

**BALTIMORE COUNTY PUBLIC SCHOOLS**

**DATE:** November 3, 2009

**TO:** **BOARD OF EDUCATION**

**FROM:** Dr. Joe A. Hairston, Superintendent

**SUBJECT:** **2010 LEGISLATIVE PLATFORM**

**ORIGINATOR:** Margaret-Ann Howie, Esquire, General Counsel

**RESOURCE  
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Legislative and Policy Matters

**INFORMATION**

That the Board of Education receives information on the 2010 Legislative Platform.

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*2010 Legislative Platform*  
*Baltimore County Public Schools*



# **Board of Education of Baltimore County Members Listing**

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Dr. Joe A. Hairston  
Secretary-Treasurer and Superintendent

## **Vision**

Baltimore County Public Schools' graduates will have the knowledge, skills, and attitudes to reach their potential as responsible, productive citizens in a global economy and multicultural society.

## **Mission**

The Baltimore County Public Schools' mission is to provide a quality education that develops the content knowledge, skills, and attitudes that will enable all students to reach their maximum potential as responsible, life-long learners and productive citizens.

## **Goals**

To improve achievement for all students

To maintain a safe and orderly learning environment in every school

To use resources effectively and efficiently

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## **Introduction**

The “2010 Legislative Platform” supports the Baltimore County Public Schools’ mission to provide a high quality and comprehensive educational program designed to meet the needs of a large and diverse student population. It is consistent with the direction provided to the system and its employees by the *Blueprint for Progress*.

The Legislative Platform provides direction by the Board of Education of Baltimore County (Board) regarding a variety of legislative proposals that are significant to public education and are likely, based on prior experiences, to be considered during the 2010 Maryland General Assembly session.

It is widely anticipated that a significant portion of the 2010 session will involve the critical need to address another very challenging economic and budgetary year for the State of Maryland, as reflective of our current national fiscal climate. The continuing economic downturn has decreased tax revenues for all levels of government, resulting in decreased funding for numerous state government programs and for aid provided to local government.

Although Maryland is benefiting from receipt of funds under the American Recovery and Reinvestment Act (ARRA), federal monies will only be available in the current year (FY 2010) and one additional year (FY 2011). The need to avoid or minimize adverse impact from the likely elimination of these additional federal stimulus monies after FY 2011 will be a critical part of the fiscal discussion and actions during the session.

The Board and the superintendent work diligently with state legislators to secure adequate state funding to provide the continued delivery of excellent education opportunities for all of our students. Our focus includes efforts to avoid imposition of unfunded mandates and ineffective efforts to modify curriculum and instruction.

If you have any question or require additional information, please contact the Governmental Relations staff at 410-887-4300.

# **Charter Schools**

In 2003, the Maryland Public Charter School Act was enacted (contained in section 9-101-110 of the Education Article of the *Annotated Code of Maryland*). This Act created the authority to establish an alternative educational opportunity in public school systems.

Baltimore County Public Schools (BCPS) has one public charter that began operation as an elementary school in August 2008 (with a scheduled phase-in of additional grades to achieve full elementary school operation). Because this was the first charter school in BCPS and because the school elected to create its own curriculum in lieu of utilizing BCPS' standardized curriculum, BCPS leadership and staff were, and continue to be, required to devote substantial guidance, resources, and support to assist the charter school with achieving operational efficiencies.

## **The Board of Education of Baltimore County Supports:**

- Requirement to establish and maintain academic rigor for charter school system curriculum and for assessment of student achievement and performance
- Legislation to promptly recover funds when a student transfers from a charter school to another county public school; provision to ensure that BCPS be held harmless for certain fixed costs that do not decrease when a student stops attending a charter school – examples include facilities leasing or capital costs, utility charges and maintenance costs.
- Legislation to ensure accounting of assets (purchased with public funds) from any failed charter school. and for the necessary disposition of assets upon the school's closure or dissolution.

## **The Board of Education of Baltimore County Opposes:**

- Any legislative or regulatory effort that creates a "blanket waiver" that would release a charter school from full compliance with state law and regulation.
- Any legislative or regulatory effort that would adversely impact academic and/or fiscal accountability to the local Board and adherence to its policies.
- Amendments to the Maryland Public Charter School Act which would diminish the local Board's role as the primary chartering authority, or otherwise weaken its oversight responsibilities.

