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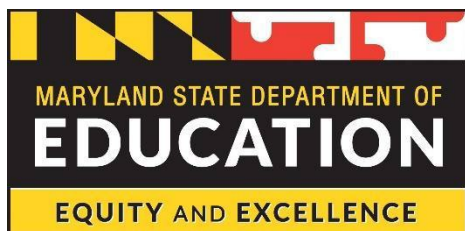
MSDE Aid to Education

Maryland State Department of Education

Response to the Analyst's Review and Recommendations

Senate Education, Business & Administration Subcommittee –
March 7, 2022

House Education & Economic Development Subcommittee –
March 9, 2022



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State Superintendent of Schools

The Maryland State Department of Education (MSDE) welcomes this opportunity to share with the Committee some of its success stories and to address questions raised by the analyst.

Changes in the Aid to Education Budget

The compensatory education grant includes \$57.2 million in hold harmless grants due to further decreases in FRPM student enrollment in SY 2021-2022. The Governor included this grant because students received free meals in SY 2021-2022 as part of extended CARES Act funding and did not necessarily need to sign up for FRPM benefits this school year. In SY 2022-2023, students will no longer receive automatically receive free or reduced-price meals status and will need to enroll for these benefits at the start of the school year.

MSDE should comment on LEA plans to enroll FRPM eligible students prior to the start of the SY 2022-2023 and count eligible students accurately for compensatory education funding in fiscal 2024.

MSDE response

Local school systems in Maryland have been providing meals to all students since March 2020 through USDA waivers of school nutrition program requirements during the COVID-19 pandemic. As a result, there is not incentive for families to submit the meal benefit eligibility forms normally required to receive free or reduced-price school meals. MSDE recognizes the challenges LEAs were facing in the 2020-2021 school year and again in the 2021-2022 school year associated with the enrollment count for the Compensatory Education program. MSDE appreciates the Governor's hold-harmless of compensatory education funds for each LEA in fiscal year 2023. The hold-harmless funding ensures that LEAs receive at least the same amount of Compensatory Education funding in FY 2023 as in FY 2022.

For FY 24 and beyond, the Blueprint for Maryland's Future requires MSDE to investigate alternative approaches to identify low-income students. MSDE released an Interim Neighborhood Indicators of Poverty report in November of 2021. The report provides details on the Department's plans to use a combination of methodologies, namely Census block groups to identify neighborhoods and the American Community Survey (ACS) to identify dimensions of poverty beyond school, school system boundaries, or zip codes. The plan uses four distinct elements of poverty: median household income, adult education level, home ownership, and household composition and categorizes more than 3,700 census block groups in Maryland into five tiers; tier 1 is high socioeconomic status or low poverty, and tier 5 is low socioeconomic status or high poverty. Moving forward, the Department will confirm and test the model, develop school level socioeconomic status tiers, study the relationship between school level socioeconomic status tiers, school outcomes, and school resources, and supporting the collection of high-quality student geolocation data.

Issues

2. MSDE's Maintenance of Effort Calculation May Require Attention

Starting in fiscal 2023, MSDE must calculate an LEA's MOE as part of State Aid calculations related to Chapter 36 implementation prior to the start of the fiscal year. MSDE is responsible for these preliminary calculations as well as collecting the data that determines MOE for

each LEA. In December, prior to the start of session, MOE certifications are processed and shared with DLS for the upcoming fiscal year.

Two different problems interfered with reconciliation of MOE calculations for fiscal 2023. First, MSDE did not share Baltimore City's finalized MOE documentation with DLS, which meant that a final number for the local share was unavailable. Second, when comparing the expected result of the MOE calculation with MSDE, DLS found three errors that affected 14 of 24 LEAs. These errors appeared to result from both faulty data as well as a misunderstanding of the Chapter 36 statute. Multiple attempts were made to guide MSDE through the statutory calculations, and DLS notified the agency in a timely manner that the MOE calculations did not align with current or prior law. In response, MSDE replied that the agency determined the calculations and interpretation of the statute were correct.

With that background in mind, DLS notes MSDE's three errors in calculating fiscal 2023 MOE for LEAs are as follows:

- application of a statutory calculation of an escalator provision twice, instead of once, for certain LEAs;
- use of 0% change, instead of greater than 0%, as the qualification for an MOE adjustment; and
- an inaccurate amount for Montgomery County's fiscal 2021 appropriation.

