

MINUTES OF THE MARYLAND STATE BOARD OF EDUCATION

Tuesday, October 26, 2021
Maryland State Board of Education
200 W. Baltimore Street
Baltimore, Maryland 21201

The Maryland State Board of Education met in person on Tuesday, October 26, 2021, at 9:00 a.m. at the Maryland State Department of Education, 200 W. Baltimore Street, 7th Floor State Board Room, Baltimore, Maryland. The following members were present: Mr. Clarence Crawford (President); Mr. Charles R. Dashiell, Jr., Esq. (Vice President); Mr. Shawn Bartley; Ms. Gail Bates; Ms. Chuen-Chin Chang; Dr. Susan Getty; Dr. Vermelle D. Greene, Ms. Jean Halle; Ms. Lori Morrow; Ms. Rachel McCusker; Brigadier General (BG) Warner Sumpter; Dr. Holly Wilcox; Mr. Kevin Bokoum, Student Representative; and State Superintendent Mohammed Choudhury. Dr. Joan Mele-McCarthy was absent.

The following staff members also participated: Elliott L. Schoen, Assistant Attorney General; Dr. Sylvia Lawson, Deputy State Superintendent, School Effectiveness; Dr. Deanne Collins, Deputy State Superintendent, Teaching and Learning; Ary Amerikaner, Chief of Staff; Krishnanda Tallur, Deputy Superintendent of Operations; and Dr. Miya T. Simpson, Executive Director, Office of the State Board.

President Crawford called the meeting to order and led the pledge of allegiance.

Mr. Schoen declared the presence of a quorum.

President Crawford welcomed members of the public and provided opening remarks.

PUBLIC COMMENT

- Dr. Addie Kaufman – Perspective on School Administrators
- Sharon Saroff – Special Education and Virtual Learning
- Gabriela Sevilla (Strong Schools Maryland) – Transparency and Accountability

State Board members briefly discussed the idea of accepting pre-recorded public comment to play at the meetings as an option for those who are unable to be present in-person.

NEW BUSINESS

- **Approval of Consent Agenda**
 - Approval of September 8th and 28th Meeting Minutes
 - Personnel Actions
 - Budget Adjustments, September 2021

Minutes for October 26, 2021

ACTION: The State Board granted approval by unanimous consent.

ORAL ARGUMENT

Mr. Schoen introduced legal counsel for the case, *Yvette Thomasson v. Prince George's County Board of Education* and explained the oral argument procedures.

STATE BOARD PRIORITIES

- **Maryland Association of State Boards of Education Presentation**
(Presenter: Ms. Virginia McGraw, MABE President; Joseph Goetz, MABE President-Elect and Chair of MABE's Blueprint Implementation Ad Hoc Committee)

Ms. McGraw provided an overview of MABE's governance structure, programs, and services. Ms. McGraw and Mr. Goetz also shared their thoughts on areas of collaboration between the MABE and the State Board to include: Blueprint Implementation, addressing teacher shortages, CTE pathways, and equity. They also encouraged stronger and ongoing communication between MABE and the State Board and shared information about the MABE website.

MABE was given the recommendation to assist its member districts to inform and promote full transparency with their parents, teachers, administrators, and other stakeholders. This would be critical when districts are considering accepting funds from non-vetted and non-governmental organizations. In addition, LEAs should thoroughly investigate those grant-making organizations which promote goals, demands, and activities that are controversial, and potentially polarizing or divisive.

State Board members thanked the speakers for their comments and welcomed the opportunity for future partnership and ongoing communication. Board members also commended the organization on the Blueprint webpage

ACTION: None. For information and discussion.

- **Superintendent's Remarks**
Superintendent Choudhury shared information about his recent shadowing experiences with students in Western Maryland. He noted the challenges that exist due to the lack of available Wi-Fi. His next visit will be to Southern Maryland.

Mr. Bokoum thanked Superintendent Choudhury for his approach and vision in shadowing students for a realistic picture and experience.

- **Reopening Logistics and Transmission Rates in Schools - Update**

(Presenter: Mary Gable, Assistant State Superintendent, Division of Student Support, Academic Enrichment & Educational Policy)

Ms. Gable reviewed data recently collected in a survey of the 24 local school systems (LSSs) pertaining to reopening logistics, including: vaccinations, ventilation, physical distancing, screening, testing and contact tracing, scenario preparation (i. e., what is the plan if a student or educator tests positive, etc.), and guidance and messaging. The presentation also included data published by the Maryland Department of Health on the most recent positivity rates, as well as the 7-day moving average case rates per 100K population for each jurisdiction, community transmission levels, and active COVID-19 outbreaks in local school systems in Maryland.

