

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE

House Bill 76 (Delegate Smigiel)
 Ways and Means

Education - Implementation of the Common Core State Standards - Prohibition

This bill prohibits the State Board of Education and the local boards of education from establishing educational policies, curriculum guides, and courses that include or are based on the Common Core State Standards (CCSS). The State board must also take the necessary actions to rescind the State board’s adoption of CCSS and the State’s membership in the Partnership for Assessment of Readiness for College and Careers (PARCC) consortium by July 1, 2014.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: The bill’s requirements will put the State out of compliance with the federal Race to the Top (RTTT) grant and jeopardize up to \$250.0 million in grant funds (not shown). The bill’s requirements will also put the State out of compliance with the federal Elementary and Secondary Education Act (ESEA) and ESEA waiver, jeopardizing up to \$280.9 million in federal Title I and other federal funds until new assessments are developed (not shown). MSDE expenditures increase by \$14.8 million in FY 2015 to hire eight full-time education specialists and a test contractor to develop new College and Career Ready (CACR) standards and aligned assessments. However, MSDE expenditures for the PARCC assessment decrease by approximately \$18.6 million annually beginning in FY 2015. Out-years reflect the additional cost of the new CACR assessment over what the PARCC assessment would have cost.

(\$ in millions)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	23.9	49.8	37.2	36.2	36.3
Net Effect	(\$23.9)	(\$49.8)	(\$37.2)	(\$36.2)	(\$36.3)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local school system federal RTTT and federal Title I and other revenues may be jeopardized.

Small Business Effect: None.

Analysis

Bill Summary: The State board may not enter into an agreement or join a consortium or other organization that gives control over educational matters to any entity other than the State. The State board must notify the U.S. Department of Education (USDE) of its intent to rescind its adoption of the CCSS by July 1, 2014.

References to the common core curricula are repealed so that the assessment program may only be based on the State's adopted curricula.

Current Law: Maryland's RTTT grant terms required MSDE to revise the PreK-12 Maryland State Curriculum, assessments, and accountability system based on the CCSS. To receive an ESEA waiver, MSDE had to describe its plan to transition to and implement no later than the 2013-2014 school year CACR standards statewide in at least reading/language arts and mathematics for all students and schools. MSDE indicated on its ESEA waiver application that it had adopted and was implementing the CCSS and using the PARCC assessments to meet this requirement. Failure to meet these requirements jeopardizes federal funding and risks the State reverting to the requirements of the No Child Left Behind Act of 2001 (NCLB), which was the most recent ESEA reauthorization.

Under NCLB, if a school fails to meet adequate yearly progress (AYP) for two consecutive years, the school is identified for "school improvement," and must draft a school improvement plan, devote at least 10% of federal funds provided under Title I of NCLB to teacher professional development. Schools that fail to make AYP for a third year are identified for corrective action, and must institute interventions designed to improve school performance from a list specified in the legislation. Schools that fail to make AYP for a fourth year are identified for restructuring, which requires more significant interventions. If schools fail to make AYP for a fifth year, they must implement a restructuring plan that includes reconstituting school staff and/or leadership, changing the school's governance arrangement, converting the school to a charter, turning it over to a private management company, or some other major change.

Background: The new State curriculum known as the Maryland College and Career Ready Standards (MCCRS), which is aligned with the CCSS, is being fully implemented statewide in the 2013-2014 school year. The MCCRS frameworks were accepted by the

Maryland State Board of Education in June 2011. In addition, the new assessments aligned with the CCSS, called PARCC, will be field tested in spring 2014 as the State prepares to replace most of the Maryland School Assessment (MSAs) with PARCC in the 2014-2015 school year and most High School Assessments soon thereafter. Despite controversy over the common core and cost of PARCC, implementation of the new curriculum and assessments has gone relatively smoothly in Maryland but has not been without challenge, including the need to request amendments to the State's federal education flexibility waiver.