These errors are particularly concerning because they disproportionately impact LEAs with smaller population and wealth and, if applied, will result in an increase to 13 LEAs local share by as much as 2.1% in fiscal 2023.

Due to MSDE's errors in the MOE calculation, DLS recommends budget language to restrict funds pending MOE redistribution of revised calculations to LEAs.

MSDE's response:

The issues identified by the Analyst are addressed separately below.

FY 2022 Maintenance of Effort

MSDE did provide the Department of Legislative Services with Baltimore City's final signed Annual Budget Certification and Maintenance of Effort (MOE) Certification statements in March 2022. However, MSDE was in frequent communication with DLS regarding Baltimore City Public Schools' delay in submitting the Annual Budget Certification and the Annual Maintenance of Effort Certification statements. In mid-December 2021, DLS staff participated on a call with MSDE to review the documents submitted by Baltimore City to ensure the correct application of Education Article §5-235(c)(iv) in determining the FY 2022 Maintenance of Effort (MOE) level. Following that call, MSDE provided DLS with a copy of the notice of non-compliance sent to Baltimore City which included the correct calculation of MOE, and the correct Local Share value, per the discussion with DLS staff. MSDE received the final, signed FY 2022 Annual Budget Certification and MOE Certification statements from Baltimore City in mid-January.

FY 2023 Maintenance of Effort

The analysis identifies discrepancies between MSDE and DLS in the calculation of the FY 2023 local Maintenance of Effort levels. The analysis refers to the discrepancies as errors, while MSDE maintains the preliminary calculations follow the Statute.

Calculation of the Escalator Provision

Education Article §5-235(2)(ii) requires an escalator adjustment to the Maintenance of Effort calculation for counties below 100% of the statewide five-year moving average of education effort. Education effort in this context is defined as the county's local appropriation divided by the county's wealth, as calculated in the formula. For counties that are subject to the adjustment, the statute requires the per pupil amount to be adjusted by the *lesser of* the county's increase in the local wealth per pupil, the statewide average increase in local wealth per pupil, or 2.5%. In some instances, one of the calculations of the increase in the local wealth per pupil result is zero and sometimes the result is a negative number. In those instances, the adjustment is zero. The analysis indicates that MSDE should have used an adjustment that was greater than zero, and MSDE followed the Statute. In fact, MSDE has calculated the escalator provision in this same manner since it was implemented.

Application of the Escalator

Education Article §5-235(2)(iii) applies to counties that *were not* subject to the escalator provision in **FY 2022** and requires counties to provide an amount not less than the result of the following two-step calculation.

1. Step one §5-235(2)(iii)(1): the FY 2021 local appropriation divided by the greater of the 2019 enrollment count or the average of the 2017, 2018, and 2019 enrollment counts.
2. Step two §5-235(2)(iii)(2): multiply the result in Step One by the greater of the 2021 enrollment count or the average of the 2018, 2019, and 2021 enrollment counts.

Education Article §5-235(2)(iv) applies to counties that *were* subject to the escalator provision in **FY 2022** and requires counties to provide an amount not less than the result of the following three-step calculation.

1. Step one §5-235(2)(iv)(1): the FY 2022 local appropriation divided by the greater of the 2019 enrollment count or the average of the 2017, 2018, and 2019 enrollment counts.
2. Step two §5-235(2)(iv)(2): multiply the result in Step One by the greater of the 2021 enrollment count or the average of the 2018, 2019, and 2021 enrollment counts.
3. Step three §5-235(2)(iv)(3) multiply the result in Step two by the per pupil increase required in §5-235(2)(ii), which is described in the Calculation of the Escalator section above.

Montgomery County FY 2021 Local Appropriation

In May of 2021, Montgomery County provided a supplemental FY 2021 appropriation to Montgomery County Public Schools. This supplemental appropriation was not included in the FY 2022 Education Effort calculations provided to DBM in December 2020 for the Governor's FY 2022 Allowance. Accordingly, when calculating the five-year moving average Education Effort for FY 2022 or FY 2023, the supplemental appropriation was not included. MSDE applied a consistent practice to the treatment of supplemental appropriations provided to local school systems. If the supplemental appropriation occurs prior to the submission of the State Aid calculations to DBM for the Governor's Allowance, the Education Effort calculation reflects the supplemental appropriation. If it occurs after that time, it is not.

