

Maryland State Department of Education  
Funding for Education Organizations  
FY 2024 Operating Budget  
Response to the Department of Legislative Services Analysis

House Education & Economic Development Subcommittee –  
February 9, 2023

Senate Education, Business & Administration Subcommittee –  
February 13, 2023



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State Superintendent of Schools

**The Maryland State Department of Education (MSDE) welcomes this opportunity to address questions raised by the analyst.**

## **Operating Budget Analysis**

### **FY 2023**

MSDE is currently processing a third round of grants totaling \$39.2 million and expects awards to be completed shortly. It is expected that \$2.5 million of this third round will include funding for the nonpublic school nursing program, newly established by the Lawrence J. Hogan, Jr. Administration in the fiscal 2023 budget. The General Assembly reduced the \$2.5 million general fund appropriation proposed in the fiscal 2023 allowance, instead directing MSDE to use American Rescue Plan Act Emergency Assistance to Nonpublic Schools (EANS) federal stimulus funds for this program. To date, MSDE has not reported expenditures for this program. **The Department of Legislative Services (DLS) recommends that MSDE comment on the status of the nonpublic school nursing program, including fiscal 2023 expenditures and remaining balances.**

#### **MSDE Response:**

The Emergency Assistance to Nonpublic Schools (EANS) program included in the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act allowed States to reimburse nonpublic schools for certain expenditures that occurred between the start of the pandemic and six months after the State received its award, which for Maryland, was June 2021. Additionally, States were required to retain ownership and title to any goods and services provided to nonpublic schools. Contracts for cleaning services or nursing services procured by the nonpublic school were not eligible for reimbursement under the EANS program. The EANS program in the American Rescue Plan (ARP) Act does not allow for reimbursement of expenses incurred by nonpublic schools. As part of the application process for CRRSA and ARP EANS, MSDE offered the option of procuring nursing services on behalf of eligible schools. No schools elected to receive nursing services procured by the State.

**Due to the ongoing distribution of the third grant, DLS recommends the adoption of committee narrative directing MSDE to submit an update on this program.**

#### **MSDE Response:**

MSDE respectfully disagrees with this request. EANS funds are not allowable for this purpose under federal law so the Department has not implemented a Nonpublic Schools Nursing program due to not having an allowable funding source available for the program.

## ***Issues***

### **1. BOOST**

Chapter 484 of 2022 required the BOOST Advisory Board to give priority to renewal students, students who previously attended public schools, and students who qualify for free meals versus reduced-price meals. Students with the lowest incomes have priority for awards, and \$700,000 in

additional awards was designated for special education students. In addition, the BOOST Advisory Board could distribute up to \$1,000 as an additional per student award to high school students. **DLS recommends that language from Chapter 484 be restored for the BOOST Program and for the Aid to Non-Public Schools Program.**

**MSDE Response:**

MSDE concurs.

**DLS also recommends that MSDE comment on why special education awards were adjusted when the award exceeded tuition and the efforts of BOOST schools to close the gap between BOOST and non-BOOST students on standardized assessments.**

**MSDE Response:**

MSDE did not reduce a student's special education award when the award exceeded tuition. BOOST scholarship recipients who are also students with a disability receive two times the base award amount. If the student's total BOOST scholarship exceeds the tuition cost, the base award is adjusted so the total scholarship does not exceed the nonpublic school tuition. The Department reports BOOST schools' assessment data, as required. The law requires participating schools to "administer national, norm-referenced standardized assessments chosen from the list of assessments published by the U.S. Department of Education to qualify nonpublic schools for the National Blue Ribbon Schools Program." Schools use different assessments administered in different contexts and in different windows. Given this variation in assessment instrument and condition, MSDE does not believe the data are sufficient to draw generalized comparisons about subgroup performance on the different instruments used by participating schools. BOOST schools also do not report on explicit efforts to close student achievement gaps. Therefore, the Department cannot reliably assess efforts by BOOST participating schools to close the achievement gap between BOOST and Non-BOOST students on standardized assessments.

