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State Superintendent of Schools

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| BILL: | Senate Bill (HB) 934 | DATE: | March 15, 2023 |
| SUBJECT: | State Department of Education - Division of Rehabilitation Services - Funding and Staffing | COMMITTEE: | Budget and Taxation |
| POSITION: | Support | | |
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Explanation

The Maryland State Department of Education (MSDE) respectfully submits this testimony in **support of Senate Bill 934** – State Department of Education - Division of Rehabilitation Services - Funding and Staffing.

The Division of Rehabilitation Services was established in 1929 as a Division of MSDE, under Senate Bill 174. The Division was called the Division of Vocational Rehabilitation (DVR) until the name was changed in the 1990's to its present name, DORS. At the time of its creation in 1929, DVR was responsible for providing Vocational Rehabilitation services under the Smith-Fess Act of 1920, which created a federal-state partnership to provide Vocational Rehabilitation services. However, services were limited to individuals with a physical disability.

At its creation DVR (DORS) had two employees and an annual operating budget of \$15,000. Today, DORS is responsible for two major disability programs that affect Marylanders with disabilities, as well as several smaller disability programs. The two major programs are the public Vocational Rehabilitation program, commonly referred to as DORS and DDS. DORS has 675 employees (PIN and contractual) across all its programs and an overall FY 2023 operating budget of over \$115 million. Of the \$115 million, \$98 million is from federal funding, \$15 million is from general funds, and \$2 million is from special funds. The majority of the federal funding comes from two federal agencies, the Rehabilitation Services Administration and the Social Security Administration (SSA). Over 87% of DORS funding is allocated for direct client services through the Vocational Rehabilitation (VR) and DDS programs.

Senate Bill 934

During the 2022 legislative session, House Bill 660, Commission to Study the Division of Rehabilitation Services (Student Job Training Reformation Act),¹ was passed and established a Commission to Study the Division of Rehabilitation Services (Commission) within MSDE. The intended purpose of the Commission is to study DORS and to evaluate and make recommendations on improving various aspects of DORS' programs and services.

¹ <https://mgaleg.maryland.gov/mgaweb/site/Legislation/Details/hb0660/?ys=2022rs>

Senate bill 934 will address two, key policy areas (and related recommendations) identified in the work of the Commission² that impact MSDE's Division of Rehabilitation Services' (DORS') ability to meet its service requirements. The bill will:

1. Provide the positions necessary to allow MSDE (and DORS) to directly tackle the long-standing, persistent waitlist of Marylanders awaiting determination and service delivery; and
2. Ensure Maryland can continue to provide necessary services by codifying in State law the requirement that Maryland maintain its current State/federal match rate.

The elimination of the DORS waitlist has been difficult to achieve because it is the result of a combination of factors. There are three main factors that have played a part in the continuing existence of the DORS waitlist, funding, staff reductions, and new workloads, as a result of the Workforce Innovation and Opportunities Act (WIOA).

Staffing

In the 1990's and early 2000's Maryland's VR federal grant increased each year at a fairly predictable rate. However, in the mid-2000's, the relative wealth in Maryland increased compared to other States. While at the same time the population in the State grew at a very slow rate compared to other States. This resulted in a decrease in Maryland's grant allotment for one year and a very small increase in the following year. By the end of the 2006 federal fiscal year, DORS was running out of federal funds and shut down all nonessential spending. By June of 2007, DORS had to close both categories one and two, and lay off approximately 30 individuals in order to bring spending in line with the Division's federal funding.

In addition to the approximate 30 PINs that VR program lost because of the federal funding issues in 2007, the State was also reducing the number of authorized PINS across all agencies. Between fiscal years 2008 to 2023, DORS has lost over 100 positions in the VR agency. The loss of this many positions has limited the flexibility of DORS to reallocate positions to areas of need, particularly in its ability to address the DORS waitlist and to handle the influx of students with disabilities under the Pre-Employment Transitioning Services program.

Absent additional positions, MSDE has already begun doing everything in its power with existing staffing. The public Vocational Rehabilitation Program, which is operated by the Division of Rehabilitation Services is broken into two separate programs. The Vocational Rehabilitation program focuses on training and employment of individuals with disabilities, 18 and older and seeking training and employment. The second program, the Pre-Employment Transitioning Services (Pre-ETS) program, a subset of the adult vocational program, is only available to individuals who are identified as a student with a disability, between the ages of 14 and less than 22 years of age, currently enrolled in school – public, private, home school, vocational or postsecondary –and has a disability as documented by an Individual Education Plan, 504 Plan, or other support medical documentation. Pre-ETS is an exploratory work program through the five allowable services, Counseling on postsecondary educational opportunities, instruction on self-advocacy, job exploration counseling, work readiness, and work-based learning experiences. There are no employment outcomes for this program.

