
R00A02

Aid to Education

Maryland State Department of Education

Response to the Analyst's Review and Recommendations

Senate Education, Business, and Administration Subcommittee –
February 27, 2015

House Education and Economic Development Subcommittee –
March 5, 2015



Lillian M. Lowery, Ed.D.
State Superintendent of Schools

The Maryland State Department of Education (MSDE) welcomes this opportunity to address the specific questions and recommendations raised in the analysis.

Autism Waiver

MSDE should discuss how it is working with DHMH to clarify the cause of the billing errors, the reliability of the estimated cost for fiscal 2016, and what steps have been taken to ensure that similar billing errors do not occur in the future.

Last summer and fall, MSDE and DHMH conferred about the discrepancy between the billing amounts and the budgeted amounts for the Autism Waiver. DHMH has reported to MSDE that it identified the cause of its billing errors and it has corrected them. The billings did not include the cost of “Non-Gray Area Services,” which are for children in the Waiver program who are Medicaid recipients. It is important to note that during the period of the billing discrepancy all Autism Waiver slots were filled and all participating families received the services they were entitled to. Billings from DHMH to MSDE beginning in FY 2016 are expected to represent the full State cost for 1,000 slots.

MSDE and DHMH are confident that the issue has been addressed and will continue to work closely together on this important program

Non-Public Placements

The local share of basic cost, defined as the local contribution toward the cost of education for a student without special needs, is used in both the formula for the Non-public Placements program as well as determining the local contribution to the Maryland School for the Blind. MSDE, as well as DBM and DLS, have been aware of the need to review the methodology and update the formula for the local share of basic cost. MSDE investigated the issue three years ago and modified the methodology to address the identified concerns.

However, it was not until a recent more extensive review of the methodology that this Agency, in collaboration with DBM and DLS, identified the weaknesses in the original change and developed potential solutions. MSDE is committed to continue its collaborative approach to working with partner agencies and to implementing a comprehensive resolution.

MSDE should comment on what is driving the changes in the population of children in nonpublic placements and the cost of those placements. The department should also comment on why the State contribution toward nonpublic placements has increased significantly in recent years, while the local contribution has declined. Finally, MSDE should discuss why the shortfall in fiscal 2014 was not reported to GAD and whether the fiscal 2015 appropriation is underfunded.

Expenditures in the Non-Public Placement program are difficult to predict and can vary significantly from year to year. Program costs will fluctuate depending on the following variables: the number of students in non-public schools, the intensity of services required according to each student’s initialized education plan (IEP), the local appropriation to the local

school system, and changes in State aid for K-12. MSDE recently conducted an analysis of the previous 15 years of actual State expenditures in the Non-public Placements program and found the recent increases are consistent with changes in prior years.

It is also important to point out that many of the providers have found it necessary to develop new programs in order to meet the needs of the students referred to the nonpublic schools. These new programs include intensive instructional, behavioral, clinical, vocational and daily living supports. These new programs are very heavily staffed, are costly, and are necessary to meet the educational needs of the students.

Because this program is a current year funded program, there has always been a need for reconciling final costs subsequent to the close of the fiscal year. In fact, this Agency has received a \$4.4 million deficiency and a \$7.0 million deficiency for this program in the past. In more recent years (until FY13) this reconciliation resulted in budget surpluses that were reverted after the close of the fiscal year.

Finally, MSDE acknowledges that the proper notification was not filed with the General Accounting Division (GAD) about the budget shortfall at the close of FY 2014. MSDE takes full responsibility for that oversight and has implemented the appropriate protocols to ensure it will not happen again.

DLS recommends that language be added to the budget restricting funds within MSDE until a report is provided that outlines all of the issues with the calculations, proposes solutions to the flaws in the basic cost and local share of basic cost calculations, and identifies the degree to which these errors have contributed to the increased State cost for nonpublic placements since fiscal 2012. The report should also provide fiscal estimates associated with correcting the errors, including the amount of additional revenue for the Maryland School for the Blind.

MSDE is happy to provide the requested information, but respectfully asks the Budget Committees to be mindful of the number of recommended restrictions in the Agency's budget analyses.

Quality Teacher Incentives

MSDE should comment on expenditure trends for QTIs and the reliability of the fiscal 2015 and 2016 estimates.

Expenditures for the Quality Teacher Incentives have been increasing as a result of Maryland's ESEA flexibility waiver and the change to the definition of Comprehensive Needs schools. Additionally, costs are difficult to project because the number of schools identified as having Comprehensive Needs is impacted by the implementation of the new PARCC assessments given for the first time in the 2014-2015 school year.

The new assessments are based on the more rigorous Maryland College and Career Ready Standards. As is typically the pattern when implementing a new assessment, the number of schools identified as Comprehensive Need is expected to increase.

