

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 566
(Delegate Long)
Ways and Means

County Boards of Education - Virtual Schools - Requirement

This bill *requires* a local board of education, beginning in the 2021-2022 school year, in coordination with the Maryland State Department of Education (MSDE) to establish virtual schools to provide students with an alternative to traditional classroom instruction. The virtual schools must provide instruction for students in every grade level. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: State expenditures through the State education funding formulas may increase to the extent that the bill encourages students who are currently homeschooled or enrolled in a private school to enroll in a virtual public school. To the extent MSDE review of courses is required, revenues and expenditures increase correspondingly; however, any increases are likely not material.

Local Effect: Local school system and local government expenditures may increase to the extent that the bill encourages students who are currently homeschooled or enrolled in a private school to enroll in a virtual public school. Likewise State aid to local school systems may increase.

Small Business Effect: None.

Analysis

Current Law:

Establish a Public School

Subject to approval by the State Superintendent and in accordance with State Board of Education (SBE) regulations, a local board may establish a public school if, in its judgement, it is advisable. On approval by the State Superintendent, any school established becomes a part of the State program of public education. With the advice of the local superintendent of schools, a local board of education must determine the geographical attendance area for each school established.

Virtual Schools

“Virtual school” is defined as a public school established by MSDE or by a local board in which the school uses technology to deliver a significant portion of instruction to its students via the Internet in a virtual or remote setting.

Subject to the approval of MSDE, a local board may establish a virtual school. A virtual school is subject to all applicable federal and State laws and regulations governing the operation of a public school. A student who is eligible for enrollment in a public school in the State may enroll in a virtual school.

Enrolled students must be provided with a sequential curriculum that meets or exceeds the local standards and is approved by the SBE as well as regular assessments. Enrolled students must also be provided with the same length of time for learning opportunities per academic year that is required for public school students, unless the virtual school can show that a student has demonstrated mastery or completion of the subject area.

A virtual school’s curriculum must have an interactive program with significant online components.

A virtual school must provide the parents or guardians of enrolled students with instructional materials, including software, and information on the closest public facility that offers access to a computer, printer, and Internet connection. A virtual school may not provide funds for the purchase of instructional programs or materials to a student or to a student’s parent or guardian.

A teacher employed by a virtual school must have a teacher’s certificate issued by the State Superintendent. A virtual school must maintain an administrative office in the State that must be considered its principal place of business.

A virtual school must be evaluated each year by its sponsor based on the following criteria: (1) the extent to which the school demonstrates increases in student achievement according to local and State academic standards; and (2) the accountability and viability of the virtual school, as demonstrated by its academic fiscal, and operation performance.

SBE must adopt regulations related to virtual schools, including establishing minimum criteria for the establishment and approval of a virtual school.

Maryland Virtual Learning Opportunities Program

MSDE must provide Maryland virtual learning opportunities (MVLO) that include (1) offering a distance learning program to provide Maryland public school students with equal opportunities to develop a strong academic foundation; (2) offering expanded educational choices not otherwise available to students through online courses and services; and (3) expanding the professional development opportunities available to educational staff in Maryland public schools through online courses and services.

MSDE must develop, or review and approve, online courses and services. MSDE must also (1) develop standards for teachers and other school system employees for the offering of courses or services on the Internet or through other developing technologies and (2) review courses and courseware to assure quality and alignment with the Maryland content standards and other appropriate standards. Further, the development, review, and approval of an online course or service as part of the MVLO Program must include an assessment regarding the accessibility of the online course or service to individuals with disabilities, including the blind.

A local board of education may request that MSDE develop, or review and approve, online courses and services. MSDE may delegate this responsibility to a local board of education. If MSDE delegates this authority to a local board, the local board must request approval of the online course from MSDE once it has completed the development or the review and approval. A local board may impose reasonable fees to be paid by the vendor to cover the cost of reviewing and approving online courses and services and must remit 15% of the fees collected to MSDE. SBE may set reasonable fees for developing or reviewing online courses and services and for processing approvals for online courses and services.

