

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 1081
Ways and Means

(Delegate Bates, *et al.*)

Education - Public Schools - Petitions for Intervention

This bill authorizes parents or legal guardians of students attending a public school, or that would matriculate into the public school, to petition the local board of education to implement an intervention if the school is subject to corrective action for at least one full school year and continues to fail to make adequate yearly progress (AYP). If more than 50% of the parents or legal guardians sign the petition, the local school board must implement the requested intervention.

The intervention may be an educational choice model, a restart model, or a school closure model. Any student of, or a student who would normally attend, a school petitioned for the educational choice model intervention must have the option of either using a monetary scholarship equal to a specified amount to attend any private school or attending another public school, including one outside the county in which the student resides, free of charge. The State Board of Education must adopt regulations to implement the bill.

Fiscal Summary

State Effect: General fund expenditures for the Maryland State Department of Education (MSDE) increase by \$37,600 in FY 2012 to hire a part-time educational specialist to oversee the school intervention process. Future year expenditures reflect annualization and inflation. Beginning in FY 2014, general fund expenditures increase by at least \$3,500 per student who obtains a scholarship due to the school choice model who would otherwise have attended a private school without the scholarship (not shown in box). Revenues are not affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	37,600	45,200	47,400	49,800	52,300
Net Effect	(\$37,600)	(\$45,200)	(\$47,400)	(\$49,800)	(\$52,300)

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

Local Effect: If parents and guardians choose to petition a local school system for an intervention, local school system administrative expenditures may increase to certify that a petition has satisfied all requirements established by law and regulation and to oversee the implementation of the requested intervention. The school choice model will cause a local school system to transfer a significant amount of money to private schools and/or other local school systems. Student transportation costs may increase significantly. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: If a school choice model is implemented, additional students may seek to attend private schools. Private schools may choose to admit additional students or not.

Analysis

Bill Summary:

Petition and Intervention Requirements

A local board must notify the State Superintendent of Schools and the State Board of Education on receipt of a petition and of its final disposition regarding the petition.

Within 60 days after receipt of a petition, the local board must make a determination, in writing, regarding disposition of the petition. The determination must be made following a public hearing regarding the petition, which is conducted as part of a regularly scheduled meeting of the local board. If the local board determines that it cannot implement the intervention requested by a petition, it must describe in writing the reason it cannot do so, and designate another intervention it will implement in the subsequent school year.

The alternative intervention must be consistent with federal regulations and guidelines and regulations adopted by the State board. If a local board implements an intervention, the intervention must be considered an alternative governance arrangement that satisfies the requirements of federal law.

If the local board indicates that it must implement a different intervention from the intervention request by the petition, the local board must notify the State Superintendent

and the State board that the alternative intervention selected has been determined by the local board to have substantial promise of enabling the school to make AYP.

Restart Model

The “restart model” is defined as a model in which a local board converts a school or closes and reopens a school under a charter school operator, a charter management organization, or an education management organization that has been selected through a rigorous review process. Any former student who wishes to attend the school may enroll.

School Closure Model

The “school closure model” is defined as a model in which a local board of education closes a school and enrolls the students who attended the school in other schools in the system that are higher achieving and are within reasonable proximity to the closed school, including charter schools or new schools for which achievement data is not yet available. If a school that meets these requirements does not exist, the local board must implement the educational choice model.

School Choice Model – Scholarship Requirements

A student of a school petitioned for the educational choice model qualifies for an annual scholarship to attend a private school in an amount equal to the lesser of:

- 75% of the petitioned school’s annual cost per pupil, including both operational and capital facility costs; or
- 75% of the dollar amount the local school system would have received to educate the eligible student from State and local sources had the student enrolled in a school in that jurisdiction.

Any student of a school petitioned for intervention who seeks to enroll in a different public school must qualify for any public school without additional cost. The local school system must then forward the dollar amount that the petitioned school would have received from State and local sources to the local school system in which the student enrolls.