## Labor Relations

In recent years, the General Assembly has considered legislation that would substantially change labor-management relations involving certificated and non-certificated school employees. In the 2009 General Assembly Session, two related bills were introduced. Senate Bill 569 was enacted by the General Assembly and signed by the Governor on May 7, 2009; it became effective on October 1, 2009. The law requires that a public schools employer meet, upon request, with a specified employee organization to negotiate procedures for the discipline and discharge of non-certificated employees for just cause (the original bill was much broader because it involved transfers and assignments but was amended to focus on discipline and discharge for just cause only).

During the 2009 General Assembly Session, the Maryland Senate also considered Senate Bill 673 and House Bill 1243 the "Fairness in Negotiations Act". This bill would have:

- Created binding mediation and arbitration for public school employees on a very broad range of collective bargaining subjects.
- Initially, unlike prior years' proposed bills, the bill did not initially include a proposal to create a Public School Labor Relations Board (this eliminated a previously concern that the creation of a board would cost the state about \$250,000 for first year); bill was subsequently amended to include the creation of a board.
- Substantially increased the number of mediations and arbitrations and related costs, essentially forcing mediation and arbitration of all subjects involving labor, employee and policy issues (except for the subjects currently expressly prohibited by statute, including school calendar, maximum number of students assigned to a class) for certificated and non-certificated employees.
- *Potential to substantially increase personnel and other operating costs* because a third party would make determinations involving a broad range of issues that would be binding on the local board and superintendent; contained unclear and contradictory language regarding fiscal authority's responsibilities; also creates potential for the board to fund arbitrator ordered mandates from existing funding previously authorized and then be required to seek approval from funding authority for necessary budget transfers from other activities.
- Removed the State Board of Education from review/adjudication of all cases involving grievances and negotiations matters for certificated and non-certificated employees; would disregard all existing state board case law, allowing third parties to decide cases; requires arbitrators to use

broad decisional guidelines that would be difficult to interpret and apply; such guidelines including the “value” of public school employees – however, the bill did not require consideration of what constitutes sound educational policy or the best interests of students or fiscal impact.

Senate Bill 673 passed the Senate the last evening of the 2009 Session. Neither this bill nor the cross-filed version (House Bill 1243) was acted upon by the House of Delegates.

It is widely anticipated that the same or similar legislation will be introduced in the 2010 General Assembly. The House Ways and Means Committee have scheduled a briefing on November 17, 2009, to consider labor relations legislation.

### **The Board of Education of Baltimore County Supports:**

- Maintaining responsibility and accountability for education decisions where originally designed and intended to be held – with the local board of education and the local superintendent.
- Retain the 40+ year history of state board of education precedent contained in hundreds of decisions that the state board issued after the appropriate and consistent application of legal requirements, including “what is the best interests of the student”.
- Ensure continued and strong public accountability measures for public dollar spent have the appropriate public officials making decisions; local accountability is reinforced by the responsibility and accountability that the state board of education and the state superintendent of schools has to the Governor and the Maryland General Assembly.

### **The Board of Education of Baltimore County Opposes:**

- Any attempt to limit the responsibility and authority of the local superintendent to efficiently and effectively administer the school system; any effort to abrogate or weaken management rights.
- Any form of binding interest arbitration; any effort to modify the existing statutory collective bargaining process by broadening the scope of bargaining with regard to the areas of bargaining that are considered permissive; this maintains the essence of collective bargaining as involving consultation and negotiation in statutory subjects.
- Use of outside third party decision-makers to determine substantive education policy and employment matters without any specified criteria, or subsequent review process and without any accountability to the taxpayers and their elected and appointed public officials.

- Removal or substantial modification of the role of the State Board of Education from decision-making authority in matters affecting education.

## **Legislated Curriculum and Testing**

The Maryland State Board of Education (MSDE) and local boards of education are charged with responsibility for developing content standards and curriculum for K-12 public education. Maryland has a state curriculum for reading English/language arts, mathematics, science and social studies. Each of the 24 school systems is authorized to use the state curriculum as a guide to develop their curriculum for students. The process provides the benefit of use a standardized academic approach but maintains the flexibility for local school systems to balance rigorous educational practices, available resources, public input, and local accountability.

Proposed legislation has been regularly introduced in the General Assembly that would mandate various changes in local public school system curriculum. The program of studies in each school system is developed as a whole and is linked to state and local assessment systems. The authority to establish and modify curriculum and related academic tracking is provided to the state board and to local boards because these bodies have the responsibility to direct the respective superintendents to provide high quality and consistent academic instruction to students. Superintendents and their staffs have the expertise to effectively research and evaluate curriculum and assessments from a system-wide perspective.

