

# MONTGOMERY COUNTY BOARD OF EDUCATION

850 Hungerford Drive ♦ Rockville, Maryland 20850

May 10, 2010

Mr. James H. DeGraffenreidt, Jr.  
President  
Maryland State Board of Education  
200 West Baltimore Street  
Baltimore, Maryland 21201

Dear Mr. DeGraffenreidt:

This letter is the Montgomery County Board of Education's response to the Maintenance of Effort (MOE) waiver request that was submitted to you on May 3, 2010, by Montgomery County Executive Isiah Leggett and Montgomery County Council President Nancy Floreen. The basis for their request is that the county's fiscal condition prevents it from funding the MOE requirement related to Montgomery County Public Schools (MCPS) without seriously impairing other county services.

Montgomery County has informed the Board of Education that it faces a Fiscal Year 2011 budget shortfall of more than \$950 million because of the serious and ongoing economic recession. MCPS staff has received information about the county economy and revenue projections, as outlined in the county's waiver request, and has worked closely with county staff to review economic and revenue data.

On March 22, 2010, the Montgomery County Board of Education adopted a resolution in support of the county's request. The resolution states in part:

WHEREAS, Montgomery County intends to request a waiver of the Maintenance of Effort requirement to permit a local contribution for FY 2011 of \$1,415,085,344, pursuant to Section 5-202 (d) (7) of the Annotated Code of Maryland, Education Article, because the county's fiscal condition prevents it from funding the Maintenance of Effort requirement without seriously impairing other county services; [now therefore be it]

Resolved, That the Board of Education supports the Montgomery County request for a waiver of the Maintenance of Effort requirements for FY 2011, if the following conditions are agreed to by the county executive and the County Council and are included in the action of the Maryland State Board of Education:

1. The operating budget amount of \$1,940,540,941 in tax-supported resources (excluding grants and enterprise funds) recommended by the county executive on March 15, 2010, is fully funded by the County Council. This amount necessitates \$137.7 million in nonrecommended reductions in the Board of Education's Operating Budget Request.

2. The FY 2011 appropriation does not include any transfers of functions or expenditures from the County Government budget to the Board of Education budget unless the amount of the transfer is added to the amount recommended by the county executive.
3. The Maintenance of Effort requirement for FY 2012 will be based on the FY 2010 level of \$11,249 per student, unless subsequent action of the General Assembly changes the amount of the FY 2012 requirement by law.

A complete copy of the Board of Education action is enclosed.

Pursuant to this resolution, the superintendent of schools identified a list of reductions necessary to cut \$137.7 million from the Board of Education's Operating Budget Request. These are painful reductions, but the Board is prepared to approve reductions of this amount to allow the county to fund other vital services. The reductions recommended by the superintendent of schools include the following:

1. State aid - \$37.1 million – MCPS will effectively contribute increased state aid under the Foundation program and other state grants to reduce the required local contribution. The net increase in state aid is estimated at \$37.1 million. This amount was added by the Board of Education to its budget request in order to maintain compliance with MOE requirements, but without any identified expenditures.
2. Class Size Increase - \$16.2 million – The reduction of class size has been one of the most important academic improvement initiatives over the last ten years. Class size reductions have been concentrated in primary grades and in schools with the highest proportion of low-income students. In order to reduce expenditures, the superintendent has reduced initial staffing allocations by 252 positions at a savings of \$16.2 million. This is expected to result in an increase in class size by an average of one student at each grade level. This reduction removes nearly half of all improvements in class size over the last ten years.
3. Central Services reductions - \$6.5 million – Announced budget reductions include major cuts in central office staffing, including major reorganizations to abolish 49.4 central office positions and concentrate responsibilities among remaining positions. In the past two years, MCPS reduced 120 central office positions and saved nearly \$18 million, nearly 20 percent of all central office expenditures. Based on the Board of Education's Budget Request, spending for Category 1, Administration, is reduced to 1.9 percent of the operating budget. This is the lowest percentage ever for this district and one of the lowest percentages in the state.
4. Continuing Salaries - \$25.9 million – MCPS has always budgeted for contractually mandated salary schedule increments. These increments are provided to employees based on years of experience. Employees eligible for increments receive a salary increase of an average of approximately 3 percent annually. Continuing salaries also

include longevity increases and other adjustments based on contractual obligations. The county executive has recommended that for fiscal reasons no county employees should receive salary increments in FY 2011. MCPS is prepared to comply with that requirement pending completion of collective bargaining negotiations and remove the planned amount from the budget.

5. Other Post-Employment Benefits (OPEB) – \$42.9 million – MCPS will eliminate its planned contribution to the Retiree Health Trust Fund. MCPS has accepted the County Council plan to phase in pre-funding of retiree health benefits over an eight-year period as directed by the Government Accounting Standards Board. According to this plan, MCPS is to contribute \$42.9 million in FY 2011 to a trust fund established for this purpose. The county executive has recommended that for fiscal reasons no contributions can be made in FY 2011 for any county agency. MCPS will comply with this policy, but remains concerned that pre-funding must be resumed promptly in order to guarantee future health care benefits to retirees.
6. Other Reductions - \$9.2 million – The superintendent also is preparing to make recommendations for other reductions in existing services, including classroom services and support services. These reductions are designed to make necessary savings while minimizing the impact on classroom instruction. In order to permit community input on these and other potential reductions, the superintendent issued an unprecedented list of possible reductions totaling \$43 million as part of his Recommended Operating Budget. A copy of this list is enclosed. The Board of Education has received considerable feedback from parents and other residents regarding these reductions, but the Board recognizes it will likely have to implement many of the potential reductions as part of its contribution to resolving the fiscal crisis in Montgomery County.