For more information on Maryland's Implementation of the Common Core Standards, see the **Appendix – Implementing the Common Core State Standards and Transitioning to the Partnership for Assessment of Readiness for College and Careers.**

In response to a California law enacted in October 2013, USDE notified California that it risked losing up to \$3.5 billion in federal funds if it does not administer state assessments this year. California recently applied to USDE for an ESEA waiver from double testing and wants to give only the common core field tests to all primary school students in spring 2014.

State Revenues: Prohibiting educational policies that include or are based on the CCSS and requiring the State to rescind its membership in the PARCC consortium will jeopardize up to \$250.0 million in federal RTTT grant funds since these requirements put the State out of compliance with the grant's requirements. As part of the RTTT grant, MSDE was required to revise the PreK-12 Maryland State Curriculum, assessments, and accountability system based on the CCSS to assure that all graduates are CACR. The grant provided a total of \$15.7 million for two projects specifically associated with developing the CCSS and the MCCRS.

USDE has yet to give guidance on what the penalty will be for breaking the RTTT grant terms; however, potentially the State will be required to repay the entire \$250.0 million, \$125.0 million of which was distributed to participating local school systems. However, potentially only approximately \$39.6 million in RTTT funds that will be unexpended at the end of fiscal 2014 will be in jeopardy. Without further guidance from USDE a more accurate estimate of the fiscal estimate cannot be determined.

The bill's requirements will also put the State out of compliance with the federal ESEA waiver. To receive an ESEA waiver, MSDE had to describe its plan to transition to and implement no later than the 2013-2014 school year CACR standards statewide in at least reading/language arts and mathematics for all students and schools. MSDE also had to demonstrate that the State was transitioning, developing, and administering *annual*, statewide, aligned, high-quality CACR assessments, and corresponding academic

achievement standards, that measure student growth in at least grades three through eight and at least once in high school. In addition, MSDE had to explain how this transition plan is likely to lead to all students, including English learners, students with disabilities, and low-achieving students, gaining access to and learning content aligned with such standards. MSDE indicated on its waiver application that they had adopted and were implementing the CCSS and using the PARCC assessments to meet this requirement.

Due to being out of compliance with the ESEA flexibility waiver, it is assumed that the State will revert to all of the requirements of ESEA. ESEA sections 1111(b)(3)(A) and 1111(b)(3)(C)(vii) require annual assessments of all students in grades three through eight and at least once in high school in reading/language arts and mathematics. Since 2008, ESEA also requires students to be tested in science at least once in grades 3 through 5, 6 through 8, and 9 through 12.

If Maryland fails to administer annual assessments required by ESEA, the federal government could potentially withhold approximately \$280.9 million each year until the annual assessment requirement is met. This figure was calculated using USDE's response to California's plan to implement Assembly Bill 484 of 2013, which among other things would leave the state without one year of data from student assessments. Specifically, USDE wrote, "California now risks significant enforcement action by the [U.S.] Department [of Education] for its violation of Title I of ESEA, including losing the \$15 million that California is able to reserve in Title I State administrative funds and additional Title I funds in the amount that California spent on assessments last year... as well as a wide range of additional federal programs that require Statewide assessment results... These additional programs include those targeting students most at risk, including but not limited to: the School Improvement Grants (SIG) program; Title III of the ESEA; Part B of the Individuals with Disabilities Education Act (IDEA); and programs for rural schools and migrant education, in addition to programs focused on professional development and other supports for teachers such as Title II of the ESEA." As shown in **Exhibit 1**, Maryland received more than \$280.9 million from these programs in 2012-2013. Maryland can avoid jeopardizing the \$280.9 million in federal funds by administering an annual assessment. USDE may designate Maryland as a "high-risk grantee," potentially hampering its ability to receive federal discretionary funds or flexibilities available to other state for which Maryland may apply in the future.