Advanced Professional Certificate (APC) holders are provided a stipend based on the previous school year. APC holders in FY 2016 would be provided the stipend for teaching in the school year 2014-2015. National Board Certified Teacher (NBCT) stipends are provided based on the National Board listing as of November of the current year in which the stipend is awarded. NBCT stipend funding requires a match between the local school system and the State. It should be noted that that grants for both programs in FY 15 are currently being awarded.

Furthermore, the department should discuss the status of the three teacher incentive pilot programs funded through RTTT.

Through the Race to the Top Grant, Maryland provided funds to LEAs for incentives for teachers and principals working in the lowest five percent of schools, to retain highly effective STEM, ELL and special education teachers in low-achieving, high-minority, high-poverty schools, and for teachers attaining an ESOL certification. In total, \$4.4 million in stipends were provided to 1,162 teachers and principals from 22 local school systems.

Given the apparent flaws in the administration of the program and that the increase in the number of stipend-eligible schools is artificially inflated, DLS recommends restricting eligibility for stipends through the QTI program to those educators eligible for stipends in fiscal 2014 who are still teaching in the same school. Fiscal 2015 and 2016 funding levels should be correspondingly reduced in line with fiscal 2014 actual expenditures. This results in \$13.4 million of savings in fiscal 2016 and also negates the need for the \$10.6 million deficiency appropriation in fiscal 2015. In addition, DLS recommends that the QTI program be modified at the completion of fiscal 2016 to sunset the portion of the program that provides stipends to APC-certified educators. MSDE should also develop a proposal for restructuring fiscal incentive programs for teachers.

MSDE respectfully disagrees with the assertions regarding program administration and the identification of stipend-eligible schools. The requirements of this program are outlined in law and MSDE operates the program in accordance with that law. MSDE also respectfully disagrees with the DLS recommendation to reduce the funding levels in line with 2014 actual expenditures. This program is funded based on prior year assignment and impacted by the implementation of a new accountability system and new assessments.

Under the No Child Left Behind (NCLB) federal law, schools were expected to have all students scoring proficient in reading and math assessments by 2014. As the 2014 deadline approached, the number of schools identified as having comprehensive needs increased, which increased the number of teachers qualifying for stipends. In Fiscal 2014 and again in Fiscal 2015, Maryland is operating under an NCLB waiver that allows schools to be measured according to a School Performance Index (SPI). Under the SPI, Strand 4 and Strand 5 schools will be considered as comprehensive needs schools.

The current year appropriation, and the deficiency amount, is necessary to fully fund APC stipends for teachers in a school designated as having comprehensive needs for the 2013-2014 school year. Likewise, the FY 2016 Allowance is necessary to provide stipends to teachers currently in a school designated as having comprehensive needs. MSDE agrees that the number

of qualifying teachers may be artificially high because of the current accountability system. However, these teachers have worked, or are working, with the understanding they will receive a stipend.

MSDE respectfully suggests it would be more prudent to reevaluate the eligibility requirements for the upcoming school year and make the accompanying budgetary adjustments in FY 2017. MSDE is open to working with interested parties to alter the requirements so that the stipend program is more in line with the original intent, which is to retain teachers in challenging schools. It also presents an opportunity to consider other ways to reward teachers in low performing schools and make the process more transparent to teachers and administrators.

Recommended Actions

1. Add the following language:

Provided that the Maryland State Department of Education shall notify the budget committees of any intent to transfer the funds from program R00A02 Aid to Education to any other budgetary unit. The budget committees shall have 45 days to review and comment on the planned transfer prior to its effect.

Information Request	Author	Due Date
Report on any transfer of funds from R00A02	MSDE	45 days prior to the transfer of funds

MSDE Concur.

2. Strike the following language:

~~, provided that this appropriation shall be reduced by \$52,788,580 contingent upon the enactment of legislation level funding the per pupil foundation amount at the fiscal year 2015 amount and freezing the net taxable increase phase-in.~~

~~, provided that this appropriation shall be increased by \$1,266,162 contingent upon the enactment of legislation level funding the per pupil foundation amount at the fiscal year 2015 amount.~~

Add the following language:

, provided that this appropriation shall be reduced by \$40,725,775 contingent upon the enactment of legislation level funding the per pupil foundation amount at the fiscal year 2015 amount.

Concur with the following language:

, provided that this appropriation shall be reduced by \$17,799,024 contingent upon the enactment of legislation level funding the per pupil foundation amount at the fiscal year

2015 amount.

, provided that this appropriation shall be reduced by \$139,007 contingent upon the enactment of legislation level funding the per pupil foundation amount at the fiscal year 2015 amount.

, provided that this appropriation shall be reduced by \$3,754,335 contingent upon the enactment of legislation level funding the per pupil foundation amount at the fiscal year 2015 amount.