In addition to the budget reductions noted above, MCPS has expressed willingness to identify resources to make possible the retention of other vital county services. For example, MCPS will identify \$2 million to permit retention of 17 Educational Facilities Officers (EFO) in the Montgomery County Police Department. These officers provide valuable support to schools and students. The county has decided to abolish 16 of the EFO positions. The MCPS offer will make it possible to preserve approximately half of the existing program resources. MCPS also will identify resources to pay an expected \$4.4 million over FY 2010 and FY 2011 for a proposed 100 percent increase in the county's Fuel Energy excise tax. In the past, the county has added appropriations to the MCPS budget to enable the system to make energy tax payments, but this year MCPS will identify existing resources to make the payments if the County Council approves the tax increase proposed by the county executive.

Montgomery County Public Schools has been a consistent fiscal partner of the County Government. The Board of Education understands that the welfare of the school system depends on the fiscal health of the county as a whole. Therefore, the Board of Education endorsed and testified in favor of the county's MOE waiver request in 2009. During the past two years, MCPS has saved \$223 million in its operating budget to assist in balancing the county budget. In FY 2010, our employees agreed to forego their cost-of-living increases, which saved the school

system \$89 million. In FY 2009, the Board of Education made \$50 million in budget reductions and saved another \$20 million as a result of a position freeze and comprehensive expenditure restrictions. In FY 2010, the Board of Education made another \$31 million in budget reductions and we have saved another \$30 million through a continued position freeze and expenditure restrictions. These savings will be available to fund next year's budget.

Having made all of these significant reductions in our operating budget, and being prepared to accept another \$137.7 million in reductions and to assist the county in maintaining other county services, it is not possible to make further cuts to our educational programs or to our employees next year without doing irreparable harm to our school system. Any further reductions would have a serious impact on the children in our schools. If the County Council makes reductions to the MCPS operating budget in addition to those already recommended by County Executive Leggett and accepted by the Board of Education as part of the county's MOE waiver request, it will create irreparable harm to our educational programs. Additional reductions will come from programs directly affecting classroom instruction and support for students. These reductions will mean additional class size increases at all grade levels, additional reductions of programs designed to help our most vulnerable students in need of additional support and extended school time, and vital support services, such as reductions in building service operations.

One of the most important factors persuading the Board of Education to support the waiver request is its concern for the FY 2012 financial situation. FY 2012 is likely to be an even more difficult year for states and localities than FY 2011. Current projections show little revenue growth next year. Significant federal aid through the *American Recovery and Reinvestment Act of 2009* (ARRA) stimulus legislation expires at the end of FY 2011. For MCPS, that may mean a reduction of more than \$53 million in direct aid. In Maryland, moreover, Governor Martin O'Malley has chosen to use a significant amount of ARRA aid to support state payments of increased teacher pension costs on behalf of local school districts. When that aid expires, the state is expected to require localities to assume responsibility for much of the increase in payments. This will pose an enormously heavy burden on Montgomery County. If the county's waiver request is not approved at this time, the county will have even more difficulty assuming expected FY 2012 cost increases.

Over two years, MCPS has received more than \$100 million in federal aid through ARRA. This aid includes \$12 million for the Title I program for our most impacted schools and \$33 million for special education students through the *Individuals with Disabilities Education Act* (IDEA). In addition to these categorical grants, MCPS has received \$59 million in unrestricted aid through the State Fiscal Stabilization Fund (SFSF). These programs are expected to terminate in FY 2012. Because of the absence of other state or local resources, the services made possible by the federal grants will have to be discontinued, at great cost to the school system, and especially to some of our most vulnerable students.

In FY 2012, Montgomery County will have to consider resuming its eight-year phase-in plan for prefunding retiree health benefits. For MCPS, the eight year plan will require a contribution of approximately \$55 million in FY 2012. In addition, it will be necessary to make up for payments totaling \$73 million not made during FY 2010 and FY 2011. If the county decides for fiscal

reasons that it is unable to resume or complete the funding plan, it will raise doubts among employees and creditors about the county's ability or willingness to meet this important obligation.

As part of closing the fiscal gap for FY 2011, County Executive Leggett recommended \$15 million in savings through employee furloughs. The County Council has resolved that additional furlough savings will be needed and has requested all county agencies to institute furloughs. If such one-time furloughs are implemented, salary savings must be restored in FY 2012.

In addition to these fiscal burdens, MCPS also faces increased student enrollment in FY 2012. Current projections are for approximately 1,500 more students for the 2011-2012 school year. Many of these students are expected to be low-income students or students who are English language learners.