### ***Operating Budget Recommended Actions***

2. Amend the following language to the special fund appropriation:

, provided that this appropriation shall be for the purchase of textbooks or computer hardware and software and other electronically delivered learning materials as permitted under Title IID, Section 2316(b)(4), (6), and (7), of the No Child Left Behind Act for loan to students in eligible nonpublic schools with a maximum distribution of \$65 per eligible nonpublic school student for participating schools, except that at schools where at least 20% from 20% to 40% of the students are eligible for the free or reduced-price lunch program there shall be a distribution of \$95 per student., and at schools where more than 40% of the students are eligible for the free or reduced-price lunch program there shall be a distribution of \$155 per student.

**Explanation:** This action amends language modifying the distribution of funding for the Aid to Non-Public Schools Program so that schools where more than 40% of the students are eligible for the free or reduced-price lunch program receive \$155 per student. Similar language has been included in the budget since fiscal 2017. It also strikes language regarding the No Child Left Behind Act due to technical differences with the reauthorized Elementary and Secondary Education Act.

**MSDE Response:**

MSDE concurs.

3. Amend the following language to the special fund appropriation:

(2) Not charge more tuition to a participating student than the statewide average per pupil expenditure by the local education agencies, as calculated by the department, with appropriate exceptions for special education students as determined by the department; and

(3) Comply with Title VI of the Civil Rights Act of 1964, as amended.; and

(4) Submit its student handbook or other written policy related to student admissions to the Maryland State Department of Education for review to ensure compliance with program eligibility requirements.

**Explanation:** This action requires schools that participate in the Aid to Non-Public Schools Program to submit a student handbook or policy on student admissions to the Maryland State Department of Education to ensure compliance with program eligibility requirements.

**MSDE Response:**

MSDE concurs.

4. Add the following language to the special fund appropriation:

Further provided that a nonpublic school participating in the Aid to Non-Public Schools Program R00A03.04 shall certify compliance with Title 20, Subtitle 6 of the State Government Article. A nonpublic school participating in the program may not discriminate in student admissions, retention, or expulsion, or otherwise discriminate against any student on the basis of race, color, national origin, sexual orientation, or gender identity or expression. Nothing herein shall require any school or institution to adopt any rule, regulation, or policy that conflicts with its religious or moral teachings. However, all participating schools must agree that they will not discriminate in student admissions, retention, or expulsion or otherwise discriminate against any student on the basis of race, color, national origin, sexual orientation, or gender identity or expression. Any school found to be in violation of the requirements to not discriminate shall be required to return to the Maryland State Department of Education all textbooks or computer hardware and software and other electronically delivered learning materials acquired through the fiscal 2023 allocation. The only other legal remedy for violation of these provisions is ineligibility for participating in the Aid to Non-Public Schools Program. Any school that is found in violation of the nondiscrimination requirements in fiscal 2023 or 2024 may not participate in the program in fiscal 2024. It is the intent of the General Assembly that a school that violates the

nondiscrimination requirements is ineligible to participate in the Aid to Non-Public Schools Program, the Broadening Options and Opportunities for Students Today Program, the James E. “Ed” DeGrange Nonpublic Aging Schools Program, and the Nonpublic School Security Improvements Program in the year of the violation and the following two years.

**Explanation:** This action requires a nonpublic school participating in the Aid to Non-Public Schools Program to certify compliance with Title 20, Subtitle 6 of the State Government Article (Discrimination in Employment). It also specifies that a participating school may not discriminate in student admissions on the basis of race, color, national origin, sexual orientation, or gender identity or expression. Violation of these provisions means that a school will be ineligible for the program. Similar language has been included in the budget since fiscal 2017. This action also specifies that schools that violate the provisions must return all textbooks and technology received through the program to the Maryland State Department of Education. It also states that a school that violates the nondiscrimination requirements in fiscal 2023 or 2024 is not eligible to participate in the program in fiscal 2024 and states legislative intent that any school that violates the nondiscrimination requirements is ineligible to participate in any program that provides funding to nonpublic schools for a total of three years.

**MSDE Response:**

MSDE concurs.

