

IN THE MATTER OF
COMMENSURATE FUNDING
FOR FREDERICK COUNTY
CHARTER SCHOOLS

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION

Opinion No. 24-27

OPINION

INTRODUCTION

Four charter school operators in Frederick County filed a Petition for Declaratory Ruling asking the State Board to declare that: (1) the State Board has not adopted a “75/25 rule” for commensurate funding of charter schools based on the minimum school funding rule in the Blueprint for Maryland’s Future; (2) the applicable Blueprint funding streams are fully counted as part of the total revenues in the Frederick County Public Schools (“FCPS”) operating budget when calculating the adjusted per pupil amount for charter schools; and (3) FCPS cannot require charter schools to accept certain in-kind services instead of providing them with an opportunity to negotiate and choose whether to accept them in kind or purchase them as a buyback. The Frederick County Board of Education (“local board”) responded to the Petition. The charter school operators replied, and the local board filed a sur-reply.

FACTUAL BACKGROUND

For Fiscal Year 2025, FCPS faced a nearly \$53 million shortfall between the local board’s requested budget and the revenues it would be receiving from the State and Frederick County. (Response at 6). To balance the budget, FCPS reduced positions, programs, and staff salaries, but also reviewed the funding formula used for its charter schools. (Response at 7). FCPS decided to allocate 75% of applicable Blueprint funding streams to charter schools, just like its traditional schools, with limited exceptions. (Response at 7). For example, the charter schools did not receive additional funding for special education students attending charter schools because FCPS has traditionally provided all such services in kind. (Response at 7).

The charter school operators argue that the funding formula utilized by FCPS resulted in a significant decrease to the adjusted per pupil amount received by charter schools. (Petition at 2). They say this represented a marked departure from FCPS’s initial budget recommendation to keep charter school funding at Fiscal Year 2024 levels, the sort of “hold harmless” approach other local boards have used in navigating Blueprint implementation. (Petition at 3). Given the way FCPS “unilaterally” withheld 25% of applicable Blueprint funding streams, the charter schools allege that they lacked information on what in-kind services were included and had no opportunity to negotiate or choose what services they wanted to accept. (Petition at 3).

STANDARD OF REVIEW

The State Board exercises its independent judgment on the record before it in the explanation and interpretation of the public-school laws and State Board regulations. COMAR 13A.01.05.05E.

LEGAL ANALYSIS

This case is a necessary companion to our first decision on commensurate funding in the era of Blueprint, issued just last year. *In the Matter of Baltimore City Public Schools Mandatory Blueprint Fee*, MSBE Op. No. 23-17 (2023) (“*Baltimore City*”). That decision addressed the narrow question of whether the minimum school funding amount for charter schools is 98% of applicable Blueprint funding streams, rather than the 75% established in § 5-234 of the Education Article, Annotated Code of Maryland.¹ We concluded that it was not and declined to issue a ruling that all central administration of Blueprint funds under Educ. § 5-234 constitutes an illegal mandatory fee on charter schools. Instead, we concluded that commensurate funding and minimum school funding are “distinct school funding requirements that operate together as a part of a consistent and harmonious body of law.” *Baltimore City* at 4. Problems arise when these requirements are not properly viewed as distinct. Elevating one over the other risks failing to effectuate both.

Both parties, in their own ways, have blurred the distinction between these two statutes. The charter school operators have asserted that the minimum school funding for charter schools should be set at 98% for all Blueprint funding categories, with only a 2% administrative fee permissible for FCPS. (Response at 9). We have rejected that argument because it “inserts the 2% administrative fee from the commensurate funding formula, derived from Educ. § 9-109, into the calculation of minimum school funding under Educ. § 5-234, without express statutory language or a clear legislative intent to do so.” *Baltimore City* at 3. It also fails to account for what a local board does with regard to its other, non-Blueprint funds that are included in the commensurate funding determination. The local board, for its part, now asserts that “as long as charter schools receive the same percentage of § 5-234 funds as do traditional schools, [it] is providing ‘commensurate’ funding with respect to those funds under § 9-109.” (Response at 9). We reject that argument too. While related, commensurate funding and minimum school funding are separate checks on the budgeting process.

