recommended for your approval (see attachment). Please note that the recommended platform includes, for the first time, a separate section highlighting the Board's key legislative priorities.

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 2012 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.

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Attachment

2012 Legislative Priorities

Maintenance of Effort

Since 1984, longstanding actions of Maryland's decision makers led to the commonly held perception and belief that Maintenance of Effort (MOE) was the absolute funding floor for local school budgets. In April 2011 this changed when legislators and Attorneys General said the floor has always been the "local share of the foundation amount", an amount 50% less than called for by Maintenance of Effort. This new floor signals the end of adequacy, equity, and excellence in Maryland's public schools.

Maintenance of Effort must be restored to ensure:

- Accountability - make MOE the local funding floor, with a mandated waiver process.
- Flexibility - improve and expand the State Board of Education's waiver process.
- Fairness - apply the penalty for not meeting MOE to the county, not the school system.

Teacher Retirement

In 2006, the teacher pension system underwent major improvements, including retroactive funding, deemed feasible at that time, to improve benefits. Coupled with the pension system's funding methodology and the current economic climate, liability growth has significantly outpaced assets. Recent legislative action now has new employees paying 80% of their benefit costs and all employees paying for most of the improvements in benefits on a "go forward" basis.

Shifting any additional retirement costs to local jurisdictions or boards:

- Unfairly transfers the burden to local jurisdictions for investment shortfalls.
- Is inconsistent with recent legislative action projected to reduce costs and improve solvency.
- Will put an unreasonable strain on local education budgets.

Bridge to Excellence Funding

The *Bridge to Excellence in Public Schools Act of 2002* (BTE), conceived to ensure adequacy and equity in education funding, has led to increased student performance in Maryland. Since 2008, the BTE targeted funding level has been maintained. While the non-mandated Geographic Cost of Education Index (GCEI) has been fully funded for the past two years, the mandated annual inflation factor was eliminated through FY 2012.

To keep pace with rising standards for student performance, state aid must be sustained by:

- Mandating the Geographic Cost of Education Index (GCEI).
- Reinstating the annual inflation factor.
- Maintaining BTE mandated per pupil funding levels and targeted funding programs.

School Construction

State construction funds continue to be inadequate to meet our substantial needs. Rapid enrollment growth, coupled with maintenance needs in older schools, continues to put enormous pressures on school facilities. Without adequate school construction funding, MCPS will be forced into an over-reliance on relocatable classrooms while increasingly aging and less than adequate facilities will become the norm making it hard to meet the educational needs of our students.

To meet rapidly expanding facility needs, the state must:

- Ensure at least \$250 million for school construction and renovation.
 - Expand bonding capacity to meet growing school facility needs.
 - Distribute school construction funds equal to the percentage share of student enrollment.

2012 Legislative Positions

FUNDING/ACCOUNTABILITY

Today's investments in the Montgomery County Public Schools (MCPS) are key to a prosperous economy, strong business growth, and students' ability to compete for good jobs in the global, high-tech economy. School systems must be adequately funded to prepare our youth to support our future economic health. We 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

Maryland's teacher pension system is key to maintaining the state's ability to attract and retain high quality teachers. In 2006, the state made significant improvements to the teacher pension system, including funding, deemed feasible at that time, to retroactively improve benefits. This action, in addition to the "corridor" funding methodology and the current economic climate, has led to liability growth outpacing pension system assets. The net effect is that over the past 10 years the pension fund has dropped from 100% funded to 70% funded.

Currently, local boards already pay \$500 million in employer Social Security, more than \$60 million for employees not in the state pension system, and beginning in FY 2012, a new \$16 million fee to the State Retirement Agency. Recent proposals would have local boards or jurisdictions pay into the pension fund as much as \$500 million. Shifting any additional retirement costs to local jurisdictions or boards is asking them to assume the burden for investment shortfalls resulting from the state's decision to make improvements retroactive to 1998, poor investment performance, and the consequences of the corridor funding methodology. Due to legislative action over the past few years, new employees are now being asked to pay 80% of their benefit costs, and all employees are paying for most of the improvements in benefits on a "go forward" basis. Any shift in pension costs would put an unreasonable strain on local education budgets, likely resulting in position cuts and class-size increases.

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

Passage of the *Bridge to Excellence in Public Education Act of 2002 (BTE)* resulted in a dramatic change to education funding in Maryland. The intention of the law is to require both the state and local jurisdictions to provide adequacy and equity in education funding thereby ensuring excellence in our schools and improved student performance. Even during these challenging fiscal times, the General Assembly has held the line on education funding evidenced by having annually provided \$5.7 billion in education aid since 2008.

