

Department of Legislative Services  
Maryland General Assembly  
2025 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 819 (Senators Watson and Attar)

Education, Energy, and the Environment and  
Budget and Taxation

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Public Schools - Open Enrollment - Policies and Funding

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This bill authorizes a local board of education to adopt an open enrollment policy. The policy must (1) allow a child from a sending county to be enrolled in a receiving school free of charge; (2) reserve space for students who are enrolled in the receiving school during the previous school year for automatic enrollment in each subsequent school year without application; (3) be published in an easily accessible manner on the local board's website; and (4) comply with applicable federal and State antidiscrimination laws. The bill specifies mechanisms for providing State and local funding for students that take advantage of the open enrollment policy. **The bill takes effect July 1, 2025.**

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Fiscal Summary

**State Effect:** General fund expenditures increase by \$12,700 in FY 2026 to cover upgrades to the Maryland State Department of Education (MSDE) enrollment web data collection system. General and special fund expenditures (for State education aid) are altered by an indeterminate amount beginning as soon as FY 2027 based on local board adoption of open enrollment and parental participation. Additionally, general fund expenditures may increase to cover per-student cost differences as soon as FY 2026. Revenues are not affected.

**Local Effect:** To the extent that any local board of education adopts an open enrollment policy, State and local funding for public schools may be affected beginning as soon as FY 2026. The actual impact will vary by local school system and cannot be precisely estimated. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** “Receiving county” or “receiving school” means a county or a public school in a county which a student from a sending county is enrolled under an open enrollment policy. “Sending county” or “sending school” means a county or a public school in a county in which a student is domiciled with the student’s parent or guardian. “Open enrollment policy” means a policy adopted by a local board of education authorizing a child who is otherwise eligible to attend a public school in the State to attend a public school free of charge in a county other than the county where the child is domiciled.

A local board that adopts an open enrollment policy must establish a specified application process. An application review process must provide an enrollment preference for children who are (1) zoned to the school or (2) siblings of enrolled students. If the total number of applications received exceeds the receiving school’s open enrollment capacity, the review process must use an equitable selection process that maintains the above-mentioned preferences. A receiving school may deny an application to enroll a child for specified reasons.

A local board that adopts an open enrollment policy must (1) track the open enrollment capacity by school and grade level and (2) publish an easily accessible report on its open enrollment capacity on its website that is updated at least every four weeks. The bill specifies that a local board adopting an open enrollment policy or a school subject to that policy are not required to (1) alter the structure of a school or the arrangement or functions of rooms within the school; (2) establish or offer any particular new program at the school; or (3) alter or waive any established program eligibility criteria.

A school subject to an open enrollment policy must (1) consider any student enrolled under the policy enrolled for all purposes, including school attendance, accountability, and graduation, and (2) accept credits toward graduation awarded to a student by the sending county. A receiving county board may provide transportation services to a student; if so, the receiving county board must pay the associated transportation costs.

The bill defines “local current expense per student” as all expenditures made by a county-from-county appropriations for public elementary and secondary education in the previous fiscal year divided by full-time equivalent (FTE) enrollment. Each fiscal year, for each student enrolled in a school under an open enrollment policy in another county, the sending county board must send to the receiving county board an amount equal to the lesser of the local current expense per student in (1) the sending county or (2) the receiving county. If the local current expense per student in the sending county is less than in the receiving county, the State must provide the difference to the receiving county board.

The bill also specifies, consistent with current law, that certain students living near a county border who may attend a school in another county are exempted from State law requiring a student to attend the school designated to serve the student's attendance area.

**Current Law:**

*School Attendance Areas, Out-of-county Attendance, and Student Transportation*

Generally, a student must attend the school designated to serve the student's attendance area. However, local boards of education have various policies allowing for enrollment of or the transfer of a student outside of their attendance area, under certain circumstances. Unique hardship circumstances, childcare needs, programming purposes, and relief of school overcrowding are among the local exceptions to required pupil attendance within designated attendance areas.

