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**TO:** Members of the State Board of Education, Education Policy Committee

**FROM:** Carey M. Wright, Ed.D., State Superintendent of Schools 

**DATE:** March 4, 2025

**SUBJECT:** Constituent Recommendation for Regulatory Amendment

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### Purpose

This memo serves to share a constituent concern pertaining to current regulations on reimbursement for criminal history records checks required for Maryland State licensure by the Board of Examiners for Audiologists, Hearing Aid Dispensers, Speech-Language Pathologists & Music Therapists at the Maryland Department of Health and offer options for response. The constituent would like to “Petition the State Board” to adopt regulations requiring the local school board to reimburse for both the license (currently required by Md. Code, Education §6-112 and [COMAR 13A.05.02.13](#)) as well as all components of the criminal history records check.

### Background

In 2006, House Bill 1318 and Senate Bill 769 were passed requiring Criminal History Records Checks for all new RN, LPN, and CNA applicants after January 2, 2007. In subsequent years, numerous Maryland State Licensing Boards followed suit and began requiring them as well. Among the Maryland Boards requiring criminal history records checks are the Maryland Boards of Social Work Examiners, Examiners of Psychologists, Physical Therapy Examiners, Occupational Therapy Practitioners, and others charged with licensing individuals responsible for direct patient care. These Maryland Boards require this check to be conducted by the Maryland Department of Public Safety and Correctional Services’ Criminal Justice Information System (CJIS) with a current cost of approximately \$60, paid directly to CJIS. Private background checks are not acceptable.

A Criminal History Records Check is often thought of as a mechanism to verify an individual's criminal history by accessing a nationwide database maintained by the FBI thus allowing agencies to assess potential risks associated with a person before granting access to sensitive information or positions of trust.

Current law requires that “A local school system shall provide an amount equal to the initial licensing fee or renewal of license fee to an audiologist or speech-language pathologist, in accordance with Education Article, § 6-112.1, Annotated Code of Maryland, who:

- (a) Provides audiology and speech-language services on a third-party billing basis in schools; and
- (b) Is licensed by the State Board of Audiologists, Hearing-Aid Dispensers, and Speech-Language Pathologists.

Several local educational agencies (LEAs) across Maryland reimburse licensing fees for healthcare professionals who provide direct services to children and students in their schools, not only audiologists and speech-language pathologists. In very few cases, LEAs include the cost of Criminal History Records Checks as a component of those licensing fees; most LEAs do not.

The constituent requests that the Maryland State Board of Education amend current regulations to require the reimbursement of Criminal History Records Checks for an audiologist or speech-language pathologist, as well.

### **Executive Summary**

1. A member of the public has petitioned the Maryland State Board of Education to adopt a regulation under MD Code, State Government, § 10-123 requiring LEAs to reimburse audiologists and speech-language pathologists for Criminal History Records Checks required for licensure in Maryland.
2. The Maryland State Board of Education must issue a response within 60 days either denying the petition or initiating the promulgation process.

### **Action**

1. The Maryland State Board of Education could approve the petition and require MSDE to draft and promulgate regulations as petitioned by the constituent.
2. The Maryland State Board of Education could deny the petition to promulgate regulations as proposed by the constituent.
3. The State Board of Education could require MSDE to issue clarifying guidance to the LEAs.

The result of the approval of the petition to draft and promulgate regulations by the constituent would pose an undue financial burden on LEAs and would also set a precedent for reimbursement of Criminal History Records Checks for one specific board licensure when there are several other board licensures requiring Criminal History Records Checks (noted above).

Therefore, MSDE recommends that the Maryland State Board of Education:

- 1) Deny the petition to promulgate regulations as proposed by the constituent