5. Adopt the following narrative:

**Report on American Rescue Plan Act (ARPA) Emergency Assistance to Nonpublic Schools (EANS) Funding:** In fiscal 2022, Maryland received \$39.1 million distributed through the ARPA EANS program. The Maryland State Department of Education (MSDE) expects to process awards for this program in spring 2023. The budget committees request that, by September 1, 2023, MSDE report on ARPA EANS awards. This report should include:

- MSDE’s process for issuing awards and amount awarded to each nonpublic school;
- aggregate expenditures by fiscal year and by type, including but not limited to, educational technology and infrastructure, instruction, personal protective equipment, ventilation equipment and other COVID-19 mitigation supplies, routine school operations and maintenance, and physical barriers for social distancing;
- administrative expenses by object; and
- amount of funds remaining, the intended use of remaining funds, and/or amount of canceled funds.

Information Request	Author	Due Date
Report on ARPA EANS funding for nonpublic schools	MSDE	September 1, 2023

**MSDE Response:**

MSDE concurs.

6. Amend the following language to the special fund appropriation:

(c) ~~administer assessments to all students in accordance with federal and State law; and administer national, norm-referenced standardized assessments chosen from the list of assessments published by the U.S. Department of Education to qualify nonpublic schools for the National Blue Ribbon Schools Program. The nonpublic schools must administer the assessments to all students as follows:~~

(i) English/language arts and mathematics assessments each year for students in grades 3 through 8, and at least once for students in grades 9 through 12; and

(ii) a science assessment at least once for students in grades 3 through 5, at least once for students in grades 6 through 9, and at least once for students in grades 10 through 12; and

(d) comply with Title VI of the Civil Rights Act of 1964 as amended, Title 20, Subtitle 6 of the State Government Article, and not discriminate in student admissions, retention, or expulsion or otherwise discriminate against any student on the basis of race, color, national origin, or sexual orientation, or gender identity or expression. Nothing herein shall require any school or institution to adopt any rule, regulation, or policy that conflicts with its religious or moral teachings. However, all participating schools must agree that they will not discriminate in student admissions, retention, or expulsion or otherwise discriminate against any student based on race, color, national origin, or sexual orientation, or gender identity or expression. If a nonpublic school does not comply with these requirements, it shall reimburse MSDE all scholarship funds received under the BOOST Program for the 2023-2024 school year and may not charge the student tuition and fees instead. The only other legal remedy for violation of this provision is ineligibility for participating in the BOOST Program.

(2) MSDE shall establish procedures for the application and award process for scholarships for students who are eligible for the free or reduced-price lunch program. The procedures shall include consideration for award adjustments if an eligible student becomes ineligible during the course of the school year.

(a) have received a BOOST Program scholarship award for the 2022–2023 school year and will be entering any of grades 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, or 12, or grade 9 if they are a student who attended during the 2022–2023 school year a nonpublic school that serves kindergarten through grade 12; or

(b) have a sibling who received a BOOST Program scholarship award for the 2022–2023 school year.

(3) MSDE shall compile and certify a list of applicants that ranks eligible students by family income expressed as a percent of the most recent federal poverty levels.

(4) MSDE shall submit the ranked list of applicants to the BOOST Advisory Board.

(5) There is a BOOST Advisory Board that shall be appointed as follows: 2 members appointed by the Governor, 2 members appointed by the President of the Senate, 2 members appointed by the Speaker of the House of Delegates, and 1 member jointly appointed by the President and the Speaker to serve as the chair. A member of the BOOST Advisory Board may not be an elected official and may not have any financial interest in an eligible nonpublic school.

(6) The BOOST Advisory Board shall review and certify the ranked list of applicants and shall determine the scholarship award amounts. The BOOST Advisory Board shall take into account the needs of students with disabilities on an Individualized Education Plan or 504 Plan when determining scholarship award amounts.

(7) MSDE shall make scholarship awards to eligible students as determined by the BOOST Advisory Board.

(8) Unless the student has special needs due to a disability, the amount of a scholarship award may not exceed the lesser of:

- (a) the statewide average per pupil expenditure by local education agencies, as calculated by MSDE; or
- (b) the tuition of the nonpublic school.