One thing that minimum school funding and commensurate funding have in common is that they dictate where the budgeting process must end, not necessarily where it starts. What the local board did in this case is immediately distribute the 75% minimum to all schools and consider itself in compliance with both Educ. §§ 5-234 and 9-109. But that does not answer the

¹ Although this case focuses on the 75% minimum, that amount specifically applies to eight Blueprint funding streams: (1) the foundation program under Educ. § 5-213; (2) the compensatory education program under Educ. § 5-222; (3) the English learner education program under Educ. § 5-224; (4) the special education program under Educ. § 5-225; (5) public providers of prekindergarten under Educ. § 5-229; (6) transitional supplemental instruction under Educ. § 5-226; (7) the comparable wage index grant under Educ. § 5-216; and (8) the college and career readiness program under Educ. § 5-217. Md. Code Ann., Educ. § 5-234(a)(1). For private providers of prekindergarten under Educ. § 5-229 and the per pupil grant for concentration of poverty under Educ. § 5-223, the minimum school funding amount is 100% of the per pupil amount. Md. Code Ann., Educ. § 5-234(a)(2).

question of commensurate funding for charter schools. While the applicable Blueprint funding streams represent the vast majority of school funding, the local board points out that the minimum school funding requirements in Educ. § 5-234 affect about 77% of the unrestricted funds that FCPS receives to educate children in Frederick County. (Response at 3). To demonstrate compliance with Educ. § 9-109, a local board must provide a comparison of the amounts disbursed to traditional and charter schools from *all sources* as well as show its work in arriving at those amounts, which includes good faith negotiation with the charters. The watchword when implementing Educ. §§ 5-234 and 9-109 is transparency.

While Educ. § 5-234 compares the amount of Blueprint funds expended at the school level to the amount of those funds being centrally administered, commensurate funding under Educ. § 9-109 continues to be inclusive of all funds that support schools. In comparing the amount expended at traditional and charter schools, then, we must look not just at the amount of cash received by each but also at what centrally administered services are being provided to those schools, as this reflects the true amount being expended on students. The critical distinction remains, however, that charter schools must be given the opportunity to accept those services being centrally administered or reject them in favor of receiving their proportionate amount of Blueprint (and other, non-Blueprint) funds to expend as they wish. We continue to reject a “mirror image” approach under which a charter school would have to design its budget to mirror each category of funding employed by the local board. *Frederick Classical Charter Sch., Inc. v. Frederick Cnty. Bd. of Educ.*, 454 Md. 303, 386 (2017).

Last year, we agreed with the proposition that “the Blueprint legislation did not change the public charter school funding law, nor did it change State Board precedent interpreting that law.” *Baltimore City* at 3. We still do not believe that the minimum school funding requirements set forth in Educ. § 5-234 were intended to alter the relationship between traditional and charter schools; however, examinations of school spending as compared to central spending reveal what we have described as “excess costs.” *Baltimore City* at 4. Specifically, we refer to overages in special education, which have only increased since we first observed them nearly 20 years ago. *City Neighbors Charter School v. Baltimore City Bd. of Sch. Comm’rs*, Revised MSBE Op. No. 05-17, at 5 n.4 (2005) (observing that, even if a charter school reimburses the school system the annual average per pupil funding amount for a student with a disability requiring a nonpublic placement, “[t]he local school system shall pay the excess costs of the placement”). To address these excess costs requires an update to historical formulas, but it is one that is actually more consistent with the plain language of the commensurate funding statute, which compares the amount disbursed to charter schools with “the amount disbursed to other public schools in the local jurisdiction.” Md. Code Ann., Educ. § 9-109(a). Because these excess costs must be borne centrally, the revenue assigned to those costs is not disbursed to any schools.