3. Autism Waiver Costs Continue Steady Increase

The Autism Waiver program received a supplementary appropriation in fiscal 2022 of \$2.0 million to cover an additional 100 students on the waitlist. Based on recent per-pupil increases unrelated to coverage of additional students, costs for the program will continue to increase in coming years. With a 10% increase in fiscal 2023 and the continued addition of 100 students per year, costs through fiscal 2027 would be expected to increase by an average of 6.0% per year and, by fiscal 2027, total approximately \$39 million. The program also continues to have a waitlist of over 6,000 individuals, and the total cost to clear the waitlist and provide services to all individuals in future years exceeds \$100 million.

According to the 2021 JCR on this issue, MSDE does not determine eligibility for this waitlist until services become available, which is not the process pursued by other states. The Autism Waiver Advisory Committee is aware of this problem and “recommended consideration of screening for eligibility prior to placement on the registry.” MSDE also does not conduct outreach for eligible individuals; individuals must contact the registry to be placed on the waitlist. These problems with the Autism Waiver suggest that further action may be needed to provide services to eligible individuals and adequately fund this program in the future.

DLS recommends to the budget committees that MSDE submit an updated report on this program.

MSDE’s response:

The MSDE appreciates the Administration’s support and the additional funding to support 100 additional slots for the Autism Waiver program. The MSDE will continue to work with the MDH and support their efforts to obtain approval from the Centers for Medicare and Medicaid Services for authorization.

The AW provides Intensive Individual Support Services, Environmental Accessibility Adaptations, Respite, Family Consultation, Therapeutic Integration (Intensive and Regular), Adult Life Planning, Residential Habilitation (Intensive and Regular) and Service Coordination for children diagnosed with Autism Spectrum Disorder that enable them to remain in their homes and communities. The program costs are impacted by a number of variables that are directly dependent on the needs of the participant and the participant’s family, the actual services used, and provider capacity. Some children maximize the Autism Waiver and State Plan services each month, while others may only utilize one service per month.

It is important to note that, based on pre-pandemic data (2019), the average cost of providing services through the Autism Waiver program is \$47,862 per slot per year. The cost of care through an Intermediate Service Facility is \$209,133 per year. The Autism Waiver program represents a savings of \$80,635.50 per year per slot as the State pays for approximately 50% of the cost.

4. P-TECH Estimates Do Not Include Community College Costs

In the 2021 JCR on the P-TECH program submitted in July 2021, P-TECH schools are expecting an increase of approximately 247 students in fiscal 2023. The fiscal 2023 proposed budget level-funds P-TECH at the fiscal 2022 allowance of \$1.9 million; however, MSDE’s projected cost

for the program in fiscal 2023 based on increased enrollment is \$2.2 million, which is a potential deficiency for the program of \$288,000.

The report also notes that MSDE does not have a systematic method to collect P-TECH enrollment data and costs for students attending community college, which prohibits an accurate projection of future costs. MSDE reports that they plan to work on better communication and data collection from MHEC and local community colleges to determine costs for P-TECH student courses and degrees.

DLS recommends that MSDE submit a status update on this program with additional information on projecting costs for P-TECH students enrolled in community college courses and plans to fund the program in fiscal 2023.

MSDE's response:

All P-TECH programs have a specific college course sequence that students must complete. P-TECH students enroll in college courses as individuals, not as cohorts. As a result, some students take college coursework earlier in the P-TECH program and others take it later in the P-TECH program. Some students may not pass all college courses on their first attempt, which requires students to repeat courses.

5. Nonpublic Placements Reimbursements Continue to Lag

As part of a 2021 JCR request, MSDE was required to submit a closeout report on nonpublic placements and the reimbursement schedule for nonpublic schools. The nonpublic placement closeout report noted that MSDE is moving forward with a new framework and procedures that should speed up the reconciliation process. However, the current report as of November 15, 2021, does not reflect an accelerated process, with reimbursements still lagging for fiscal 2021.

DLS recommends that MSDE submit a report on the new framework and procedures for nonpublic placement reimbursements.

MSDE's response:

MSDE concurs.

1. Add the following language:

, provided that \$1,000,000 made for the purpose of the Maryland State Department of Education, Office of the State Superintendent may not be expended until the agency submits to the budget committees accurate fiscal 2023 maintenance of effort calculations for all 24 local education agencies that align with the current statute in Chapter 36 of 2021 and Chapter 55 of 2021. The report shall be submitted by July 1, 2022, and the budget committees shall have 45 days to review and comment. Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

Explanation: The Maryland State Department of Education (MSDE) is responsible for maintenance of effort (MOE) calculations for all 24 local education agencies. Recent submission of these calculations to the Department of Legislative Services contained errors and a misinterpretation of the current statute. This request by the budget committees directs MSDE to re-examine these calculations and statutes and submit accurate fiscal 2023 MOE calculations to the budget committees by the start of the fiscal year.