Digital Learning – Regulations

According to the Code of Maryland Regulations, credit-bearing online courses provided to students by a local school system are subject to MSDE approval by a committee to ensure that the course meets instructional standards and is in compliance with the technology standards outlined in Section 508 of the Rehabilitation Act, State regulations, and the Web Content Accessibility Guidelines (WCAG) 2.0 Level AA (December 2008).

Noncredit bearing courses and blended courses (*i.e.*, those in which less than 80 % of the instruction is online) provided to students by a local school system do not require MSDE approval.

There are three options for obtaining review and approval of credit-bearing online courses. However, the regulations only contemplate vendor provided online courses, they do not address local curriculum delivered by teachers employed by the local school system.

Accessibility of Digital Learning Resources – Regulations

Each local board of education (and other specified agencies) must comply with WCAG 2.1 Level AA (June 5, 2018) when purchasing or selecting digital learning resources to provide equitable learning opportunities for all students.

State Expenditures: State expenditures through the State education funding formulas increase to the extent that the bill encourages students who are currently homeschooled or enrolled in a private school to enroll in a local virtual public school. The amount of any increase cannot be determined. There are nearly 30,000 homeschooled students in the State. Private schools enrolled approximately 61,000 students in kindergarten through grade 12 during the 2019-2020 school year (excluding publicly funded nonpublic school students). Due to the COVID-19 pandemic, these numbers increased for the 2020-2021 school year.

It is assumed that every student enrolled in a local virtual learning program will count as a full-time equivalent student (FTES) for the local school system in the September 30 enrollment counts used to distribute State education aid. In fiscal 2020, State aid per FTES was approximately \$8,000; however, the amount of State per pupil aid varied by local school system from about \$4,200 for Talbot County to about \$14,200 for Somerset County.

MSDE advises that there are three potential delivery models for virtual school: (1) local school system teachers use system curriculum to deliver virtual school; (2) local school system teachers use vendor curriculum to deliver virtual school; and (3) local school system uses vendor content and vendor schools.

This estimate assumes that local schools use local school systems teachers to deliver virtual school and, thus, assumes that the programs do not require MSDE to review and approve the virtual schools because the regulations only address vendor developed stand-alone courses.

However, to the extent MSDE review is required, MSDE revenues and expenditures increase. The Department of Legislative Services advises that any review will need to occur during the approximately three-month period between the bill's effective date (*i.e.*, July 1, 2021) and the beginning of the 2021-2022 school year. To the extent that any

required reviews cannot be conducted with existing staff resources, MSDE can charge local school systems a reasonable fee, as is required under the MVLO regulations, to cover the costs of hiring temporary contractual reviewers. Any such increase in revenues and corresponding expenditures cannot be reliably estimated.

Local Fiscal Effect: Local school system expenditures may increase if students currently homeschooled or enrolled in private schools decide to enroll in a local virtual public school. It is assumed that local virtual schools will receive the same per student funding as other students in the district. Per pupil local appropriations for public schools averaged about \$7,600 in fiscal 2020, ranging from about \$2,800 in Caroline County to \$14,100 in Worcester County.

It is assumed that local school systems can use the existing per pupil funding to provide virtual schooling for all grades. However, costs in some smaller systems or in school systems in which many students choose to attend the virtual school may not be fully absorbable during the short term because many local school system expenditures are fixed costs and cannot be quickly adjusted. Any such impact cannot be reliably estimated but may be mitigated by local school systems joining together to provide regional virtual schools (at least one is currently under development using federal Coronavirus Aid, Relief, and Economic Security Act funds).

This estimate assumes that the local school systems use local teachers to deliver local curriculum and that these curriculum do not need to be approved by MSDE. To the extent that MSDE review is required, local school system expenditures increase. However, it is assumed that any such expenditures can be absorbed.

Virtual schools may help to alleviate school construction costs for local school systems. Given the backlog of school construction requests across the State, it is assumed there is no immediate impact.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland State Department of Education; Baltimore County Public Schools; Prince George's County Public Schools; Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2021
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