A. 75/25 Rule for Charter Schools

The charter schools seek a declaration that the State Board has not adopted a “75/25 rule” for charter school funding. We agree. We adopted no such rule. The plain language of the “*minimum* school funding” statute indicates that a local board must distribute “*at least 75%*” of the per pupil amount for applicable Blueprint funding streams to schools, including both charter schools and traditional schools. Md. Code Ann., Educ. § 5-234(a)(1) (emphasis added). A local

board can certainly distribute more than the minimum and, just as the local board may distribute more than 75% to schools, it may also spend less than 25% centrally. The statute sets parameters within which local boards must make their own budgetary decisions based on the profile of their schools to promote equity.

As the charter schools point out, we addressed this in our Joint Implementation Policy #2, issued with the Accountability and Implementation Board in May 2024. (Reply at 5). In that policy, we explained that:

[W]hile the Blueprint calls for a minimum school funding level of 75% or 100% of funds from the per pupil formulas, this is the *minimum* expectation for *each* school, not an average across schools. The 75% minimum allows for school variation on costs, particularly those related to school personnel; however, the intent is not to require that 25% of funds are spent centrally.

(emphasis in original). This policy highlighted one of the pitfalls of building school-based budgets with a strict adherence to the 75% minimum, namely, that if a local board distributes the minimum on an *average* basis, there will likely be some schools above, and some schools below, that average based on their student profile. If some schools are, in fact, funded below 75% of the per pupil amount for any of the applicable Blueprint funding streams, the local board would be out of compliance with Educ. § 5-234. By contrast, it is permissible for some or all schools to be funded above the 75% minimum and for there to be reasonable variability between schools.

To be clear, we have neither adopted a “75/25 rule” nor did our decision last year endorse any particular formula for charter school funding. In *Baltimore City*, we did not address whether Baltimore City’s funding of its charter schools was commensurate. In declining to issue a ruling that all central administration of applicable Blueprint funding streams constituted a mandatory fee, we merely clarified that Educ. §§ 5-234 and 9-109 are separate checks on school-based budgets, and the expectation remains that “both funding requirements are met as constructed.” *Baltimore City* at 5. While Educ. § 5-234 focuses on the amount of Blueprint funds allocated to individual schools, expenditures for schools are relevant to commensurate funding even if they are centrally administered. And if, as FCPS says, minimum school funding under Educ. § 5-234 affects 77% of its unrestricted funds, how the remaining 23% of its unrestricted funds are used will also impact commensurate funding under Educ. § 9-109. In sum, allocating 75% of the applicable Blueprint funding streams to all schools does not mean that commensurate funding has been achieved because that still depends on the product of good faith negotiations and whether the charter schools decide to accept certain centrally administered services in kind or choose to receive a proportionate amount of the corresponding revenue so they can expend it in other ways. *Frederick Classical*, 454 Md. at 386.

B. Blueprint Funding as Revenue

The charter schools seek a declaration that Blueprint funding is fully counted as part of total revenues when calculating an adjusted per pupil amount for charter schools under our prior precedent. *See City Neighbors*, Revised MSBE Op. No. 05-17 (2005) (providing formula as

guidance). We agree, in part, but provide additional guidance on how we interpret exclusions under Educ. § 5-234(e) and excess costs under Educ. § 9-109(a) to clarify how local boards must account for Blueprint funds and ultimately determine commensurate funding from all sources of funds. Subsection (e) provides that local boards may exclude from the minimum school funding requirements “countywide obligations and contracts for goods and services that cannot be allocated at the school level.” Md. Code Ann., Educ. § 5-234(e). The local board has misunderstood our prior statements on this provision and, as a result, excluded too much from its charter school calculation. While the local board has discretion, it must still provide charter schools their proportionate share of Blueprint funds.