MSDE Response:

For the reasons stated earlier in this analysis, MSDE respectfully disagrees.

2. Add the following language to the general fund appropriation:

, provided that \$200,000 of this appropriation made for the purpose of the Autism Waiver program may not be expended until the Maryland State Department of Education submits a report to the budget committees on the autism waiver waitlist. This report should be submitted by September 1, 2022, and contain the following information:

(1) plans and procedures to manage waitlist eligibility that reflect federal guidelines, current national practices, and allow for an accurate accounting of individuals in Maryland who qualify for both for Autism Waiver services and the autism waitlist;

(2) procedures to contact and identify individuals who may qualify for autism waiver services and/or the Autism Waiver waitlist;

(3) plans to contact all currently waitlisted individuals for a review of their eligibility for the Autism Waiver waitlist;

(4) a timeline for these actions;

(5) anticipated administrative costs for these actions;

(6) an update on the number of individuals in the Autism Waiver program and on the autism waiver waitlist as of the date of the report; and

(7) projected costs for Autism Waiver services considering anticipated changes in the management of the autism waiver list for fiscal 2023 through 2027.

Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

Explanation: The Maryland State Department of Education (MSDE) manages the Autism Waiver program and waitlist. The program continues to have a waitlist of more than 6,000 individuals with estimated costs expected to increase by approximately \$2.5 million annually through fiscal 2027. This language restricts funds pending a report and asks MSDE to respond as to how the agency could more appropriately manage the Autism Waiver waitlist, project future costs, and modify procedures to serve additional eligible individuals in a more efficient and timely manner.

Information Request	Author	Due Date
Report on the Autism Waiver waitlist	MSDE	September 1, 2022

MSDE Response:

MSDE concurs.

3. Adopt the following narrative:

Report on the Nonpublic Placement Program. The budget committees are concerned about delays in the reimbursement schedule for the Nonpublic Placement program providers and actions taken by the Maryland State Department of Education (MSDE) to rectify these issues. MSDE reports that the agency is moving forward with a new framework and procedures that should speed up the reconciliation process but that a lag remains between expenditures, reimbursements, and reporting of these items. The budget committees request that MSDE submit a report by November 1, 2022 with the following information:

- program closeout fiscal 2022 on enrollment by provider, annual reimbursement costs, and documentation on potential remaining discrepancies at the end of the fiscal year;
- detailed information on the proposed framework for more timely reimbursements to nonpublic placement providers; and
- actions taken in fiscal 2021 and 2022 by the agency to reimburse nonpublic placement providers in a more timely manner ahead of the implementation of the new framework.

Information Request	Author	Due Date
Report on the Nonpublic Placement Program	MSDE	November 1, 2022

MSDE Response:

MSDE concurs.

4. Adopt the following narrative:

Status Update on the Pathways in Technology Early College High School Program (P-TECH): The budget committees are concerned about increasing costs for the P-TECH program, which is managed by the Maryland State Department of Education (MSDE) and local education agencies (LEA). Costs for the P-TECH program are determined by a variety of factors, including student enrollment in community college courses and the costs for those courses in any given year. MSDE admits that the agency does not have a systematic method for collecting those costs on an annual basis, although the agency is working with LEAs and community colleges to resolve this issue. The budget committees request that MSDE submit a status update on the P-TECH program by August 1, 2022, that provides the following information regarding this issue:

- current enrollment in all P-TECH programs by high school, community college, cohort, and entry year;
- projected enrollment in all P-TECH programs in school years 2022-2023 and 2023-2024;
- the total number of students who left the program in any given year and reasons for departure;
- the total number of students who have graduated by program and the percentage completion rate;
- community college courses attended by P-TECH students with a cost per course per semester;

- current cost for the program in fiscal 2023 and total projected cost for the program in fiscal 2024;
- average cost by student, program, and LEA for fiscal 2022; and
- projected average cost by student, program, and LEA for fiscal 2023 and 2024, including supplemental school and college grants by institution and LEA.

Information Request

Status Update on P-Tech

Author

MSDE

Due Date

August 1, 2022

MSDE Response:

MSDE concurs.