Exhibit 1
Potential Federal Penalty
(\$ in Millions)

Federal Funding Programs

Title I Administrative Funds	\$1.8
Maryland Assessments FY 2013	47.1
School Improvement Grants	6.6
Title III of the ESEA	1.7
Part B of the IDEA	189.7
Rural Schools and Migrant education	0.7
Professional Development such as Title II	33.3
Total	\$280.9

Source: FFIS Grants database 2012-2013 post-sequester

State Expenditures: To avoid the penalty it is assumed that MSDE will revert to administering MSAs and the High School Assessments (HSAs). As shown in **Exhibit 2**, it will cost a total of approximately \$27.7 million to administer the MSAs and HSAs needed to meet the federal testing requirements: \$13.6 million to administer the MSAs in English, language arts, and mathematics and \$14.1 million to administer the HSAs in English and Algebra. While the MSAs and the HSAs will meet the annual assessment requirement under ESEA, since they are not CACR assessments Maryland will be out of compliance with its ESEA waiver and, therefore, revert to the NCLB requirements.

Exhibit 2
Total Costs
(\$ in Millions)

	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Administer MSAs/HSAs	\$27.7	\$27.7			
Contract to Develop CARC Assessments	14.0				
MSDE Staff	0.8	0.7	0.8	0.8	0.8
Field Test CACR Assessment		40.0			
Administer CACR Assessment			55.0	54.0	54.0
Not Administering PARCC Assessment	(18.6)	(18.6)	(18.6)	(18.6)	(18.6)
Total	\$23.9	\$49.8	\$37.2	\$36.2	\$36.3

Under NCLB, 100% of students will need to score proficient on State assessments by the spring 2014, a standard that will be impossible for almost every school in every state to meet. If a school fails to meet that standard, it will be determined to have failed to meet AYP. Thus, almost all of Maryland's schools will be put in the school improvement process, which will require significant interventions including tutoring services for all Title I students and staffing changes. It is unknown exactly how much it will cost for putting nearly all of the schools in the State through school improvement process, but it is assumed that it will be significant. In addition, the process could be potentially disruptive for students and staff.

Thus, it is assumed that MSDE will try to develop new CACR standards and aligned assessments as quickly as possible so that the State could receive a new ESEA flexibility waiver. Further, it is assumed that any reauthorization of ESEA will also require states to develop CACR standards and assessments in order to receive federal funds. Thus, even if a new ESEA waiver cannot be obtained, new CACR standards and assessments will need to be developed. MSDE reports that the earliest new CACR standards and aligned assessments could be developed will be spring 2017.

General fund expenditures increase by \$14.8 million in fiscal 2015 for MSDE to hire eight full-time education specialists and an assessment vendor. The estimate assumes a start date of July 1, 2014, and includes fringe benefits, one-time start-up costs, and ongoing expenses. The assumptions used in this analysis and the future year expenses are explained below.

The development, administration, scoring, and reporting of new assessments will require a contract with a vendor. MSDE reports that the initial year of the assessment development contract will cost approximately \$14 million in fiscal 2015 (see Exhibit 2). Field testing the assessment, which helps ensure the assessments are valid, reliable, and fair for all students, could be done in spring 2016 (fiscal 2016) at the earliest. Field testing will cost an estimated \$40 million. The assessment could be operational as early as the spring 2017 with the setting of performance level occurring in the summer of 2017. At that time, MSDE will stop administering the MSAs and HSAs because the annual assessment requirements will be met by the CACR assessment.

In fiscal 2017 and beyond there will be a cost associated with administering, scoring, reporting, and updating the assessments, MSDE estimates the costs will total \$55 million in fiscal 2017 and decreasing to \$54 million annually beginning in fiscal 2018.

The Department of Legislative Services advises that there also would be ongoing savings associated with not administering the PARCC assessments. Using one set of assumptions, it will cost approximately \$18.6 million annually to administer the PARCC assessments; thus, expenditures will be reduced by \$18.6 million annually beginning in

fiscal 2015. Total additional ongoing expenditures for administering a non-PARCC assessment will be an estimated \$35.4 million a year beginning in fiscal 2018.