, provided that this appropriation shall be reduced by \$2,902,468 contingent upon the enactment of legislation level funding the per pupil foundation amount at the fiscal year 2015 amount.

MSDE acknowledges that contingent language is necessary if the referred legislation is adopted. However, this Agency advises caution with regard to striking the contingent language for the \$52.8 million related to the impact of both proposed legislative changes and replacing it with two separate items. While MSDE understands the intent of splitting these two contingent reduction items into separate figures, the issue is somewhat more complex. Because the NTI funding is calculated on the basis of all Bridge to Excellence programs that have a wealth-based component, it would be impacted by both of the proposed legislative changes, not just the deferral of the phase-in. The \$12.1 million figure reflects the combined impact of both changes. Therefore, tying this figure only to the deferral of the phase-in would be inaccurate.

3. Concur with the following language:

, provided that this appropriation shall be reduced by \$1,793,461 contingent upon the enactment of legislation phasing in the increase per resident amount over ten years.

, provided that this appropriation shall be reduced by \$526,083 contingent upon the enactment of legislation phasing in the increase per resident amount over ten years.

Given the current budgetary constraints, MSDE understands the need to scale back significant funding increases. The action still would provide an increase to the public libraries over the Fiscal 2015 level. While the funding increase under current law would provide optimal resources, MSDE concurs with the recommendations regarding the understanding that the anticipated increase will be phased-in over ten years.

4. Concur with the following language:

Further provided that this appropriation shall be reduced by \$3,887,697 contingent upon the enactment of legislation transferring video lottery terminal revenue to the Education Trust Fund.

Strike the following language:

~~, provided that \$3,887,697 of this appropriation shall be increased contingent upon the enactment of legislation transferring \$3,887,697 in video lottery terminal revenue to the Education Trust Fund.~~

MSDE concurs

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

, provided that this appropriation shall be reduced by \$12,062,805 contingent upon the enactment of legislation freezing the net taxable increase phase-in.

Please see the response to Recommendation #2, above.

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

Further provided that \$10,000,000 of this appropriation made for the purpose of funding nonpublic placements may not be expended until the Maryland State Department of Education provides the budget committees with a report on the flaws in the calculations of basic cost and the local share of basic cost. The report should specifically outline all of the issues with the calculations, propose solutions to the identified flaws in the basic cost and local share of basic cost calculations, and identify the degree to which these errors have contributed to the increased State cost for nonpublic placements since fiscal 2012. The report should also provide fiscal estimates associated with correcting the errors, including the amount of additional revenue for the Maryland School for the Blind. The report shall be submitted no later than July 1, 2015, 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.

Information Request	Author	Due Date
Calculating basic cost and the local share of basic cost	MSDE	July 1, 2015

MSDE agrees to provide the requested information.

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

, provided that this appropriation made for the purpose of providing Quality Teacher Incentives shall be reduced by \$13,400,000 contingent on the enactment of legislation that would limit eligibility for receiving a stipend through the program to educators who were eligible for the stipend in fiscal 2014 and remain teaching in a comprehensive needs school.

Further provided that \$100,000 of this appropriation may not be expended until the Maryland State Department of Education (MSDE) submits a report to the budget committees on the proposed restructuring of fiscal incentive programs for educators. The report should provide a review of best practices for administering fiscal incentive programs for educators and an evaluation of the current Quality Teacher Incentive program and any incentive programs piloted through the Race to the Top grant program. In addition, it should include at least two alternate grant proposals for programs designed to improve the quality of educators at the State's lowest performing schools. The proposals should include fiscal estimates associated with implementing and administering the program. The report should also identify any proposed statutory changes necessary to improve existing programs or implement new programs. The report shall be submitted by December 1, 2015, 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.

Information Request	Author	Due Date
Restructuring fiscal incentive programs for teachers	Maryland State Department of Education	December 1, 2015

MSDE agrees to provide the requested report, but respectfully disagrees with the recommendation to reduce the appropriation for Quality Teacher Incentives in FY 2016. Based on current estimates, the Governor's Allowance provides sufficient funding to cover stipend costs under the current law, much of which will be necessary to pay stipends to teachers currently working in schools designated as having comprehensive needs.

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

, provided that this appropriation made for the purpose of providing Quality Teacher Incentives shall be reduced by \$10,600,000 contingent on the enactment of HB72 that would limit eligibility for receiving a stipend through the program to educators who were eligible for the stipend in fiscal 2014 and remain teaching in a comprehensive needs school.

MSDE respectfully disagrees. The FY 2015 deficiency is necessary to provide stipends to teachers that worked in schools designated as having comprehensive needs for the 2013-2014 school year. MSDE has already collected applications from local school systems, has verified eligibility, and has made payments to some local school systems.