Last year, in *Baltimore City*, we contrasted minimum school funding and commensurate funding to illustrate that they were separate requirements. Of relevance here, we stated:

Minimum school funding under Educ. § 5-234 applies to only a portion of the school system’s operating budget *and impacts the per pupil amount for all schools similar to debt service*. By contrast, commensurate funding under Educ § 9-109, which is calculated after distribution decisions under Educ. § 5-234 are made for all schools, impacts only the per pupil amount for charter schools.

Baltimore City at 5 (emphasis added). What we meant by this was that funds not allocated to any schools, charter or traditional, will not count toward meeting the minimum school funding requirements. This reinforced our general conclusion that the parameters in Educ. § 5-234 apply to all schools, but it also gave rise to the misperception that all centrally administered funds up to 25% are excluded from the charter school calculation entirely. Not so. The per pupil calculation for charter schools is still governed by Educ. § 9-109, which has been interpreted to “mean what it says—disbursement of *money*.” *Baltimore City Bd. of School Comm’rs v. City Neighbors Charter School*, 400 Md. 324, 356 (2007) (emphasis in original). The exception to this, which we will discuss in more detail below, is when specified deductions impact all schools.

As to Educ. § 5-234(e), we think it is best read to apply only in the *rare* instance that a local board dips below the 75% minimum school funding requirement after utilizing the 25% *maximum* for central costs of all kinds. Up to that maximum the local board generally has discretion how it uses central spending to meet its budgetary needs, but after that the local board is required to report the reason for any exclusion to the Maryland State Department of Education. Md. Code Ann., Educ. § 5-234(e)(2). In effect, this reporting requirement encourages local boards to limit central spending to areas where it is truly necessary and appropriate and makes exclusions subject to greater scrutiny. As this case illustrates, the local board utilized 25% of the applicable Blueprint funding streams for central costs of all kinds. If a local board cannot meet its central obligations with the Blueprint funds available to it, then it must report the reason consistent with Educ. § 5-234(e)(2). This enhances transparency about both the minimum school funding amount that is received by all schools and the central costs borne by local boards.

We adopt this interpretation because it aligns best with both the plain language and the purpose of the statute. *Comptroller v. Phillips*, 384 Md. 583, 591 (2005) (“If the plain language of the statute is unambiguous and is consistent with the statute’s apparent purpose, we give effect

to the statute as it is written.”). As a textual matter, subsection (e) operates as an exception to “the requirements of this section,” which are the 75% minimum established in subsection (a)(1) and the 100% minimum in subsection (a)(2). Md. Code Ann., Educ. § 5-234. The fact that subsection (e) applies to the 100% minimum indicates this provision was not intended to dictate how centrally administered funds are spent but rather what must occur if a local board dips below the specified amount. As for legislative purpose, we decline to adopt a reading that could decrease the minimum school funding amount for all schools. *Lockett v. Blue Ocean Bristol, LLC*, 446 Md. 397, 423 (2016) (“We seek to construe the statute in a way that will advance the statute’s purpose, not frustrate it.”). For example, if costs that “cannot be allocated at the school level” are excluded from Educ. § 5-234 altogether, that is, if a local board subtracts the funds attributed to such costs from the Blueprint funding streams *before* calculating the 75% minimum, the result is that less than 75% of total Blueprint funds actually reach schools.

With that interpretation in mind, we turn to how the central administration of Blueprint funds under Educ § 5-234 impacts commensurate funding under Educ. § 9-109. The local board acknowledges that “FCPS is not withholding any Blueprint Act funds under the authority of § 5-234(e), which further has certain reporting obligations to the State.” (Surreply at 7). The local board also observes, correctly, that “funds retained at the central level (up to 25%) may be used for obligations that *can* be allocated at the school level.” *Id.* (emphasis added). We agree that the local board has broad discretion with its centrally administered funds, but it must still effectuate the longstanding requirements of Educ. § 9-109. What that means is that, even if the local board is withholding up to 25% of applicable Blueprint funding streams for centrally administered services delivered to traditional schools, it must distribute to charter schools their proportionate share of those Blueprint funds (and other, non-Blueprint funds) unless the charter schools have agreed to accept in-kind services instead. That did not happen here.

