

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

House Bill 406 (Delegate Long, *et al.*)
 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, 2015.

The bill takes effect June 1, 2015.

Fiscal Summary

State Effect: The bill’s requirements will put the State out of compliance with the federal Elementary and Secondary Education Act (ESEA) and ESEA waiver, jeopardizing up to \$197.6 million in federal Title I revenues or requiring the funding to be redirected to tutoring and teacher training until new assessments are developed (not shown). The Maryland State Department of Education (MSDE) expenditures increase by \$39.3 million in FY 2016 to administer alternate assessments and to hire 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 \$15.0 million annually beginning in FY 2016. Out-years reflect the additional cost of the new CACR assessment over what the PARCC assessment would have cost.

(\$ in millions)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
FF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	\$24.3	\$47.1	\$39.1	\$37.8	\$37.5
Net Effect	(\$24.3)	(\$47.1)	(\$39.1)	(\$37.8)	(\$37.5)

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

Local Effect: Local school system federal Title I 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, 2015.

References to the common core curricula are repealed so that the assessment program may only be based on the State's adopted curricula.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: MSDE received an ESEA waiver from USDE that was initially approved in 2012, with subsequent amendments/extensions through the 2014-2015 school year. A new waiver request must be submitted to USDE in spring 2015 that would apply to the 2015-2016 school year.

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.

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 3 through 8 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.

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.

ESEA requires annual assessments of all students in grades 3 through 8 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.

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.

According to State procurement regulations, in general, contracts with the State must include a termination for convenience clause. According to the short form of the required clause, the State will pay all reasonable costs associated with the contract that the contractor has incurred up to the date of termination and all reasonable costs associated with termination of the contract. However, the contractor must not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

Background: The new State curriculum known as the Maryland College- and Career-Ready Standards (MCCRS), which is aligned with the CCSS, was fully implemented statewide in the 2013-2014 school year. The MCCRS frameworks were accepted by the State Board of Education in June 2011.

As a result of the new curriculum, Maryland also required a new assessment system. In 2010, after adopting CCSS, Maryland joined PARCC, which is a consortium of 12 states (as of February 2015) working to develop a common set of assessments in English language arts and mathematics aligned to CCSS and, in turn, to MCCRS. PARCC measures student progress and tracks status on a trajectory toward college and career readiness.

In 2014, the Board of Public Works approved two contracts submitted by MSDE for the administration of the PARCC assessments. The first is an operational contract with NCS Pearson for the development, administration, scoring and reporting of the PARCC assessments. There is a not-to-exceed amount assigned to the contract of \$59.6 million over a four-year period (fiscal 2015 through 2018). With regard to the program management and support contract, all PARCC consortium states have agreed to share the cost of these services through PARCC Inc. The total annual cost is \$5.5 million, with Maryland’s share equaling approximately \$500,000 each year. Each state’s share is

reflective of that state's percentage of the total number of students in grades 3 through 11 in all PARCC consortium states who are eligible for PARCC testing.

PARCC was field tested in spring 2014, and the State will replace the Maryland School Assessments (MSA) in English language arts/literacy and mathematics with the PARCC assessments in the 2014-2015 school year. The State Board of Education recently voted on a transition plan to replace the High School Assessments (HSA) in English 10 and Algebra I with the PARCC assessments.

For more information on Maryland's implementation of CCSS, see the **Appendix – Maryland College- And Career-Ready Standards – Common Core and Transitioning to the Partnership for Assessment of Readiness for College and Careers.**

USDE revoked Washington State's ESEA waiver at the end of the 2013-2014 school year because the state failed to tie teacher evaluations to student performance metrics in a timely fashion. As a result of USDE's decision, school districts in the state will have to redirect roughly \$38 million in federal funding toward private tutoring for at-risk students next year, instead of using the Title I funds to pay for district programs for low-income students. In addition, the school districts have to set aside an additional 10% of their Title I funds, approximately \$19 million annually statewide, to pay for professional development and teacher training. For the current 2014-2015 school year, 42 states, the District of Columbia, Puerto Rico, and a group of eight California school districts have ESEA waivers.

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 leaves the State without a CACR curriculum and assessments, which will put the State out of compliance with its federal ESEA waiver.

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.

If Maryland fails to administer annual assessments as required by ESEA, the federal government could potentially withhold approximately \$197.6 million each year until the annual assessment requirement is met, or require funding to be redirected to private tutoring and teacher training similar to when USDE revoked Washington State's ESEA waiver.

State Expenditures: To avoid the penalty it is assumed that MSDE will revert to administering MSAs and HSAs. As shown in **Exhibit 1**, it will cost a total of approximately \$24.5 million to administer the MSAs and HSAs needed to meet the federal testing requirements: \$15.3 million to administer the MSAs in English language arts and

mathematics; and \$9.2 million to administer the HSAs in English and Algebra. While MSAs and HSAs will meet the annual assessment requirement under ESEA, since they are not CACR assessments, Maryland will still be out of compliance with its ESEA waiver and, therefore, revert to the NCLB requirements.

Exhibit 1
Total Assessment Costs
(\$ in Millions)

	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Administer MSAs/HSAs	\$24.5	\$25.0			
Contract to Develop CACR 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	(15.0)	(18.6)	(16.6)	(17.0)	(17.3)
Total	\$24.3	\$47.1	\$39.1	\$37.8	\$37.5

Source: Department of Legislative Services

Under NCLB, 100% of students need to score proficient on State assessments beginning in spring 2014, a standard that is 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 2018.