MSDE advises that eight full-time regular education specialists will be needed to work with the contractor to provide direction on the development and continual updates assessment items to ensure that the items are in alignment with Maryland’s new CACR curriculum. New assessments will be needed at the elementary, middle, and high school levels for mathematics and English/Language Arts/Literacy. Thus, general fund expenditures increase by \$753,251 in fiscal 2015, which assumes a July 1, 2014 start date. This estimate reflects the cost of hiring eight education specialists at MSDE. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
New Positions	8	-	-
Salary and Fringe Benefits	\$718,667	\$738,812	\$773,149
Start-up/Operating Expenses	<u>34,584</u>	<u>4,686</u>	<u>4,733</u>
Total	\$753,251	\$743,498	\$777,882

Local Revenues: Local school system federal RTTT and federal Title I revenues may also be jeopardized. The 22 participating local school systems received \$125.0 million in RTTT funds. Of the \$280.9 million in Title I and other potentially impacted federal funds received by the State in 2013-2014, at least \$196.3 million passes through to the local school systems.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Department of Education, U.S. Department of Education, Department of Legislative Services

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Appendix – Implementing the Common Core State Standards and Transitioning to the Partnership for Assessment of Readiness for College and Careers

In 2009, President Obama established the federal Race to the Top (RTTT) competitive grant program to encourage states to adopt specific educational reforms, including adopting the Common Core State Standards (CCSS), administering new assessments aligned with CCSS, and tying teacher and principal evaluations to performance and specifically student growth on the new assessments. Maryland was 1 of 12 states that applied and was awarded a grant; the State received \$250 million in August 2010. As the states have moved to implement RTTT initiatives, the U.S. Department of Education (USDE) offered states flexibility from the No Child Left Behind (NCLB) requirement that 100% of students achieve proficiency by 2014, which no state is able to meet. NCLB is the most recent reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA), which has not been reauthorized since 2001. Known as ESEA Flexibility Waivers, USDE incorporated many of the RTTT requirements into the ESEA Flexibility Waivers and continues to use the waivers as a tool to encourage states to implement reforms in exchange for federal education funding. Although they are not federal requirements, linking federal funding to implementation of reforms like CCSS and new assessments has raised concerns around the country that local control of education is being lost to the federal government and/or philanthropic foundations and replaced by standardization. In Maryland, implementation of a new State curriculum based on CCSS and new assessments has gone relatively smoothly but has not been without its challenges.

The Common Core State Standards

CCSS were created through a state-level initiative coordinated by the National Governors Association and the Council of Chief State School Officers in collaboration with education stakeholders from across the country. Forty-five states have adopted CCSS, which are a set of academic standards in two subject areas, English/language arts (ELA) and mathematics, that define the knowledge and skills all students should master by the end of each grade level. The standards require students and teachers to focus on fewer topics and concepts while emphasizing depth, detail, and critical thinking skills. Maryland adopted CCSS in June 2010 and has since worked to design a State curriculum, the Maryland College and Career Ready Standards (MCCRS), which aligns with the standards.

MCCRS is being fully implemented statewide in the 2013-2014 school year. To aid the transition to the new curriculum, the Maryland State Department of Education (MSDE) has been holding Educator Effectiveness Academies during each summer since 2010,

including 11 regional academies during the summer of 2013. The Educator Effectiveness Academies provide professional development on the new curriculum, assessments, and teacher and principal evaluations to teams of educators from each of the State's 1,500 schools. Each school team consists of four representatives that include the principal and teachers of ELA, mathematics, and STEM (science, technology, engineering, and mathematics). Each team is required to develop a transition plan for the school to move to full implementation of MCCRS, and plans were required to be submitted to MSDE by October 2013. MSDE will deploy teams from the Division of Curriculum, Accountability, and Assessment to local education agencies to develop a needs assessment and provide additional support. Information provided at the Educator Effectiveness Academies has been uploaded to MSDE's Blackboard Learn, the department's online professional content management tool, along with updated model units and lessons from mdk12.org.

In addition, MSDE partnered with the University System of Maryland and other education and higher education stakeholders to convene a Teacher Education Summit in October to review the major issues and components of teacher education in Maryland in order to identify common challenges, themes, and priorities to meet the issues presented by MCCRS and other changing needs of students and society.