Under certain conditions, a county may send children who reside within its borders to a public school in an adjoining "receiving county." A public school that is near the boundary of two counties may thereby be jointly attended by students from both counties. The county school boards of the two counties may provide jointly for the maintenance and support of the jointly attended school and determine the geographical attendance areas and other attendance policies for all jointly attended schools in the receiving county. If the two counties fail to agree on a geographical attendance area, then the State Superintendent must decide the matter. The sending *county government* must pay the receiving county, for each student who resides in the sending county and who attends a public school in the receiving county, an amount equal to the lesser of:

- the local current expense per student in the sending county; or
- the local current expense per student in the receiving county.

If the local current expense per student for the sending county is less than the local current expense per student for the receiving county, the difference, plus the appropriate State share of the foundation program, for each student who resides in a sending county who attends a public school in the receiving county must be (1) paid by the State to the receiving county and (2) provided for in the appropriation to the State Board of Education . State regulations specify that the local school system in the receiving county may include the nonlocal resident student in its enrollment count for the purpose of calculating State aid under the foundation program, if the student meets all other eligibility requirements.

Current law also provides for certain children who are placed by a State agency, a licensed child placement agency, or a court in a county other than where the child's parent or legal guardian resides. "Financially responsible county" generally means the county where the parent or legal guardian of a child in an out-of-county living arrangement resides, with

specified exceptions if the parents of the child live apart. “Service providing local education agency” means the local education agency for the county where a child in an out-of-county living arrangement is placed.

A child in an out-of-county living arrangement must receive an appropriate education from the service providing local education agency. The service providing local education agency must include a child enrolled as the result of an out-of-county living arrangement in their FTE enrollment. Generally, for each child in an out-of-county living arrangement enrolled in a public school program on December 31, the financially responsible county must pay the service providing local education agency an amount equal to the lesser of:

- the local current expense per student in the financially responsible county; or
- the local current expense per student in the service providing local education agency.

If the service providing local education agency determines that a child in an out-of-county living arrangement is a student with a disability, as specified, the same formula applies, but the current expense is multiplied by three in both instances. If the local current expense per student in the financially responsible county is less than the local current expense per student in the service providing local education agency, the State must pay to the service providing local education agency the difference for each student in an out-of-county living arrangement who attends a public school in the service providing local education agency. The necessary funds must be provided in the appropriation to the State Board.

All school systems are required to arrange transportation to and from school for all public school students and are required to provide transportation to and from school for all disabled students. The State provides aid for student transportation. The funding consists of two parts: a base grant that is adjusted annually; and a per pupil grant based on the number of students with special transportation needs.

### *Blueprint for Maryland’s Future and Education Funding Formulas*

The Blueprint for Maryland’s Future legislation, including Chapter 771 of 2019; Chapters 36 and 55 of 2021; and Chapter 33 of 2022 established new programs and updated education funding formulas, to among other provisions, provide additional support for schools serving high concentrations of students living in poverty, including community schools and wraparound services, and increased support for students learning English and students with disabilities.

The majority of direct State aid to public schools (excluding teachers’ retirement) is determined by enrollment-based funding formulas generally found in Title 5, Subtitle 2 of

the Education Article. This includes the foundation formula, which makes use of an “enrollment count,” the greater of (1) the prior year FTE enrollment and (2) the three-year moving average of FTE enrollment. Collectively, the formulas account for a uniform base cost per pupil that is necessary to provide general education services to students in every local school system and address the additional costs associated with educating three student populations: special education students; students eligible for free and reduced-price meals; and students who are English learners. Chapter 36 established additional major education aid programs.

Most State education aid formulas also include wealth equalization across counties, compensating for differences in local wealth by providing less aid per pupil to the more wealthy counties and more aid per pupil to the less wealthy counties. Although on the whole most State aid formulas are designed to have the State pay roughly one-half of program costs; the State’s share for the less wealthy counties is higher than 50%, and the State’s share for more wealthy counties is lower than 50%.