(9) In order to meet its BOOST Program reporting requirements to the budget committees, MSDE shall specify a date by which participating nonpublic schools must submit information to MSDE so that it may complete its required report. Any nonpublic schools that do not provide the necessary information by that specified date shall be ineligible to participate in the BOOST Program.

(10) Students who received a BOOST Program scholarship award in the prior year who still meet eligibility criteria for a scholarship shall receive a scholarship renewal award. For students who are receiving a BOOST Program scholarship for the first time, priority shall be given to students who attended public schools in the prior school year.

Further provided that the BOOST Advisory Board shall make all scholarship awards no later than December 31, 2023, for the 2023-2024 school year to eligible individuals. Any unexpended funds not awarded to students for scholarships shall be encumbered at the end of fiscal 2024 and available for scholarships in the 2024-2025 school year.

Further provided that \$700,000 of this appropriation shall be used only to provide an additional award for each student with special needs that is at least equal in amount to the BOOST Program scholarship award that a student is awarded in accordance with paragraph (6) above.

Further provided that MSDE shall submit a report to the budget committees by January 15, 2024, that includes the following:

- (1) the number of students receiving BOOST Program scholarships;
- (2) the amount of the BOOST Program scholarships received;

(3) the number of certified and noncertified teachers in core subject areas for each nonpublic school participating in the BOOST Program;

(4) the assessments being administered by nonpublic schools participating in the BOOST Program and the results of these assessments. MSDE shall report the assessment results reported by nonpublic schools to the budget committees in an aggregate manner that does not violate student data privacy;

(5) in the aggregate, for each BOOST Program scholarship awarded (a) the nonpublic school and grade level attended by the student; (b) the school attended in the 2022-2023 school year by the student; and (c) if the student attended the same nonpublic school in the 2022-2023 school year, whether, what type, and how much nonpublic scholarship aid the student received in the 2022-2023 school year and will receive in the 2023-2024 school year;

(6) the average household income of students receiving BOOST Program scholarships;

(7) the racial breakdown of students receiving BOOST Program scholarships;

(8) the number of students designated as English language learners receiving BOOST Program scholarships;

(9) the number of special education students receiving BOOST Program scholarships;

(10) the county in which students receiving BOOST Program scholarships reside;

(11) the number of students who were offered BOOST Program scholarships but declined them as well as their reasons for declining the scholarships and the breakdown of students attending public and nonpublic schools for students who declined scholarships;

(12) the number of students who received BOOST Program scholarships for the 2022-2023 school year who are attending public school for the 2023-2024 school year as well as their reasons for returning to public schools; and

(13) the number of students who received BOOST Program scholarships for the 2023-2024 school year who withdrew or were expelled from the nonpublic schools they were attending and the reasons for which they withdrew or were expelled; the schools they withdrew or were expelled from; and the length of time students receiving BOOST Program scholarships were enrolled at a nonpublic school before withdrawing or being expelled.

**Explanation:** This language specifies that schools with BOOST students administer certain national, norm-referenced standardized assessments and sets certain priorities for BOOST scholarships. This language also provides that for the 2023-2024 school year, the BOOST Advisory Board shall make all scholarship awards no later than December 31, 2023, and any unexpended funds not awarded to students shall be encumbered for scholarships in the next year. This language also requires MSDE to report by January 15, 2024, on the distribution of the BOOST scholarships; information on the students receiving BOOST scholarships; teacher certifications for nonpublic schools participating in the BOOST Program; and assessments being administered in nonpublic schools participating in the BOOST Program, including student performance. The language also requires that MSDE report on students who choose to decline scholarships or attend public schools after participating in the BOOST Program in the past, along with their reasons for doing so, and information on students

receiving scholarships for the 2023-2024 school year who withdrew or were expelled from the nonpublic schools that they were attending. Finally, the language requires that the BOOST Advisory Board shall take into account the special needs of students with disabilities as it is determining scholarship award amounts and that \$700,000 of the BOOST appropriation shall be used to provide higher awards for these students.

**Information Request**  
BOOST Program  
participation

**Author**  
MSDE

**Due Date**  
January 15, 2024

**MSDE Response:**  
MSDE concurs.