Partnership for Assessment of Readiness for College and Careers

MCCRS will require a new assessment system that can measure the content and skills found in the curriculum. RTTT funding was awarded to two state-run consortiums to develop new assessments aligned with CCSS. In spring 2010, Maryland joined the Partnership for Assessment of Readiness for College and Careers (PARCC), a consortium of 14 states working to develop a common set of assessments aligned to CCSS for ELA and mathematics. Then, in November 2013, Maryland was asked to manage the federal grant for the PARCC consortium and serve as its fiscal agent in place of Florida beginning on January 1, 2014.

The PARCC assessments will measure student progress and track status on a trajectory toward college and career readiness. The goal for the assessments is to be entirely computer-based in order to provide more timely feedback to educators to be used to target or improve instruction during the instructional year. The assessments will have two parts – a midyear performance-based assessment and an end-of-year assessment. According to MSDE, field testing of the PARCC assessments, which are intended to replace the reading and math Maryland School Assessment (MSA)¹ and most of the High

¹ The science MSA will continue to be given in grades 5 and 8 until the Next Generation Science assessment currently under development is completed. The Alt-MSA and English Language Learners MSA will be replaced by new tests in addition to the PARCC tests.

School Assessments (HSAs)², will take place in spring 2014 in PARCC states. Maryland is the only state that will field test PARCC in nearly every school. The PARCC field test will include both paper-based and computer-based assessments; however, the field test will only include the midyear performance-based assessment. Full implementation of PARCC is planned for the 2014-2015 school year, although the schedule for phasing out HSAs is still under development.

State Assessment Legislation

Beginning with the 2014-2015 school year, according to State law, the State Board of Education and the State Superintendent of Schools must implement assessment programs in reading, language, mathematics, science, and social studies that include written responses. At the middle school level, the assessment program must be a statewide, comprehensive, grade band program that measures the learning gains of each public school student towards achieving mastery of the standards set forth in the State's adopted curricula or the common core curricula. At the high school level, the assessment program must be a statewide, standardized, end-of-course assessment that is aligned with and that measures each public school student's skills and knowledge of the State's adopted curricula.

After the 2014-2015 school year, the State Board of Education must determine whether the assessments at the middle school and high school levels adequately measure the skills and knowledge set forth in the State's adopted curricula for the core content areas of reading, language, mathematics, science, and social studies. If the State Board of Education determines that an assessment does not adequately measure the skills and knowledge set forth in the State's adopted curricula for a core content area, MSDE must develop a State-specific assessment in that core content area to be implemented in the 2016-2017 school year.

If the State Board of Education has not adopted an assessment to measure the common core curricula before July 30, 2014, the middle school assessments and the evaluation of the middle school assessments may not be implemented until the first day of school in the school year that follows the adoption of an assessment to measure the common core curricula by the State board.

Challenges with Implementing MCCRS and Transitioning to PARCC

The implementation of MCCRS has not been without challenge. A survey of 745 teachers conducted in November 2013 by the Maryland State Education Association

² The Government HSA will continue to be required for graduation and the Biology HSA will be replaced with the Next Generation Science Assessment currently under development.

(MSEA) indicated that 64.9% of the teachers surveyed did not feel adequately prepared to implement MCCRS. In addition, 86.8% of the teachers surveyed responded that there are still significant challenges to understanding and implementing MCCRS.

In order to provide more information to parents and the public about implementation of MCCRS and to address concerns with CCSS, the State Board of Education, in partnership with the Maryland Parent Teacher Association, held public forums around the State during fall 2013, noting specifically that CCSS is a set of learning goals, not a curriculum. Maryland developed its own curriculum based on State-specific standards aligned with CCSS. Legislation was introduced in at least 14 states in 2013 to pull out of CCSS or prohibit funding to implement CCSS. Indiana is the only state that has passed legislation to “pause” CCSS implementation; however, although legislation to stop CCSS implementation in Michigan failed, funding to implement CCSS was removed from its budget. To date in 2014, legislation to pause, stop, or “void” CCSS agreements has been introduced in at least 12 states including Maryland.