As MCPS develops an operating budget for FY 2012, we also will need to identify alternate resources to replace the \$30 million saved in FY 2011 as end-of-year fund balance. It is very unlikely that sufficient savings can be made in FY 2011 to replace any of this fund balance. For all these reasons, the FY 2012 and succeeding operating budgets will involve unprecedented fiscal challenges. If the county is obligated to fund the FY 2011 budget at a level higher than recommended by the county executive, it will be even more difficult to make needed reductions in FY 2012.

The county's waiver request, combined with other available revenues, will allow the County Council to appropriate the same amount of tax-supported resources (\$1.940 billion) as was provided for educational programs in the FY 2010 Approved Operating Budget. Even with same amount of tax-supported resources, the Board of Education will have to make \$137.7 million in reductions. We cannot cut any further without severely damaging the school system and our successful reform programs.

Finally, it is critical that this waiver be for one year only and that the base for calculating maintenance of effort in FY 2012 is not the amount requested for the local contribution in FY 2011. MCPS, like other school systems in Maryland, has made tremendous progress during the past seven years as a result of the additional state aid provided through Bridge to Excellence funding. Although we are fully aware of the difficult financial situation that we face because of the economic downturn, we cannot afford to lose the progress that we have made. That is why our support of this waiver is contingent on the waiver being for one year only and the level of appropriation for FY 2012 being based on the local appropriation for FY 2010, \$11,249 per student.

It should be emphasized that acceptance of the waiver is not a precedent for future waivers. The current economic crisis and the federal stimulus funds that have been provided as a result represent a unique combination of events that is unlikely to recur. The Board of Education believes that the maintenance of effort requirement is an important foundation for local support for education. We are pleased that the county leaders have reaffirmed the high priority of education for Montgomery County.

We support the county's request for approval by the State Board of Education of a waiver of the Maintenance of Effort requirement for Montgomery County so long as the conditions described above are included in the action of the Maryland State Board of Education. Please let us know if you have questions or need additional information.

Sincerely,



Patricia O'Neill  
President



Christopher Barclay  
Vice President



Jerry D. Weast, Ed.D.  
Superintendent of Schools  
Secretary, Montgomery County Board of Education

PON:sz

Enclosure

Copy to:

Members of the Board of Education

Members of the Montgomery County Delegation

Ms. Floreen and Members of the Montgomery County Council

Honorable Isiah Leggett

## DISCUSSION/ACTION


7.0

Office of the Superintendent of Schools  
MONTGOMERY COUNTY PUBLIC SCHOOLS  
Rockville, Maryland

March 22, 2010

MEMORANDUM

To: Members of the Board of Education

From: Jerry D. Weast, Superintendent of Schools 

Subject: Maintenance of Effort Waiver

On March 15, 2010, County Executive Isiah Leggett presented his Fiscal Year 2011 Recommended Operating Budget. He recommended a total of \$2,125,542,225 for Montgomery County Public Schools (MCPS), including \$1,940,540,941 in tax-supported resources (excluding grants and enterprise funds) and \$1,416,228,099 in local contribution. The county executive's recommendation, if approved by the County Council, will require reductions of \$137.7 million (6.3 percent) from the Board of Education's FY 2011 Operating Budget Request. This reduction actually exceeds the total increase requested by the Board for FY 2011, and provides exactly the same amount for educational programs as the FY 2010 operating budget despite a projected increase of 2,809 students. These reductions will be extremely painful to schools and employees. Any possible further reductions will significantly endanger the quality of education for MCPS students.

The county executive's budget recommendation will require a waiver of the Maintenance of Effort (MOE) law. Based on the most recent revenue information, the local contribution required for Mr. Leggett's recommended tax-supported budget is \$1,415,085,344. To avoid violating the MOE requirement, the county will need a waiver to be approved by the Maryland State Board of Education (State Board). Without a MOE waiver, MCPS may face a penalty of the loss of increased state aid up to \$52.4 million. I am recommending to you that we join with the County Government in seeking a waiver from the MOE requirement. It is important to point out that MCPS has been exceedingly cooperative with the County Government as it confronts the worst economic downturn in decades.

Mr. Leggett intends to submit a request for a MOE waiver to the Maryland State Board of Education by the current deadline of March 31, 2010. Pursuant to Section 5-202 (d) (7) of the Annotated Code of Maryland, Education Article, he will state that the county's fiscal condition prevents it from funding the MOE requirement without seriously impairing other county services. A copy of the relevant section of the code is attached. Pursuant to State Board procedure, the Montgomery County Board of Education must state its position on this request no

later than April 10, 2010. It is expected that the State Board will schedule a public hearing on the county request during April 2010. The Board of Education will have an opportunity to participate in that public hearing. Thus, it is important that the Board of Education make its position clear on the county's waiver request. The following resolution therefore is recommended for the Board's consideration.

WHEREAS, Montgomery County intends to request a waiver of the Maintenance of Effort requirement to permit a local contribution for FY 2011 of \$1,415,085,344, pursuant to Section 5-202 (d) (7) of the Annotated Code of Maryland, