

March 14, 2023

Submitted Electronically

Ben Barnes, Chair
Mark S. Chang, Vice Chair
House Appropriations Committee
House Office Building
6 Bladen St., Room 121
Annapolis, MD 21401

**Re House Bill 1211 Education – Compensatory Education – Maryland
Neighborhood Tier System Calculation – Favorable with Amendments of**

Dear Chairperson Barnes and Vice Chair Chang:

The NAACP Legal Defense and Educational Fund (LDF) supports the equitable distribution of state education funds and the comprehensive measurement of each school district's needs, including the Neighborhood Indicators of Poverty methodology reflected in H.B. 1211. We urge you to adopt several amendments to strengthen this bill, and to swiftly pass it.

LDF is deeply concerned that, without immediate changes in the allocation of school funding, Maryland's budget will once again deprive the public schoolchildren of Baltimore City of the resources they desperately need to achieve. LDF, together with the ACLU of Maryland and the firm of Baker Hostetler, represent the Plaintiffs in *Bradford v. Maryland State Board of Education*, a lawsuit that seeks to remedy the decades-long disinvestment in Baltimore City Public Schools. In 1996, the Court first held that Baltimore City public schoolchildren were not receiving an education that is constitutionally adequate; it subsequently determined that the district was underfunded by hundreds of millions of dollars. To this day, however, Baltimore City Public Schools do not receive adequate funds to serve their students.

For FY2024, the Legislature proposes to fund an additional \$390 million for Compensatory Education Aid under the Blueprint for Maryland's Future Act, but ***none*** of this money will go to Baltimore City Public Schools, the district in greatest need. The purpose of Compensatory Education Aid, as the Maryland State Department of Education (MSDE) notes in its recent Report on Neighborhood Indicators of Poverty (Updated January 20, 2023), is to provide resources that are necessary for children in circumstances of poverty to thrive. As that report explains, "students in circumstances of poverty require additional support compared to students who are not in circumstances of poverty." MSDE recognizes that it is essential for Baltimore City Public Schools to receive Compensatory Education Aid. Specifically, ***MSDE has calculated that Baltimore City Public Schools should receive at least \$151.6 million, and up to \$212.8 million, in additional Compensatory Education Aid in FY2024.***

Yet, despite MSDE's unequivocal recognition that Baltimore City Public Schools need hundreds of millions of dollars in additional Compensatory Education Aid, there is a serious risk that Baltimore City will be completely bypassed when the additional funds are distributed. The Legislature should not disregard MSDE's recognition that allocation of Compensatory Education Aid must take neighborhood indicators of poverty into account in order to accurately determine the number of children who need additional support. MSDE's report is clear: "To truly fund adequacy, Maryland must move forward with the report's recommendations related to adopting neighborhood indicators of poverty as a more accurate and precise measure of student need."

It is imperative that this year's distribution of Compensatory Education Aid does not compound the State's unconstitutional underfunding of Baltimore City Schools, which has persisted for decades. When the Legislature established the Commission on Innovation and Excellence in Education in 2016, known as the "Kirwan Commission," it was tasked with creating a new set of standards and funding proposals to guarantee a 21st-century education for all Maryland public schoolchildren. The Kirwan Commission reported that Maryland's funding formula is "regressive," that is, the State invests less in schools serving high concentrations of poverty—such as Baltimore City—than it invests in schools in wealthier communities, depriving the very populations in greatest need of the resources required for success. Accordingly, the Commission recommended, and the Blueprint Act calls for, more money per pupil for districts that serve more students who live in poverty, have disabilities, or are English language learners.

Baltimore City Public Schools serve a community that requires more resources for success but that has been deprived of those needed resources for decades. After the Legislature's 2007 limitation on inflation adjustments to funding under the Bridge to Excellence in Public Schools Act, flat funding left Baltimore City Public Schools unable to meet rising costs. The Department of Legislative Services found "adequacy gaps" in the State's annual funding for Baltimore City Public Schools of \$156 million in FY2013, \$290 million in FY2015, and \$342 million in FY2017.

The lack of adequate funding is particularly concerning given the level of need among Baltimore City schoolchildren. The poverty rate for children aged 5 to 17 who are enrolled in public school in Baltimore is three times that of other Maryland districts. More than half of Baltimore City's schoolchildren have had adverse childhood experiences, including extreme poverty, violence, abuse, or discrimination. 13.8% of students have disabilities, 17% have special education needs, and 11% of students are English language learners—one of the highest rates in the State. The State has calculated that Baltimore City Public Schools have the State's highest "at risk student index," *i.e.*, the combined percentage of students who qualify for free and reduced-price meals, have limited English proficiency, and have special education needs.