2012 Legislative Positions

FUNDING/ACCOUNTABILITY (cont'd)

Maintenance of Effort (cont'd)

Maintenance of Effort (MOE) was conceived as a floor to ensure a basic level of local education funding and requires school systems receive, at a minimum, the same per pupil funding in a subsequent year as was received in a current year. The legislative intent was to ensure that as additional state dollars were targeted to education, to provide enhanced support for some of our neediest students, those state dollars would build upon existing local contributions to education and not take their place. This provision, along with the BTE funding paradigm, provided assurance that the goals of adequacy, equity, and excellence would be met.

However, in April 2011, assumptions about local funding were dramatically altered by amendments to the *Budget Reconciliation and Financing Act* (BRFA). The funding floor was set at the local share of foundation aid (\$2.7 billion) rather than the local MOE amount (\$5.3 billion), creating the potential for drastic reductions in local education aid. While MOE remains a technical “requirement” under law, the recent amendments have called into serious question MOE’s usefulness as currently implemented. Additionally, in May 2011, the Maryland State Board of Education ruled that the MOE law does not require a county government to request a waiver when it cannot meet its funding obligation under MOE. As a result, counties are free to unilaterally set the funding floor—creating financial rebasing without accountability. Subsequent to that ruling, six waiver requests before the State Board of Education were withdrawn.

These actions have opened the door to dramatic reductions in local education funding and chart a dangerous new course for Maryland schools signaling the end of adequacy, equity, and excellence.

The Montgomery County Board of Education supports:

- Requiring accountability by making MOE the local funding floor, with a mandated waiver process.
- Ensuring flexibility by improving and expanding the waiver process, including taking into account the local history of exceeding MOE.
- Realizing fairness by making the penalty for a county not meeting MOE apply to the county, rather than the school system.

Capital Budget/School Construction

State construction funds continue to be inadequate to meet the substantial needs of our burgeoning student enrollment. 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 but for which no state funds are ever received. Without adequate school construction funding, MCPS will be forced into an over-reliance on relocatable classrooms. Increasingly aging and less than adequate facilities will become the norm making it hard to meet the educational needs of our students.

2012 Legislative Positions

FUNDING/ACCOUNTABILITY (cont'd)

Capital Budget/School Construction (cont'd)

The Montgomery County Board of Education supports:

- Adequate state capital funding for FY 2013 to address school facility needs.
- Expanding the state's bonding capacity to meet Maryland's growing school facility needs.
- Establishing distribution of school construction funds equal to the percentage share of student enrollment statewide and take into considerations systems with a rapid rate of enrollment growth.
- 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 reduction to the state and local cost share formula.
- Any change to the threshold requirements for prevailing wages.

Operating Budget

The *Bridge to Excellence in Public Schools Act of 2002 (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 has been fully funded since FY 2010.

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.
- Maintaining teacher retirement as a state funded categorical program.
- Reimbursement for students placed by state agencies at the Regional Institute for Children and Adolescents (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.

2012 Legislative Positions

FUNDING/ACCOUNTABILITY (cont'd)

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 program requires local school systems to pay 300% percent of the average per-pupil cost, and since 2010, 30 percent, rather than 20 percent, of any amount in excess; MSDE is required to fund the remaining 70 percent, rather than 80 percent. 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 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.

2012 Legislative Positions

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.

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.

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.
- Any attempt to deprive charter school employees of the rights and responsibilities of other public employees.

2012 Legislative Positions

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. With national, state, and local imperatives to make students college and career ready, we cannot continue to abide inconsistent and counterproductive voluntary withdrawal standards. 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. While raising the compulsory age of attendance alone is not a silver bullet, it is critical that our laws and policies limit the ease by which students can drop out of school. 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. A recently released longitudinal study by the National Institutes of Health concluded that investing in early childhood education can yield impressive economic benefits, including an 18% return on investment. 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.

The Montgomery County Board of Education supports:

- State fiscal support for any expansion of local pre-kindergarten services.
- Statewide initiatives fostering school readiness through the provision of high quality early childhood programs, including child care.
- Efforts that encourage the provision of an array of services by a variety of agencies.
- Efforts to ensure affordable child care co-payments for parents.
- Efforts that protect the safety, health, and well-being of children in child care.

2012 Legislative Positions

STUDENTS (cont'd)

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 77 eligible schools to apply for the program, only 31 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 speak to strategies that ensure a safe and secure learning and working environment for students and staff, including those that address gang prevention and involvement and promote targeted interventions to reduce gang activity.

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.

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.

2012 Legislative Positions

STUDENTS (Cont'd)

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.