

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

Senate Bill 776 (Senator Ferguson)  
Education, Health, and Environmental Affairs

**Parent Empowerment Act of 2011**

This bill authorizes parents and legal guardians of students attending a 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 at least 51% of the parents or legal guardians sign the petition, the local school board must implement the requested intervention, unless the request is based on reasons other than improving academic achievement or student safety or the local board determines it cannot implement the intervention. If it cannot implement the requested intervention, then the local board must implement an alternative intervention. The State Board of Education must adopt regulations to implement the bill by January 1, 2012.

The bill takes effect July 1, 2011.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$37,600 in FY 2012 for the Maryland State Department of Education (MSDE) to hire a part-time educational specialist to oversee the school intervention process. Future year expenditures reflect annualization and inflation. 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.

**Small Business Effect:** None.

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## Analysis

### Bill Summary:

#### *Petition and Intervention Requirements*

A petition must be submitted by January 15 of the year preceding the school year of implementation and must be based on improving academic achievement or student safety. 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 90 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.

No more than 5% of the schools in a county or five schools in a county, whichever is fewer, may be subject to a petition at one time. A petition is counted toward the limit established once the State Superintendent and the State board receive notice from the local board of the board's final disposition of the petition.

The regulations adopted by the State board must establish procedure 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 satisfy the requirement that 51% of parents or legal guardians of students at a public school sign the petition.

It is the intent of the General Assembly that the interventions and alternative governance arrangements be implemented in part or in whole with funds available under the State's Race to the Top grant or designated for MSDE's Breakthrough Center.

### *Interventions*

“Interventions” that parents and guardians may request include the following 15 options:

- replacing the principal who led the school;
- using rigorous, transparent, and equitable evaluation systems for teachers and principals that include data on student growth, multiple observation-based assessments of performance, and ongoing collections of professional practice reflective of student achievement and increased high school graduation rates that are designed with teacher and principal involvement;
- identifying and rewarding school leaders, teachers, and other staff who have increased student achievement and high school graduation rates;
- identifying and removing those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;
- providing staff with ongoing, high-quality, job-embedded professional development, including subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, or differentiated instruction aligned with the school's comprehensive instructional program and designed with school staff to ensure they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;
- implementing strategies, including financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students;
- providing additional compensation to attract and retain staff with the necessary skills to meet the needs of the students;
- instituting a system for measuring changes in instructional practices resulting from professional development;
- using locally adopted competencies to measure the effectiveness of staff who can work within the alternative governance arrangement to meet the needs of students

by screening all existing staff and rehiring no more than 50%, and selecting new staff;

- providing staff with ongoing, high-quality job-embedded professional development that is aligned with the school's comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;
- using data to identify and implement an instructional program that is researched-based and vertically aligned from one grade to the next as well as aligned with State academic standards;
- promoting the continuous use of student data, including formative, interim, and summative assessments, to inform and differentiate instruction in order to meet the academic needs of individual students;
- establishing schedules and implementing strategies that provide increased learning time;
- providing appropriate social-emotional and community-oriented services and supports for students; and
- implementing a themed model or a dual language academy.

**Current Law:** State law does not require local school systems to implement interventions petitioned by parents and guardians.

**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 councils 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.

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.

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.

**Exhibit 1**  
**Comparison of NCLB Categories with Differentiated Accountability Designations**

| <b>Years Not Achieving AYP</b> | <b>NCLB Designation</b>                         | <b>Differentiated Accountability School Pathways</b> |                                  |
|--------------------------------|---|--|----------------------------------|
| 0                              | Meeting AYP                                     | Meeting AYP  |                                  |
| 1                              |   | Alert Schools  |                                  |
|                                | <b>Schools in Improvement (Consequences)</b>    | <b>Comprehensive Needs Schools</b>                   | <b>Focused Needs Schools</b>     |
| 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+                             |   |  |                                  |

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.

On August 24, 2010, Maryland was awarded a federal Race to the Top (RTTT) grant in the amount of \$250 million over four years. MSDE will receive \$125 million to support school reform, and the 22 participating local school systems will collectively receive \$125 million to use over four years. MSDE will use its \$125 million from the RTTT fund to implement 54 projects specified in the State’s RTTT application. One of Maryland’s primary reforms is to fully implement the innovative Breakthrough Center approach for transforming low-performing schools and districts. The Breakthrough Center provides intensive technical support to schools that “feed” students into a low-performing middle or high school. With \$4.3 million from RTTT, the center will be able to serve an additional 10 low-achieving feeder schools.

**State Expenditures:** General fund expenditures increase by \$37,600 in fiscal 2012, which accounts for a 90-day start-up delay after the bill’s July 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 part-time 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>        |
| <b>Total State Expenditures</b> | <b>\$37,618</b> | <b>\$45,186</b> | <b>\$47,427</b> |

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

**Local Expenditures:** 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.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Department of Education, Frederick and Montgomery counties, Department of Legislative Services

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