State Board members inquired about the consistency of quarantine policies across districts and coordination of efforts with other agencies in different regions of the state. They also asked about the availability of outcome data, how student vaccinations will be handled, and who has responsibility for contact tracing.

President Crawford noted that by the December 7th State Board meeting, the Board and department will have had a chance to review the most recent data and assess where things stand after 3 months. He suggested inviting input from stakeholders to assist in working toward a reasoned decision and approach for moving forward to provide in-person learning in a way that minimizes disruption.

ACTION: None. For information and discussion.

- **Local School System Virtual Programs Update**

(Presenter: Val Emrich, Director of Instructional Technology, School Library, Media, and Mathematics; Erin Senior, Education Program Specialist II- Digital Learning)

Ms., Emrich and Ms. Senior provided updates on LSS virtual programs to include statewide program enrollment (including by race/ethnicity and gender), virtual program exits, the program collection tool being developed, and the MSDE's next steps in gathering data and working with LSSs and the Digital Learning Advisory Committee.

State Board members inquired about virtual students' access to resources, such as social and emotional learning and mental health supports, meals, tutoring, health care providers and extracurricular participation. Board members also asked about specialized electives, the availability of courses offered across systems and by what mode; and what is being done to ensure learning loss is not putting African American and Hispanic students further behind. Data regarding waitlists, in-person vs. virtual participation, and how students are using virtual learning to supplement was also requested, as well as updates on the reported lack of options in some districts. It was also suggested that the data collection tool include passing score data as a more positive data point/measure.

- **Maryland’s Community Schools and the Concentration of Poverty Grant**
(Presenter: Mary Gable, Assistant State Superintendent, Division of Student Support, Academic Enrichment & Educational Policy)

Ms. Gable introduced the new Director of Community Schools, Ms. Tanya Dunsey-Filson. Ms. Gable and Ms. Dunsey-Filson provided an overview and history of Maryland’s Community Schools and an explanation of the Concentration of Poverty Grant. The Maryland Annotated Code 5-223 defines a community school as a “public school that identifies a set of strategic partnerships between the school and other community resources that promote student achievement, positive learning outcomes, and the well-being of students by providing wraparound services.” In FY 2020, Maryland had 206 community schools; in FY 2021, there were 262 community schools; and in FY 2022 there are 300 community schools in 17 local school systems, funded by the Concentration of Poverty Grant.

State Board members inquired about staffing, the use of needs assessments, determining what is working and lessons learned (and sharing that information), and how wraparound services are provided for community schools in rural areas. Information was also requested regarding the number of community schools within each local district/county and the distribution by level (elementary, middle, and high school).

ACTION: None. For information and discussion.

- **Blueprint Deep Dive: Spotlight on Students with Disabilities**
(Presenter: Chandra Haislet, Director, Accountability and Data)

Ms. Haislet provided information on students with disabilities as a student group in Maryland to include: descriptive information, a geographic overview, how students with disabilities are identified, information on disability status, outcome data, and state initiatives designed to narrow the gap(s) for students with disabilities. Ms. Haislet emphasized the departments focus on narrowing gaps among students with disabilities.

Discussion included clarification of the term “competitive employment;” disproportionality in interactions between resource officers and black students and students with disabilities, actions taken, and innovative ideas and ways to address this issue; providing parents with more information so they can work with and hold their local boards and the State Board accountable; and autism waivers and differences in outcomes for autistic students. State Board members also asked about data regarding how students with 504 plans are doing and data on non-public schools.

ACTION: None. For information and discussion.

REPORTS TO THE STATE BOARD FOR DISCUSSION/ACTION

- **Financial Reporting Requirements**
(Presenter: Mr. Mohammed Choudhury, State Superintendent)

State Superintendent Choudhury briefed the State Board on the status of audit reports of local school systems and requested that the State Board authorize the State Superintendent to withhold funds from local school systems that are not in compliance with the provision of §5-114 of the Education Article.