Turning to Educ. § 9-109 more directly, we have long held that, “for the charter school funding determination, the total annual school system operating budget amount shall exclude appropriations for debt service and for adult education.” *City Neighbors*, MSBE Revised Op. No. 05-17, at 4 n.2 (2005). We decide today to add overages in special education to the list of items that are deducted from the total annual school system operating budget under Educ. § 9-109. To be clear, when we refer to “special education overages” we refer only to the *difference* between (1) expenditures on special education and special education transportation and (2) federal, State, and local revenues allocated for special education and special education transportation. We do not mean the entire special education budget. As we have previously observed, the local board is obligated to pay excess costs related to special education. *Baltimore City* at 4 (citing *City Neighbors*, Revised MSBE Op. No. 05-17, at 5 n.4 (2005)). When costs exceed special education revenue and special education transportation revenue, the local board must still meet its obligations and direct funding to cover those costs. This is neither negotiable nor subject to buybacks. To continue including it in the total annual school system operating budget for charter school funding, then, not only exacerbates the local board’s deficit but also fails to accurately reflect the amount disbursed to traditional schools.

In adding special education overages as a deduction, we give even greater effect to the plain language of the commensurate funding statute. That statute requires a local board to “disburse to a public charter school an amount of county, State, and federal money for

elementary, middle, and secondary students that is commensurate with the amount disbursed to other public schools in the local jurisdiction.” Md. Code Ann., Educ. § 9-109(a). Funding that is directed to special education overages is not disbursed to any schools as cash, nor does it support select programming at schools in the way that certain centralized services do. Rather, this funding is used to pay excess costs for which the local school system is ultimately responsible. Some of these costs are indeed costs for services to students, but this funding must be made available wherever the need is within the system, not distinguishing between traditional or charter schools. While centralized services are properly subject to bargaining, special education overages are not, and this is why deducting them does not interfere with the statutory purpose of charter schools. Charter schools “must operate with a certain degree of independence and flexibility” and have “some freedom from the close supervision that local school boards may employ over how traditional public schools’ budget and spend their funding.” *Frederick Classical*, 454 Md. at 401. Our decision maintains that flexibility for the Blueprint funding that FCPS unilaterally—and improperly— withheld from charter schools for centrally administered services. The charter schools may choose not to accept in-kind services and may also choose to spend their proportionate share of those funds differently than the traditional schools. But, as to special education overages, we do not believe Educ. § 9-109 requires charter schools to receive funds and flexibility where the traditional schools receive neither. Instead, special education overages are managed centrally to support students wherever they are, whether in a traditional or charter school or in a nonpublic placement if required by a student’s individualized education program.

This conclusion as to Educ. § 9-109 does not change our analysis of Educ. § 5-234. These remain distinct checks on school-based budgeting, and local boards must resist the urge to conflate the two. Special education funding under Educ. § 5-225 must flow to all schools in accordance with Educ. § 5-234(a) and central administration of that funding is subject to the 25% maximum as discussed above.² Critically, though, while special education overages are a valid deduction under Educ. § 9-109, funds directed to that purpose are *not* subtracted from total Blueprint funds when calculating 75% minimum school funding. As explained above, such an approach would diminish minimum school funding for all schools and run counter to the intent of Educ. § 5-234. While we are recognizing special education overages as a valid deduction under Educ. § 9-109, FCPS may not apply additional deductions on the basis that other costs are, as the local board described them, “not *easily* allocable.” (Response at 14) (emphasis added). This conflates Educ. § 5-234 with Educ. § 9-109. To comply with Educ. § 9-109, the local board must include a proportional amount of its centrally administered Blueprint funds (and other, non-Blueprint funds) when calculating the adjusted per pupil amount for charter schools, deducting only those items identified in historical formulas and, now, special education overages. As for “countywide obligations and contracts for goods and services that *cannot* be allocated at the school level,” Md. Code Ann., Educ. § 5-234(e), that is a narrow category of expenses that may be excluded from the minimum school funding requirements if a local board is required to dip below the minimums, but it does not dictate whether commensurate funding has been provided.