Any funds available to a student are to be calculated using an average of the last three fiscal years and recalculated each year. Funds are required to be made available to each student until the student completes high school or the student’s twenty-first birthday, whichever is earlier.

A local school system must include a student enrolled as a result of a scholarship in its full-time equivalent (FTE) enrollment to receive State funds.

Regulations and Regulatory Authority

The regulations adopted by the State board must establish procedures for a local board to certify that a petition has satisfied all requirements established by law and regulation relating to the petition, including whether the signatures contained in the petition are sufficient to require implementation of an intervention.

The provisions in the bill do not expand the regulatory authority of the State, the State's officers, or any local school system to impose any additional regulation of private schools beyond those reasonably necessary to enforce the requirements of the bill.

Current Law: State law does not require local school systems to implement interventions petitioned by parents and guardians. The State does not provide scholarships or vouchers for students to attend private schools or public schools in other jurisdictions.

Background: In 2010, California enacted the "parent trigger law." Under the law, if 51% of parents in a failing school sign a petition, they can force the local school system to turn the school into a charter school, force certain administrative changes, or shut down the school entirely. Only a school that has failed to make AYP for four consecutive years is eligible. Connecticut enacted similar legislation that allows local school boards with low-achieving schools to create school governance councils made up primarily of students' parents. The council are empowered to, among other things, vote to reorganize low-achieving schools.

In addition, legislation allowing parents to petition for a school intervention has been introduced in Georgia, Indiana, New Jersey, Michigan, Missouri, Texas, and West Virginia. Under the Missouri legislation, if 51% of parents signed a petition, they could force (1) the school to be turned into a charter school; (2) the school to be closed and their children transferred to a better public school in the same district; or (3) the public to pay for vouchers covering most of the cost of private schooling.

States have experimented with school choice in a variety of forms, including charter schools, magnet schools, tax credits and deductions, vouchers and scholarships, and home schooling. The issue is also often broken down into private school choice and public school choice.

Scholarship or school voucher programs targeted to specific student populations have been implemented in the District of Columbia and seven states – Arizona, Florida, Maine,

Ohio, Utah, Vermont, and Wisconsin. Some of the programs provide vouchers to low-income or special education students, while other programs make vouchers available to students in struggling schools or to foster care children. In Maine and Vermont, the voucher programs address areas of the states that do not have local public schools, allowing students to attend nonsectarian private schools closer to their homes. All of the voucher programs operating in the United States target a specific subset of the general student population.

The restart model and the school closure model are two of the four intervention strategies that a local school system may use to address its lowest achieving schools under the Race to the Top grant. The restart model and the school closure models are defined as they are in the bill. The other two intervention models are the “turnaround model” and the “transformation model.” In the “turnaround model,” the local school system replaces the principal and rehires no more than 50% of the staff, gives the principal greater autonomy, and implements other recommended strategies. The “transformation model” requires that the local school system replace the principal, implement a rigorous staff evaluation and development system, institute a comprehensive instructional reform, increase learning time, apply community-oriented school strategies, and provide greater operational flexibility and support for the school.

The federal No Child Left Behind (NCLB) Act of 2001 aims to bring all students up to the proficient level on state tests by the 2013-2014 school year. NCLB requires all districts and schools receiving Title I funds to make “adequate yearly progress” in all of the school’s targets in three reported areas: reading, mathematics, and one other academic indicator in a particular year. In addition to meeting the AYP goals for their total student population, a school must meet AYP goals for specified subgroups including, major ethnic/racial groups, students receiving free or reduced price meals, limited English proficient students, and students receiving special education services.

Under NCLB, a school that fails to meet AYP goals in the same reported area (reading, mathematics, attendance rate, or graduation rate) for two consecutive years is classified as a school “in need of improvement” and faces the consequence of allowing students to transfer to another public school in that school district. For each subsequent year that a school fails to meet its AYP goals, the school’s “in need of improvement” status advances and the school faces additional consequences. A school is no longer considered “in need of improvement” when it meets AYP for two consecutive years.