ACTION: Upon motion by Ms. Bates, and seconded by General Sumpter the State Board authorized the State Superintendent to notify the Comptroller to withhold 10% of the November State aid payment and each subsequent installment for any system that is not in full compliance with §5-114 of the Education Article. (In Favor: 13; Opposed: 0; Abstained: 0)

- **Partial Waiver of September 30th Student Count Regulation**
(Presenter: Mr. Mohammed Choudhury, State Superintendent)

State Superintendent Choudhury requested that the State Board approve a partial waiver of COMAR 13A.02.06.03A *State Financial Assistance*, under the Foundation Program, to remove the age-appropriate immunization requirement for the September 30 student count solely for the purpose of calculating State Aid under the Foundation Program in FY 2023. With the approval of the request, the MSDE staff will provide instructions to LEAs for reporting the September 30, 2021 eligible-student count.

ACTION: Upon motion by Mr. Dashiell, and seconded by Ms. Morrow, the State Board approved the request. (In Favor: 13; Opposed: 0; Abstained: 0)

- **Code of Maryland Regulations (COMAR)**
(Presenter: Mary Gable, Assistant State Superintendent, Division of Student Support, Academic Enrichment & Educational Policy; Marcella Franczkowski, Assistant State Superintendent, Division of Early Intervention and Special Education)

- **COMAR 13A.07.11 Student Suicide Prevention and Safety Training (Permission to Publish)**

Request for permission to publish amendments to the regulation. The proposed amendments define, update, and clarify the requirements for student suicide prevention and safety training to reflect the newly legislated mandate to expand language on suicide prevention that requires in-service training to enable educators to recognize student behavioral health issues; recognize students experiencing trauma or violence out-of-school and refer students to behavioral health services; and if the school is a community school, address support for any students needing services at a community school.

***ACTION:** Upon motion by Ms. Halle, and seconded by Ms. Bates, the State Board granted permission to publish the regulation. (In Favor: 13; Opposed: 0; Abstained: 0)*

- **COMAR 13A.05.01.03 Definitions; 13A.05.01.08 Individualized Education Program (IEP) Team Responsibilities; and 13A.05.01.09 Individualized Education Program Document (Permission to Publish)**

Request for permission to publish proposed amendments to the regulations to include the addition of terms, planning for emergency conditions to the IEP Review requirements, addition of the learning continuity plan to the IEP Content, and a new section describing the implementation and notification process.

***ACTION:** Upon motion by Ms. Bates, and seconded by Ms. Morrow, the State Board granted permission to publish the regulation. (In Favor: 13; Opposed: 0; Abstained: 0)*

STATE BOARD MEMBER COMMITTEE REPORTS/UPDATES

- Dr. Greene provided an update on the work of the AAEEBB Advisory Council and pilot schools. President Crawford noted that he would like State Superintendent Choudhury to provide an update on how this work will be implemented/institutionalized by the department.
- State Superintendent Choudhury introduced new staff members to his leadership team: Dr. Deann Collins, Deputy Superintendent, Office of Teaching and Learning; Krishnanda Tallur, Deputy Superintendent of Operations; Justin Dayhoff, Assistant Superintendent for Financial Planning, Operations, and Strategy; and Mike Herschenfeld, Senior Executive Director of Strategic Planning and Continuous Improvement.
- Ms. Morrow provided an update on the NASBE Annual Conference and shared information regarding new racial equity language added to the NASBE Public Education Positions policy document.
- Ms. McCusker shared that she recently attended the Maryland Marching Band competition.
- Mr. Bokoum notified Board members of the upcoming MASC Fall Leadership Conference that will be held virtually on November 20th. He also shared that he facilitated a student panel discussion at the recent MABE Annual Conference.
- President Crawford provided an overview of the upcoming State Board Strategic Planning Retreat.

EXECUTIVE SESSION

Pursuant to § 3-305(b)(7) of the General Provisions Article, Annotated Code of Maryland, and upon motion of General Sumpter seconded by Ms. Halle and with unanimous approval, the Maryland State Board of Education met in closed session on Tuesday, September 28, 2021 in Conference Room #6, 8th Floor, at the Nancy S. Grasmick Building. All board members were present except Vermelle Greene. Also in attendance were Superintendent Choudhury, Dr. Miya Simpson, Executive Director, Office of the State Board, Deputy Superintendent Sylvia Lawson, and Assistant Attorneys General, Elliott Schoen and Amanda White. The Executive Session commenced at 2:39 p.m.

At that time, the State Board reviewed and approved four Opinions and two Orders.