#### *Guaranteed Tax Base*

The guaranteed tax base (GTB) program is intended to encourage less wealthy jurisdictions to maintain or increase local education tax effort, *i.e.*, local education appropriation as a percent of local tax base. The program provides additional State education aid to counties that have less than 80% of the statewide average wealth per pupil and provide local education funding above the minimum local share required by the Foundation Program. The program uses local education tax effort and wealth to determine State aid amounts for each eligible local school system.

#### *Maintenance of Effort and Local Share*

Each year, the county government (including Baltimore City) is required to appropriate funds to the local board equivalent to the greater of the Maintenance of Effort (MOE) requirement or the local share amount of all wealth-equalized formulas. The per pupil MOE amount is based upon the enrollment count as defined above. The local share amount equals the local share of the foundation formula, compensatory education, English learner, special education, and several other aid programs. Also, counties that benefit from the compensatory education State funding floor are required to fund the local share of concentration of poverty grants. However, for some counties, the combined local share across these several programs is subject to adjustments described below.

#### *Education Effort Adjustment to Local Share Requirement*

Local governments are required to fund the local share of the foundation program and the required local shares for several other funding formula programs. The law also includes a mechanism for establishing a maximum local share that a county must fund each year. This

involves “local education effort,” which is determined for each county by dividing the county’s local share of major education aid by the county’s wealth. An “education effort index,” which is the local education effort divided by the “State average education effort” is then determined. A “maximum local share” is calculated for each county, which is the county’s local wealth multiplied by the State average education effort.

Each county with an education effort above 1.0 for two consecutive years receives relief based upon its “education effort adjustment,” which is the amount by which the calculated local share exceeds the maximum local share. This relief (which results in increases to State aid) is provided to counties within one of three tiers, based on whether the education effort is (1) greater than 1.0 but less than 1.15; (2) at least 1.15 but less than 1.27; or (3) at least 1.27. State relief for the first tier is phased up from 15% of the education effort adjustment in fiscal 2023 to 50% by fiscal 2030. State relief for the second tier is phased up from 20% of the education effort adjustment in fiscal 2023 to 100% by fiscal 2030. State relief for the third tier is 100% beginning in fiscal 2023. However, the education effort adjustment for a county is only allowed to the degree that per pupil MOE is met each year.

#### *Additional Reductions to Local Share*

A county may be eligible for a reduction in the required local share of major aid formulas in three additional ways: (1) if a county receives State funds from the GTB program, the local share may be reduced by the amount of GTB funds, except that for Baltimore City only the amount above \$10.0 million may be reduced from the local share; (2) if a county receives State funds to support the minimum funding floors of 15% for the foundation and 40% for the targeted programs; and (3) if a county has a comparable wage index (CWI) of at least 0.13, the local share of CWI may be reduced by 50%. However, in all of these cases, the local share may not be reduced below the required per pupil MOE amount.

**State Expenditures:** General fund expenditures increase by \$12,700 in fiscal 2026 to cover one-time upgrades to MSDE’s enrollment web data collection system. In addition, State expenditures are affected by (1) changes to the State aid allocations for local school systems and (2) direct payments to certain local school systems to cover the per-student cost differences between the sending and receiving school systems.

#### *Impact on State Aid Allocations*

Beginning as soon as fiscal 2027, general and special fund (Blueprint for Maryland’s Future Fund) expenditures for several education aid programs are altered due to the bill’s provisions, to the extent that one or more local boards choose to adopt an open enrollment policy as authorized by the bill, and that parents choose to enroll their children in public school in a receiving county.