Legislative efforts to impose individual curriculum programs or assessment processes can create implementation difficulties because there is greater likelihood of programmatic inconsistencies reflective of a piecemeal approach that can weaken comprehensive and rigorous instruction. In addition, local boards and superintendents must be able to rely on adequate funding for new initiatives or programs; such funding is not often adequately addressed in such proposed legislation.

Maryland schools have achieved academic excellence that is nationally recognized. To ensure effective preparation of all students to meet the increasing challenges of the 21<sup>st</sup> century workplace and academic worlds, every student must have access to a challenging instructional program, which is relevant and consistent and provides the best opportunities to achieve that level of preparation. The ultimate decisions establishing curriculum and assessment must be maintained and effectively implemented at the local school system level.

**The Board of Education of Baltimore County Supports:**

- Maintaining the authority of local boards of education to determine educational policy, curriculum, and administration from a comprehensive, systematic perspective based on guidelines established by the state board.

**The Board of Education of Baltimore County Opposes:**

- Imposition of new programs or processes affecting curriculum and instruction.
- Imposition of any unfunded mandates.
- Imposition of new or additional reporting requirements that result in additional resource utilization.

## **Maintenance of Effort**

For a number of years, more than 50% of the funding for Maryland's public schools has been provided by most local governments. Because local school boards do not have any authority to impose taxes (such authority exists in the majority of school districts in the nation), county governments are the primary funding source for local school systems. State law requires that local governments maintain a minimum level of local education funding effort each year on a per pupil basis to ensure that the local share of education funding is at least equal to the funding provided in the prior year. This minimum maintenance of effort provision is intended to ensure that local governments maintain funding levels, adjusted for enrollment, to reflect continued, appropriate investment in public schools.

In 1996, the Maryland General Assembly amended the law to create a process that allows the Maryland State Board of Education to grant a waiver of the maintenance of effort requirement upon application by a local government. The Act also altered the maintenance of effort requirement to permit local governments to exclude nonrecurring costs from the maintenance of effort calculation.

In 2002, the Maryland General Assembly enacted the Bridge to Excellence in Public Schools Act (referred to as "Thornton Funding" ), which required a significant increase in state funding without modifying the minimum maintenance of effort requirement for county governments funding.

In 2005, a Maintenance of Effort Commission (Commission) was established to review the funding activities of local governments maintain (and exceed) the maintenance of effort required level. The Commission reviewed the maintenance of effort formula to determine if any modifications should be made. The Commission issued a final report in March 2007, but did not recommend any major changes to the current maintenance of effort formula.

The Board of Education of Baltimore County (Board) believes that maintenance of effort reflects the strong commitment that Baltimore County Government makes to K-12 public education to ensure sufficient funding required to ensure deliver of high quality educational programs. In meeting the obligation to provide a free and appropriate public K-12 education, the Board has advocated that maintenance of effort funding should be considered a floor but not the ceiling.

Recent state budget reductions resulting from the severe national economic downturn has led to recent discussion that some counties and the Maryland Association of Counties may be advocating broader grounds to support a maintenance of effort waiver request as well as a different venue to be authorized to action on waiver applications (currently the State Department of Education conducts an initial review of the waiver

application and the state board makes a determination). In the most recent cycle, the State Board denied all three requested waivers (Montgomery, Prince George's, and Wicomico counties).

**The Board of Education of Baltimore County Supports:**

- Retention of the current required maintenance of effort levels.
- The ability for the Board to continue to work cooperatively with County Government to enhance local K-12 public education funding that is consistent with the adequacy goals involving a thorough and efficient education as incorporated into the Thornton Commission report.
- Any request for a Waiver from Maintenance of Effort funding level should be the last resort for a local government to consider because of the potential danger to the outstanding progress that has been made in K-12 education in Baltimore County.

**The Board of Education of Baltimore County Opposes:**

- Any legislation that would allow local governments to fund school systems in any manner that is inconsistent with maintenance of effort levels.

## **Non-Public School Support**

(Includes Tuition Tax Credits, Tax Deductions and other Public Funds for Nonpublic Schools)

There have been various legislative proposals that the General Assembly has considered in recent years involving direct/indirect use of public funds to support nonpublic schools. These proposals mirror programs in other states, including Arizona, Florida, George, Pennsylvania, and Rhode Island.