In July 2008, Maryland received approval from the U.S. Department of Education to participate in a differentiated accountability pilot for school improvement, allowing the State to place a school on one of two pathways depending on the scope of a school’s needs. The comprehensive needs pathway is for schools with a wider pattern of student subgroup failures, while the focused needs pathway is for a school that has only one or

two subgroups failing to meeting AYP. Maryland’s accountability plan calls for all schools, not just Title I schools, to be identified for improvement when they do not achieve AYP for two consecutive years; however, certain federally mandated interventions such as supplemental educational services and school choice will only be offered to students attending Title I schools in improvement. **Exhibit 1** shows how the federal NCLB designations map to Maryland’s differentiated accountability pathways.

Exhibit 1
Comparison of NCLB Categories with Differentiated Accountability Designations

Years Not Achieving AYP	NCLB Designation	Differentiated Accountability School Pathways	
0	Meeting AYP	Meeting AYP	
1		Alert Schools	
	Schools in Improvement (Consequences)	Comprehensive Needs Schools	Focused Needs Schools
2	School Improvement 1 (School transfer options)	Developing Comprehensive Needs Schools	Developing Focused Needs Schools
3	School Improvement 2 (Supplemental services)		
4	Corrective Action (one of six targeted actions)		
5	Restructuring Planning	Priority Comprehensive Needs Schools	Priority Focused Needs Schools
6	Restructuring Implementation		
7+			

Under NCLB, if a school has missed AYP for two years and is classified as a “School in Improvement 1,” then all students enrolled in the school must have the option to transfer to another public school served by the local school system, which may include a public charter school that has not been identified for school improvement. If a school misses AYP for an additional year and is classified as a “School in Improvement 2” then, in addition to being given an option to transfer, the local school system must make free supplemental educational services available to students.

If a school is in “corrective action” then, according to NCLB, the local school system is required to take at least one of the following corrective actions:

- replace the school staff who are relevant to the failure to make AYP;

- institute and fully implement a new curriculum (including providing appropriate professional development for all relevant staff) that is based on scientifically based research and offers substantial promise of improving educational achievement for low-achieving students and enabling the school to make AYP;
- significantly decrease management authority at the school level;
- appoint an outside expert to advise the school plan;
- extend the school year or school day for the school; or
- restructure the internal organizational structure of the school.

If a school fails to meet AYP for five consecutive years, it must continue to allow students to transfer, continue to make supplemental educational services available, and prepare a plan to make necessary arrangements to implement an alternative governance arrangement. One of these alternative governance arrangements must be implemented in a school if it fails to make AYP for six consecutive years. The local school system is allowed to choose from the following alternative governance arrangements:

- reopening the school as a public charter school;
- replacing all or most of the school staff (which may include the principal) who are relevant to the failure to make AYP;
- turning the operation of the school over to the State educational agency, if permitted under State law and agreed to by the State; or
- any other major restructuring of the school's governance arrangement that makes fundamental reforms.

In 2010, there were 202 schools in Maryland identified for focused or comprehensive improvement. During the 2009-2010 school year, there were more than 100,000 kindergarten through grade 12 students enrolled in private schools in the State.

State Fiscal Effect: General fund expenditures increase by \$37,600 in fiscal 2012, which accounts for the bill's October 1, 2011 effective date. This estimate reflects the cost of hiring a part-time education specialist to oversee the school intervention process at the State level, develop regulations, monitor petitions, and assist local school systems with federal requirements.