Baltimore City is also the most racially-segregated school district in Maryland. Research shows that school systems that remain segregated by income and race tend to have extremely unequal educational opportunities compared to better integrated schools.

Although the Blueprint Act provides new sources of funding to address concentrations of poverty for districts like Baltimore City, the law currently does not accurately capture the number of students in each district who are economically disadvantaged. Baltimore City Public Schools participates in the USDA’s Community Eligibility Program (CEP), under which it provides lunch to all its students. This transition to CEP prompted a data collection and methodology change for measuring economically disadvantaged students. As a result, student poverty as measured by those submitting forms for free and reduce-priced meals (FARM) is undercounted in Baltimore City, particularly for schools serving high immigrant and English learner populations. MSDE acknowledges that “[t]he inevitable disparity in FARMs rates between CEP schools and other schools creates an imbalance for any funding allocation that is based on these rates.”

This year, the General Assembly’s inclusion of Medicaid enrollment to measure poverty added 110,000 children and \$390 million in funding for Compensatory Education Aid under the Blueprint for FY2024. But Baltimore City Public Schools will not receive any of this additional funding. Once again, the methodology employed undercounts the depth of student poverty. According to MSDE’s latest report, approximately 20,000 to 28,000 more students are experiencing poverty than is reflected in the current spending plans. Despite the goals and promises of the Blueprint, the funding gap for Baltimore City Public Schools will continue to grow, and the children in Maryland who have the greatest needs will continue to be denied the resources essential to their academic success.

Following years of study, MSDE has proposed a more equitable methodology to determine poverty levels and to allocate funds that would include Neighborhood Indicators of Poverty tied to the U.S. Census. Instead of relying on data based on income as the only measure of poverty, “incorporating other measures of socioeconomic status and identifying concentrations of poverty will create a more equitable and accurate identification of students and schools in need.” Under this approach, Baltimore City Public Schools should receive an additional \$151.6 million to \$212.8 million in Compensatory Education Aid for FY2024.

We applaud MSDE for proposing, and Delegate Smith for introducing, legislation that would allow school districts to adopt the Neighborhood Indicators of Poverty approach. In doing so, H.B. 1211 is a step toward addressing the great need in Baltimore City Public Schools. As part of closing the funding gap that Baltimore City Public Schools have faced and will continue to face, the bill should be amended to adopt Policy Option 2 and to make this change effective as soon as possible.

It bears emphasis that including Baltimore City Public Schools in the distribution of additional Compensatory Education Aid, while essential, is only a first step toward remedying the underfunding of the district’s schools. Neither H.B. 1211 nor other appropriation bills address the large funding gap for capital improvements needed by Baltimore City Public Schools. City School children—the majority of whom are Black and Brown—must attend school in buildings that are so deficient they not only interfere with student learning, but also pose risks to their health and safety.

A 2020 assessment found that more than 60% of Baltimore City school facilities were in “poor” or “very poor” condition, resulting in widespread school closures and lost learning. From 2014 to 2019, City School children lost 1.5 million hours—or 221,000 full days of school. Ninety percent of losses between 2018-2019 were due to system failures in hot or cold weather. Seventy five percent of the classrooms in Maryland that lack air-conditioning are in Baltimore City, and seventy five percent of schools in the district have elevated lead levels in the drinking water. Because of the State’s continued neglect, the cost to renovate these schools to *minimally acceptable* standards has risen to nearly \$4 billion.

For these reasons we urge the Committee to take the following actions:

- Pass H.B. 1211, amended to take apply Policy Option Two and take effect as of FY24. This bill would implement MSDE’s recommendation that Blueprint Act funding be allocated based on neighborhood indicators of poverty, which provide a more accurate and equitable count of students in need in all Maryland districts.
- At a minimum, pass a supplemental budget item so that Baltimore City Public Schools will receive their proportionate share of the \$390 million in additional Compensatory Education Aid.

These matters are of grave concern to the families of Baltimore City Public Schools who want their children to have the opportunity to achieve and have success in life. We will continue to push the State to act with urgency and take seriously its responsibility to ensure that children in Baltimore City’s public-school students have the resources they need for an adequate education.

Thank you for considering our testimony, if you have any questions, please do not hesitate to contact us via email at ahumphries@naacpldf.org.

Sincerely yours,

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