- *In the Matter of Barry Lebowitz* – petition for declaratory ruling – Opin. No. 21-47
- *Darren L. v. Wicomico County Board of Education (II)* – objection to surveys– Opin. No. 21-48 (Dissent by Bartley and Abstention by Dashiell)
- *E.P. and S.P. v. Calvert County Board of Education* – early kindergarten entry – Opin. No. 21-49
- *Tom and M.W. v. Carroll County Board of Education* – non-resident enrollment – Opin. No. 21-50 (Dissent by Bartley)
- *In the Matter of Baltimore County Parent and Student Coalition, Inc.* – motion for reconsideration – Order No. OR21-09
- *Jeff Wester v. Charles County Board of Education (II)* – ADA Accommodation – Order No. OR21-10

The Superintendent presented confidential budget information for FY 2023 and the board discussed the same.

President Crawford presented, and the Board discussed, plans for Board communication, committee and subcommittees.

The Board discussed a personnel matter.

The Executive Session ended at 4:55 pm.

LEGAL OPINIONS AND ORDERS:

Mr. Schoen announced the following Opinions and Orders:

- *In the Matter of Barry Lebowitz* – petition for declaratory ruling – Opin. No. 21-47
- *Darren L. v. Wicomico County Board of Education (II)* – objection to surveys– Opin. No. 21-48 (Dissent by Bartley and Abstention by Dashiell)
- *E.P. and S.P. v. Calvert County Board of Education* – early kindergarten entry – Opin. No. 21-

49

- *Tom and M.W. v. Carroll County Board of Education* – non-resident enrollment – Opin. No. 21-50 (Dissent by Bartley)
- *In the Matter of Baltimore County Parent and Student Coalition, Inc.* – motion for reconsideration – Order No. OR21-09
- *Jeff Wester v. Charles County Board of Education (II)* – ADA Accommodation – Order No. OR21-10

With no further business before the Board, the meeting was adjourned at 4:20 p.m.

Respectfully submitted,



Mohammed Choudhury
Secretary/Treasurer

Date: December 7, 2021

The information included here provides a brief summary of the agenda items presented and actions taken during the meeting of the Maryland State Board of Education. The video recordings of the meetings are the official record of the meetings and can be located at: <http://www.marylandpublicschools.org/stateboard/Pages/Meetings-2021.aspx>

Meeting materials, Opinions, and Orders can be found at:
<http://www.marylandpublicschools.org/stateboard/Pages/Meetings-2021.aspx>

The next Maryland State Board of Education meeting will be held on Tuesday, December 7, 2021. Appropriate accommodations for individuals with disabilities will be provided upon request. Eight business days notice prior to the event is required. Please contact Charlene Necessary at (410) 767-0467 or TTY at (410) 333-6442 so arrangements can be made.

MARYLAND STATE BOARD OF EDUCATION
PRESIDING OFFICER'S WRITTEN STATEMENT FOR CLOSING A MEETING ("CLOSING STATEMENT")
UNDER OPEN MEETINGS ACT (General Provisions Article § 3-305)

1. Recorded vote to close the meeting.

Date: October 26, 2021
 Time: 2:45 pm
 Location: 200 W. Baltimore Street, Baltimore, MD 21201
 Motion to close meeting made by: Dr. Vermelle Greene
 Seconded by: Mr. Dashiell
 Members in favor: 13
 Opposed: 0
 Abstaining: 0
 Absent: 1

2. The meeting was closed under authority of Section 3-305(b) of the General Provisions Article of the Annotated Code of Maryland (check all provisions that apply). This meeting will be closed under General Provision Art. § 3-305(b) only.

1. To discuss: (i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or (ii) any other personnel matter that affects one or more specific individuals.
2. To protect the privacy or reputation of individuals concerning a matter not related to public business.
3. To consider the acquisition of real property for a public purpose and matters directly related thereto.
4. To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State.
5. To consider the investment of public funds.
6. To consider the marketing of public securities.
- ✓ 7. To consult with counsel to obtain legal advice.
8. To consult with staff, consultants, or other individuals about pending or potential litigation.
9. To conduct collective bargaining negotiations or consider matters that relate to the negotiations.
10. To discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans.
11. To prepare, administer, or grade a scholastic, licensing, or qualifying examination.
12. To conduct or discuss an investigative proceeding on actual or possible criminal conduct.
13. To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter.
14. Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

3. For each provision checked above, disclosure of the topic to be discussed and the public body's reason for discussing that topic in closed session.

Citation (insert # from above)	Topic	Reason for closed-session discussion to topic
§3-305(b)(7)	Legal Advice	Review and decide 2 appeals, 2 draft orders, and 1 OAH exceptions
	Administrative Function	Discuss regulations with legal counsel Discuss preview of Strategic Planning Process Retreat

4. This statement is made by Clarence Crawford, Presiding Officer.