MSDE and DORS implemented three strategic initiatives in FY 23 to increase employment outcomes. The first, a comprehensive review of DORS VR counselor position salaries, including a review of similar positions and salaries in comparable public organizations at the county, state, and federal level and in the private sector. MSDE developed a pay plan revision for VR counselor position classification that included a two grade and four step change equivalent to a 20% salary increase. The plan was reviewed and approved by DBM and went into effect in July 2022. MSDE's pay plan

² Interim Report (2022): Commission to Study the Division of Rehabilitation Services (DORS), https://marylandpublicschools.org/programs/Documents/Gov-Rel/Comm_Study_DORS_Interim%20Report%2012.15.22_A.pdf

revisions had an immediate, positive impact on DORS' ability to retain existing counselors and to fill vacant counselor positions. The vacancy rate for these positions went from more than 25% to under 10% and, based on the pipeline of those awaiting clearance, will soon be zero.

The second initiative was to increase the rates paid to Community Rehabilitation Program (CRP) Partners that provide the job development, search and placement of individuals in the VR program. A 16% rate increase went into effect in January 2023, and it is expected that the rate increase will assist CRP partners in stabilizing their workforce. Together, these initiatives will stabilize the VR services workforce and in turn, increase the number of people with disabilities obtaining competitive, integrated employment and increase the number of students with disabilities receiving pre-employment transitioning services.

The third initiative is a new grant partnership with the University of Maryland to investigate a fee-for-service model while allowing the University to directly qualify and serve families - where the initial programmatic data in DORS are promising: The DORS waitlist has stabilized; and DORS has actively reopened its category 2 waitlist for the first time since 2018 and, by the end of December 2022, had pulled all individuals off the waitlist from 2017.

To read more and to view more information about MSDE initiatives and related report recommendations, visit the link to the presentation for the seventh and final meeting of the DORS commission, held March 6, 2022.³

State Match

The positions provided in Senate Bill 934 will address the historical position changes identified above and MSDE's ability to directly address the long-standing and persistent DORS waitlist (and corresponding services for some of Maryland's highest-need individuals).

The approximately \$1.3M in additional annual funding associated with Senate Bill 934 is associated almost entirely with the State salary portion of the positions recommended via the DORS interim commission report and codified in the language of Senate Bill 934. These positions will count toward the State match requirements codified in the law, as drafted and would ensure MSDE (and DORS) meet federal match requirements. If a State fails to meet its federal Match, then the State will lose \$3,695 of federal funding for every \$1,000 the State falls below its match requirement, which would immediately reduce MSDE's ability to operate the Division's programs and services. When that occurs, the federal funds lost by a State are then redistributed to those States that did match the additional federal funds. This legislation codifies the 21.3% State Match requirement to assure full federal funding of the Vocational Rehabilitation program in Maryland and, consequently, uninterrupted evaluation and service delivery for Marylanders with significant disabilities.

In accordance with 34 CFR 361.60, the federal share of funding to a State's Public Vocational Rehabilitation Program is 78.7%, thus in order for a State to receive its fully allotted share of the Vocational Rehabilitation Grant, the State must contribute 21.3% in funding for the Vocational Program. Maryland has historically met the 21.3% requirement and has not lost federal funding due to the State's inability to meet its federal match requirements. Under WIOA, the Vocational Rehabilitation Program is considered a mandatory federal program, as such, the Vocational Rehabilitation grant is increased each year by the Consumer Price Index (29 U.S. Code 720.3 (b)). Thus, each federal fiscal year a State's allotment of the Vocational Rehabilitation grant increases along with the State's Match requirement if the State is to receive its full federal allotment of the Vocational Rehabilitation grant. If a State fails to meet its federal Match, then the State will lose \$3,695 of federal funding for every \$1,000 the State falls below its match requirement, which would immediately reduce MSDE's ability to operate the Division's programs and services. When that occurs, the federal funds lost by a State are then redistributed to those States that did match the additional federal funds. This legislation codifies the 21.3% State Match requirement to assure full federal funding of the Vocational Rehabilitation program in Maryland

³ https://marylandpublicschools.org/programs/Documents/Gov-Rel/HB%20660%20DORS%20-%20Session%207_A.pdf

and, consequently, uninterrupted evaluation and service delivery for Marylanders with significant disabilities. Maryland has traditionally placed the General Fund needed for the Vocational Rehabilitation program's match into one of two categories, staff salaries and in DORS' case services. Case services are the funds that are used by DORS's Vocational Rehabilitation program to purchase services on behalf of the consumers.

In short Maryland would lose \$3,695 for every \$1,000 the State does not add in the \$1.3M proposed in this legislation. Put simply, Maryland would, absent these funds, turn away \$4,803,500 annually in federal award -- money that would be distributed to other States' VR programs and could be used to reduce the DORS waitlist and provide services for high-need Marylanders.

MSDE respectfully urges a **favorable report on Senate Bill 934** from the Committee. Please contact Justin Dayhoff at 410-767-0439 or justin.dayhoff@maryland.gov for any additional information.