In the 2009 Legislative Session, Senate Bill 715, Building Opportunities for All Students and Teachers (BOAST) in Maryland Tax Credit (cross-filed: House Bill 1259) was considered. This bill would have allowed a Maryland income tax credit for contributions made to eligible scholarship programs or to support for "innovative" educational programs. The Maryland Department of Education (MSDE) would have been required to administer the program and award grant monies. It was estimated that administrative costs for the proposed tax credit program would be about \$250,000 per year. The potential for reduced revenue available for funding for public education was estimated to be between \$50 - \$75 million based on similar programs in other states (Maryland does not currently have any similar program).

While the education of children is a critical societal goal, diversion of financial resources from public K-12 public education is a concern to local boards and superintendents. Potential diversion is of greater concern during the continuing budget constraints that the State faces as part of the national economic downturn. In the current FY 2010 Budget, spending reductions totaling more nearly \$800 million have been made and additional reductions of up to \$300 million are anticipated between now and January 2010. Limited education dollars should be directly invested in public schools not diverted to private schools that are not subject to similar public accountability requirements.

There are substantial differences in academic and other requirements that public schools must meet that are not required for private schools. Private schools curriculum is not subject to the academic review and regulation that public schools experience. For students with disabilities, private schools are not required to provide the degree of legal procedures and safeguards that are mandated by federal law for public school students. School districts are required by federal law to provide transportation to students with disabilities; private schools are not required to provide transportation to students with disabilities. Private schools generally will not admit students with pervasive disabilities, but instead focus on students who are at higher functioning levels, wealthier and may already attending private schools.

### **The Board of Education of Baltimore County Supports:**

- Strong public accountability measures for public dollars spent. Unlike public schools, private schools have no direct accountability to taxpayers for their use of tax revenues.
- Application of public school academic accountability standards and regulatory requirements to all non-public schools receiving public funds.

### **The Board of Education of Baltimore County Opposes:**

- Any tax credit that reduces an individual's tax liability on a dollar for dollar basis for support of non-public schools.
- Annual tax credit to individuals or corporations who wish to donate funds to a charitable organization that provides scholarship programs to students who want to attend private schools.
- Tax credits as an alternative to voucher or scholarship programs for private schools.

# **Teacher Retirement and Pension**

For K-12 public education, Maryland utilizes a statewide system regarding the determination of teacher standards, credentials, and certification for the recruitment of teachers. While the 24 subdivisions administer their own hiring processes for teachers, this process must comply with Maryland statutory and regulatory requirements. Statewide certification standards help to support delivery of consistent, high quality instructional programs in all subdivisions

Maryland has created and administers a statewide pension system for teachers' pension. Recruitment for teachers has become challenging because of increasing student enrollments and the need to recruit (and retain) highly qualified teachers as federal law requires and as students and parents expect.

In recent years, Maryland colleges and universities schools have not been able to produce the number of teachers needed in our public education system. This situation requires that local school systems compete with school systems around the country to recruit teachers from out-of-state sources to meet demand.

The need to attract, recruit, and retain quality teachers for Maryland's public schools require that schools provide competitive pay and benefits as well as pension plans.

In 2006, the Maryland General Assembly approved legislation that significantly enhanced Maryland's teacher pension. The improved pension system provides critical support to school systems to enhance the ability to attract and retain highly qualified individuals to teach public school children.

Progress in the recruitment would be adversely impacted by any shift in funding responsibility from the state to local governments. Local governments do not have access to the same fiscal sources that the state has. As with local education funding, variations among the 24 subdivisions would make serving as a teacher less attractive to potential candidates and could affect the quality of the K -12 education program delivered to our students. This could make recruitment more challenging especially for large subdivisions like Baltimore County that needs a large teacher workforce.

Further, movement from a state funded teachers pension system could impair the attractiveness of the portability that a statewide system provides to teachers. Teachers benefit from the flexibility to potentially move between or among public school systems in Maryland. The interest and availability of teachers that might desire a change in work location could also benefit school system recruitment because the ability to have experienced teachers remain in a statewide pension system is an important consideration.

Lastly, the structure of school financing in Maryland would most likely result in reductions in the amount of funding that local governments would be able to provide to local school systems for pension funding because counties, as the funding authority for schools, would likely be unable to absorb additional costs resulting from any required teacher contributions.

**The Board of Education of Baltimore County Supports:**

- Maintaining the teacher retirement program as a state administered program fully funded by the state.

**The Board of Education of Baltimore County Opposes:**

- Any shift in funding responsibility for teacher retirement costs from the State to County governments and local school systems.
- Any imposition of any cap or limitation on the State's share of teacher retirement funding.