The effect on State aid expenditures is indeterminate because it is not known at this time (1) which local boards, if any, will choose to do so, nor in what school year; (2) from what county or counties students will be drawn to receiving counties; or (3) the extent to which parents will take advantage of the ability to enroll their children in a receiving county public school. Because of the uncertainty, it is not known to what degree education aid formula results are altered. Because of varying per pupil wealth and therefore varying State and local shares by county under current law for education aid programs, it is not known if the overall effect on State funding for public schools amounts to an increase or decrease under the bill. Given the bill's effective date, a local board may choose to adopt an open enrollment policy impacting enrollment counts by county as soon as fall 2025, thus State aid may be affected as soon as fiscal 2027.

### *Per-student Cost Differences*

General fund expenditures may increase to cover per-student cost differences as soon as fiscal 2026. Under the bill, if the local current expense per student in the sending county is less than in the receiving county, the State must provide the difference to the receiving county board. The actual impact on general fund expenditures will depend on the location of the sending county and the receiving county for each student that participates in the open enrollment policy.

In fiscal 2025, [per pupil revenues for public schools](#) from both the State and county governments totaled over \$20,000 on a statewide basis. This amount ranges from \$17,565 in Carroll County to \$23,147 in Baltimore City. Local funding for public schools averaged \$9,655 on a statewide basis, ranging from \$3,491 in Caroline County to \$16,665 in Worcester County.

Under the bill, if a student from a county with a lower local per pupil amount (sending county) attends a public school in a county with a higher local per pupil amount (receiving county), the State will be required to pay the difference. A potential scenario of a State payment would occur if a student residing in Baltimore City attends a public school in Baltimore County. In this example, using data from fiscal 2025, the Baltimore City Board of Education would be required to send a payment totaling \$5,489 to the Baltimore County Board of Education. Since the local per pupil amount is less than what the Baltimore County government provides the county school system (\$9,234), the State would be required to cover the difference (\$3,745).

**Local Fiscal Effect:** To the extent that one or more local boards choose to adopt an open enrollment policy, local school system funding will be significantly affected particularly for the sending school system which is required to provide a payment to the receiving school system that totals the local per pupil funding amount from the county government.

Under current law, State and local funding for public schools in a given year is based on the student enrollment count from the prior year. In addition, the required local funding amount (the local appropriation from the county government) is based on the per pupil MOE requirement and local share amount. This calculation, along with the State aid formulas that are based on student enrollment, will have a major impact on the available funding for the sending school system under the bill.

In the first year that a local board adopts an open enrollment policy, the sending county board is required to provide local funds to the receiving county board that is roughly equivalent to the amount that the sending county board received for that student. In that year, the sending county board is still receiving both State and local funding for the student that is transferring to a public school in the receiving county board (since State funding is based on the enrollment from the prior year and local funding is based on the per pupil MOE calculation and local share amount).

By the second year, to the extent that students repeat annual enrollment in a receiving local school system, the sending county board must continue to provide local funding for that student to the receiving county board, even though the sending local school system is no longer receiving either State or local funding for that student, since that student is no longer counted in the student enrollment count for funding purposes. That student is now counted in the enrollment count for the receiving local school system which will be provided both additional State and local funding (from the receiving county government) for that student, along with the local funding amount from the sending school system. This situation will continue to occur until the student from the sending local school system graduates or returns to the sending local school system.

A primary issue of concern under the bill is that the local payment from the sending county to the receiving county must be made by the local board of education and not the county government. In this situation, as discussed above, the sending county board must make a payment to the receiving county board even in cases in which the local school system does not receive any State or local funding for that student. Since local boards do not raise revenue directly, they rely entirely on funding from their county government and the State through education funding formulas. As a result, these payments by the sending county boards must be absorbed within existing local school system budgets.

In addition, the bill does not specifically authorize a local board to adopt an enrollment policy that opts out of being a sending county board. Being a sending county board as discussed above may have a significant fiscal impact on both the local school system and the remaining students within the sending county.



## **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Montgomery County Public Schools; Department of Budget and Management; Maryland State Department of Education; Department of Legislative Services

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