The transition to PARCC is also not without challenge. Maryland has requested an amendment to its ESEA Flexibility Waiver to allow the PARCC field test to meet the federal requirement that all students be assessed annually in grades three through eight and high school in specific subjects. Otherwise, students participating in the PARCC field test would also have to take the MSA in spring 2014, which would result in double testing of those students. MSDE anticipates that, with a few exceptions, one classroom in each elementary and middle school will take PARCC in reading or math and the MSA in the other area; one class in each high school will take PARCC in a non-HSA reading or math course. The 2013-2014 school year is the last year that most MSAs are expected to be administered. Some have argued that the MSAs should not be given this school year, since they are not aligned with MCCRS. However, since Title I of ESEA requires the annual assessments and that the results be made publicly available, Maryland could be found out of compliance with the law and risk losing a portion of the approximately \$280.9 million in federal Title I funds and other federal funds targeting at risk students received in 2012-2013. In response to a California law enacted in October 2013, USDE notified California that it risked losing up to \$3.5 billion in federal funds if it does not administer state assessments this year. California recently applied to USDE for an ESEA waiver from double testing and wants to give only the common core field tests to all primary school students in spring 2014.

Student test scores are expected to drop as PARCC is implemented since the tests are more rigorous and tied to college and career readiness. Stakeholders have expressed concerns that the anticipated drop in test scores may shake confidence in MCCRS and the new assessments. Already student proficiency scores have declined slightly in Maryland, as the MSA scores from spring 2013 in elementary school reading and mathematics and middle school mathematics reflect the transition to MCCRS in many school systems

during the 2012-2013 school year. This misalignment between the curriculum and assessments will continue during this school year and is also expected to affect spring 2014 MSA scores. MSDE has implemented a PARCC Transition Committee to address the concurrent implementation of PARCC and the phasing out of MSA and most HSAs. One of the transition committee's key tasks is preparing a public communication plan to describe the implementation of PARCC, the phase out of most HSAs, the anticipated score results of PARCC assessments and their implications, and the college- and career-ready cut scores to the various stakeholders.

Finally, the full cost to administer PARCC is still unknown. In July 2013, PARCC announced that the summative math and reading tests would cost \$29.50 per student. This is a little less than the \$32 per student Maryland currently spends on assessments, but it does not reflect several other formative tests PARCC is developing that Maryland may select or the technology infrastructure required in every school to handle the capacity and network requirements to administer the computer-based assessments. Many schools do not have sufficient technology infrastructure to meet these requirements. MSDE is in the process of assessing the technology readiness of Maryland's schools. The local school systems identified over \$100 million in needed technology improvements to implement PARCC online. MSDE has contracted with Education Superhighway, a consulting firm, to evaluate the technology gap to implement PARCC online by the 2016-2017 school year. Several states, most recently Georgia and Oklahoma, have recently left the PARCC consortium over cost concerns. There are also long-term budget implications for maintenance and operational costs of assessment administration upon the termination of federal RTTT grant funds to the State and to PARCC.

A related challenge to implementing MCCRS and transitioning to PARCC involves using the student growth component, a large part of which is based on test results, in a teacher's or principal's evaluation. The MSEA survey found that 82.7% of the teachers surveyed responded there are still significant challenges to understanding and implementing the new teacher evaluation systems. Maryland's current ESEA Flexibility Waiver states that personnel decisions will be informed by the evaluation system based on student growth in the 2014-2015 school year; however, MSDE has requested a delay of this requirement until the 2016-2017 school year in order to be respectful and responsive to the complexity and change inherent in new standards, new curricula, and applying test scores that may not yet be perfectly aligned to hiring and firing decisions. Further, MSDE states that allowing for additional time will both elevate teacher and principal confidence in MCCRS and give local school systems and the State more time to validate that component measures are performing as planned and that the combined measurements of performance correctly reflect educator performance and the concomitant professional development of each educator.