² For purposes of minimum school funding, the special education program under Educ. § 5-225 “may be reported in the aggregate for each county.” Md. Code Ann., Educ. § 5-234(f). Because special education needs—and associated costs—may vary widely among schools, this provision allows for the revenue allocated to individual schools to be aggregated to demonstrate that schools as a whole are receiving the 75% minimum.

C. Centralized Services as Mandated Buybacks

The charter schools seek a declaration that in-kind services provided by FCPS to charter schools, with certain exceptions such as special education and prekindergarten, are subject to good faith negotiations. We agree. The minimum school funding rule does not authorize a local board to require that charter schools accept *every* centrally administered service up to 25% of the applicable Blueprint funding streams. Such an interpretation of Educ. § 5-234 distorts the meaning of Educ. § 9-109. *See City Neighbors*, 400 Md. at 356 (“Services are not prohibited; they just cannot be forced on the charter schools at the whim of the county boards.”). The local board explains that it is “providing these services to the charters without requiring any additional payment, or ‘buyback’ from the charters.” (Surreply at 12). The problem is that shifting services from buyback to in-kind without input from the charter schools undermines their autonomy. If a service has historically been negotiated and now it is not, that is a mandated buyback.

The local board emphasizes that the charter schools in FCPS “are provided, in cash, with an amount of funds that is the same (and therefore commensurate) with the funds provided to FCPS traditional schools.” (Surreply at 12). In support of this proposition, they cite our recent statement that, “[t]o the extent the amount disbursed to charter schools under the commensurate funding formula differs from the amount of funding disbursed to all other public schools, that difference is bound by the 2% administrative fee and whatever additional in-kind services the schools may bargain for.” *Baltimore City* at 4-5. The local board argues that there was no “difference” between the amounts disbursed to charter and traditional schools since all public schools received the 75% minimum school funding, and therefore the remaining 25% is “not bound” by the bargaining process. (Response at 15). We disagree. The requirement to bargain is precisely why we noted that the amount disbursed to traditional and charter schools may differ. The local board also fails to address how it disbursed the remainder of its unrestricted, non-Blueprint funds, which impacts whether commensurate funding has been provided.³ The local board must be able to show both that every school meets the 75% minimum for Blueprint funds and that charter schools received a proportionate share of all revenues unless there is a specified deduction, or in-kind services have been negotiated. This level of transparency is necessary to effectuate the requirements of Educ. §§ 5-234 and 9-109 in their own right. While minimum school funding has a monitoring system in place, *see* Md. Code Ann., Educ. § 5-406(c), local boards must also demonstrate to their charter schools that the funding the charters receive is, in fact, commensurate under Educ. § 9-109.

Treating all schools the same with regard to minimum school funding under Educ. § 5-234 does not equate to commensurate funding under Educ. § 9-109. To reach commensurate funding, FCPS is still required to engage in good faith negotiations and allow the charter schools to choose whether they will accept in-kind services or take their proportionate amount of funding from all sources—both Blueprint and non-Blueprint—and reimburse the local board for buyback services as needed. The local board has failed to provide a persuasive explanation for why it departed from historically negotiated buybacks. For example, the local board has taken the

³ As it relates to federal funds, local boards have an obligation under the Individuals with Disabilities Education Act (“IDEA”) to provide IDEA funds to charter schools on the same basis it provides those funds to other public schools, “including proportional distribution based on relative enrollment of children with disabilities.” 20 U.S.C. § 1413(a)(5).

position that technology is “best provided on a centralized basis” because all schools must meet minimum cybersecurity standards established by the Maryland Department of Information Technology. (Sur-reply at 13). While the local board may prefer that approach, charter schools are capable of making purchasing decisions that meet the minimum standards too. In such cases, services are still subject to bargaining.