General fund expenditures increase by \$14.8 million in fiscal 2016 for MSDE to hire eight full-time education specialists and an assessment vendor. The estimate assumes a start date of July 1, 2015, 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 2016 (see Exhibit 1). Field testing the assessment, which helps ensure the assessments are valid, reliable, and fair for all students, could be done in spring 2017 (fiscal 2017) at the earliest. Field testing will cost an estimated \$40 million. The assessment could be operational as early as spring 2018 with the setting of performance level occurring in the summer of 2018. 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 2018 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 2018 and decreasing to \$54 million annually beginning in fiscal 2019.

The Department of Legislative Services advises that there also would be ongoing savings associated with not administering the PARCC assessments. According to the State's contract with PARCC, MSDE is scheduled to pay a total of \$16.6 million for PARCC assessments in fiscal 2016. However, due to the termination for convenience clause, MSDE will not be able to recover all of those costs for fiscal 2016. For the purposes of this estimate, it is assumed that 10% of the contract costs will be retained by the contractors or \$1.7 million, in fiscal 2016. Thus, expenditures decrease by approximately \$15.0 million in fiscal 2016 (as shown in Exhibit 1).

Based on annual contract costs in fiscal 2017 and 2018 and projected 2% annual increases for fiscal 2019 and 2020 (see Exhibit 1), expenditures for PARCC will decrease by at least \$16.6 million per year beginning in fiscal 2018. Total additional ongoing expenditures for administering a non-PARCC assessment will be an estimated \$39.1 million in fiscal 2018 decreasing slightly in the out-years.

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 \$751,230 in fiscal 2016, which assumes a July 1, 2015 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 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
New Positions	8	-	-
Salary and Fringe Benefits	\$712,270	\$726,816	\$760,773
Start-up/Operating Expenses	<u>38,960</u>	<u>4,727</u>	<u>4,774</u>
Total	\$751,230	\$731,543	\$765,547

Local Revenues: Local school system federal Title I revenues may be jeopardized or spending flexibility may be reduced. Local school systems are anticipated to receive \$197.6 million in federal Title I revenues in 2015-2016.

Additional Information

Prior Introductions: HB 76 of 2014 received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: None.

Information Source(s): Maryland State Department of Education, Maryland Association of Counties, Maryland Association of Boards of Education, National School Boards Association, www.politico.com, Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2015
min/rhh

Analysis by: Caroline L. Boice

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

Appendix – Maryland College- And Career-Ready Standards – Common Core and Transitioning to the Partnership for Assessment of Readiness for College and Careers

Common Core Standards (CCSS)

Recognizing that the economic success of individuals and of the nation depends in part on the strength of the educational system, a nationally unified movement was started to attempt to eliminate the wide variation in knowledge and skill expectations across the states. 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 and the District of Columbia initially adopted these standards, which are a set of academic standards in two subject areas, English language arts 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 was one of the first states to adopt these standards in June 2010, and has since worked to design a State curriculum, the Maryland College- and Career-Ready Standards (MCCRS), which align with CCSS. Beginning with the 2013-2014 school year, MCCRS were fully implemented in Maryland schools.

The Maryland State Department of Education (MSDE) had previously developed, and the State Board of Education had approved, a statewide curriculum or State standards that define what students should know and be able to do in the subject areas of fine arts, social studies, health, world languages, English language learners, school library media, financial literacy, environmental education, technology education, and physical education. For some of these curricula the standards, indicators, and objectives are written grade-by-grade, while others are written in three grade bands consisting of third through fifth grade, sixth through eighth grade, and ninth through twelfth grade. The State curriculum was cooperatively developed with the input of educators from public schools, colleges, and universities across the State, including content specialists, supervisors, and administrators. Final review of the curriculum was performed by outside content experts who benchmarked it against curricula from other states and countries.

Several states that initially adopted CCSS have recently reversed their decision. Twelve states have introduced legislation to repeal the standards outright. Indiana, South Carolina, and Oklahoma have signed into law the reversal of CCSS.

Partnership for Assessment of Readiness for College and Careers

With the adoption and implementation of the MCCRS, Maryland required a new assessment system that can measure the content and skills found in the new curriculum. In spring 2010, Maryland joined the Partnership for Assessment of Readiness for College and Careers (PARCC), a consortium of 13 states (as of November 2014) working to develop a common set of assessments aligned to CCSS for English language arts and mathematics. Then, in November 2013, Maryland was asked to manage the federal grant for the consortium and serve as its fiscal agent in place of Florida beginning on January 1, 2014.

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 school year. The assessments will have two parts: a midyear performance-based assessment and an end-of-year assessment. Field testing of the assessments began in most partnership states in spring 2014, and in Maryland nearly every school field tested either the paper-based or computer-based assessment in at least one classroom. Full implementation of PARCC assessments will occur in the 2014-2015 school year.

The PARCC assessments will replace the reading and mathematics Maryland School Assessment (MSA); the science MSA will continue to be given in grades 5 and 8 until the Next Generation Science Assessment is developed. PARCC assessment will also replace some of the Maryland High School Assessments (HSAs).

The 2013-2014 school year was the last school year high school students were required to take HSAs in English and mathematics. Under the new framework adopted by the State Board of Education, passing the PARCC assessments in English 10 and Algebra I will not become a graduation requirement until the 2016-2017 school year. The Government HSA will continue to be required for graduation, and the Biology HSA will be required until it is replaced with the Next Generation Science Assessment when it is completed.

MSDE anticipates administering 375,994 tests to students in grades 3 through 8, and 202,803 tests to high school students during the 2014-2015 school year. The goal for MSDE is to administer all tests online by school year 2016-2017; PARCC requires the tests to be administered online by the 2017-2018 school year.