MSDE anticipates that one full-time position is needed to implement this bill. However, the Department of Legislative Services advises that while there are approximately 200 schools in improvement status, only a limited number of these schools are anticipated to receive enough signatures to implement an intervention. Therefore, only a part-time education specialist will be required. The estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>
Position	0.5		
Salary and Fringe Benefits	\$32,979	\$44,777	\$47,014
Operating Expenses	304	409	\$413
Start-up Costs	<u>4,335</u>	<u>0</u>	<u>0</u>
Total State Expenditures	\$37,618	\$45,186	\$47,427

Future year expenditures reflect a full salary with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

The bill specifies that students receiving scholarships through the educational choice model are included in the annual September 30 full-time equivalent (FTE) enrollment counts used to determine State aid allocations to local school systems. Implementing the educational choice model intervention allows any students who are eligible to attend the petitioned school to get scholarships. Under current law, a portion of these students would likely be attending private schools without being included in the State aid counts. Any students who would otherwise be attending a private school who are included in the FTE count under the bill, therefore, represent a new cost for the State. Given the bill's October 1, 2011 effective date, the first FTE enrollment count that could be affected by the bill is September 30, 2012. Each additional student picked up in that count will result in about \$3,500 in additional fiscal 2014 State costs under the State share of the foundation program. The number of additional FTE students that will be included in the aid calculations cannot be reliably estimated.

Local Fiscal Effect: If parents and guardians choose to petition a local school system for an intervention, local school system administrative expenditures may increase to certify that a petition has satisfied all requirements established by law and regulation and to oversee the implementation of the requested intervention. The magnitude of the impact will depend on the number of schools affected and the intervention model implemented at each school.

If a student who could have normally attended a school petitioned for the educational choice model of intervention seeks a scholarship to attend a private school, the local school system must provide that student with a scholarship in an amount equal to the lesser of: (1) 75% of the petitioned school's annual cost per pupil, including both operational and capital facility costs; or (2) 75% of the dollar amount the local school system would have received to educate the eligible student from State and local sources had the student enrolled.

Therefore, under this option, the local school system will not be responsible for educating the student but will be allowed to retain 25% of the funds that would have been spent to

educate that student. However, the local school system will be obligated to provide scholarships for students who would have attended a private school regardless of the scholarship program.

Exhibit 2 shows 75% of the average amount of State and local funds spent per pupil in each of the local school systems over the past three years, which is an estimate of how much a scholarship for a private school would be if a school choice model was implemented.

Exhibit 2
Estimated Scholarship Amount for a Student under the School Choice Model
75% of State and Local Funds Spent per Pupil
(Three-year Average)

<u>County</u>	<u>Estimated Scholarship Amount</u>	<u>County</u>	<u>Estimated Scholarship Amount</u>
Allegany	\$9,611	Harford	\$8,432
Anne Arundel	8,782	Howard	10,183
Baltimore City	10,277	Kent	9,893
Baltimore	8,982	Montgomery	10,686
Calvert	8,654	Prince George's	9,244
Caroline	7,907	Queen Anne's	8,006
Carroll	8,483	St. Mary's	7,903
Cecil	8,081	Somerset	9,025
Charles	8,631	Talbot	8,035
Dorchester	8,389	Washington	8,261
Frederick	8,461	Wicomico	8,790
Garrett	8,461	Worcester	10,693

If a student who would have normally attended a school petitioned for the educational choice model of intervention seeks to attend a school in another local school system, the local school system that enrolls the student will receive the amount that the petitioned school would have received from State and local sources from the student's original school system. Therefore the student's original school system will spend the same amount to educate the student, but because local school systems spend different amounts of State and local funds to educate their students, the receiving school system may receive more or less money than it would have spent to educate one of its own students. However, the overall impact on a local school system receiving a student is not anticipated to be large because the overall number of students taking this option is not

anticipated to be significant enough to affect overall expenditures. During the past three years, State and local governments spent an average of approximately \$12,500 per student.

If a student who is currently attending a private school chooses to attend a school in another local school system due to the educational choice model intervention, then local school system expenditures will increase. During the past three years, local governments spent an average of approximately \$6,500 per student.

Student transportation is a potentially significant cost for local school systems where the educational choice model is implemented. The bill does not address the question of transporting students to and from private schools or schools in other systems.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Department of Education; Carroll and Montgomery counties; Department of Legislative Services

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Analysis by: Caroline L. Boice

Direct Inquiries to:
(410) 946-5510
(301) 970-5510