D. The Need for Regulations

We must acknowledge that the school funding landscape has transformed since we first tackled this issue nearly 20 years ago. *See City Neighbors*, Revised MSBE Op. No. 05-17 (2005). As the local board rightly points out, prior to the Blueprint’s enactment, “there were no established formulas used by school systems to calculate funds expended for each school within their systems.” (Response at 10) (quoting *Monocacy Montessori Cmty., Inc. v. Frederick Cnty. Bd. of Educ.*, MSBE Op. No. 06-17, at 2 (2006)). Section 5-234 of the Education Article, however, has ushered in an era of school-based budgeting, reflecting a legislative judgment in the Blueprint that the majority of State and local formula funding “should follow students to their school.” Maryland Commission on Innovation and Excellence in Education, Interim Report (Jan. 2019) (“Kirwan Interim Report”) at 133. It is natural, then, that we are once again receiving questions about commensurate funding.

The last time these issues were fully litigated, the Supreme Court of Maryland concluded that the State Board “was well within its discretion to proceed in the manner it did—adjudicating the cases before it and offering ‘guidance’ to other applicants, rather than proceeding with more formal and binding regulations.” *Monarch Acad. Baltimore Campus, Inc. v. Baltimore City Bd. of Sch. Comm’rs*, 457 Md. 1, 19 (2017). That is the approach we take again here. As a result, although this decision adjudicates a dispute arising out of Frederick County and only requires corrective action by the local board there, this decision offers guidance to all local boards as they enter the next budget cycle. And while this decision updates historical formulas for charter school funding by accounting for special education overages, the principles announced in *City Neighbors* and its progeny otherwise still apply.

The Supreme Court also observed, however, that, “if the State Board were to issue clear regulations regarding commensurate funding, the possibility for disputes between charter schools and local school boards would diminish.” *Id.* at 63. We agree. Given the prospective and time-sensitive nature of budgeting for schools, adjudicating these cases after-the-fact sometimes falls short. It is incumbent upon us to answer the questions before us in a way that is fair and timely to all parties in the absence of regulations, and these questions are even more complex as local boards navigate school-based budgeting for the first time. Therefore, we intend to begin the process of developing regulations to provide more comprehensive guidance on charter school funding. Accordingly, until regulations are enacted, all local boards should proceed consistent with the principles enunciated here, including:

1. Section 5-234 of the Education Article sets forth the *minimum* expectation for *each* school, not an average across schools. Because this statute only governs the applicable Blueprint funding streams, equal disbursements to traditional schools

and charter schools does not guarantee commensurate funding, which is measured using funding from all sources.

2. Section 9-109 of the Education Article compares the amount of funds disbursed to charter schools with the amount disbursed to traditional schools, but it also includes the longstanding principle that centralized services may not be thrust upon charter schools without good faith negotiation. The enactment of Blueprint did not change longstanding precedent on that point. As such, expenditures for schools are relevant to commensurate funding even if they are centrally administered.
3. The local board has broad discretion with regard to how it spends up to 25% of the applicable Blueprint funding streams centrally in accordance with Educ. § 5-234. It must still, however, provide charter schools with a proportionate share of funding from all sources so that the charter schools may independently cover their own unique expenses and decide on any buybacks.
4. We are departing from past precedent in only one regard, which is that overages in special education may be deducted from the total annual school system operating budget when calculating charter school funding. Because the excess costs associated with special education must be borne centrally, the revenue assigned to those costs is not disbursed to any schools for purposes of Educ § 9-109.

CONCLUSION

For the reasons stated herein, we grant the Petition for Declaratory Ruling and order the local board to revise its charter school funding for Fiscal Year 2025 consistent with this ruling.

Signatures on File

Joshua L. Michael
President

Monica Goldson
Vice-President

Chuen-Chin Bianca Chang

Kenny Clash

Clarence C. Crawford

Susan J. Getty

Nick Greer

Irma Johnson

Kim Lewis

Rachel McCusker

Joan Mele-McCarthy

Xiomara Medina

Samir Paul

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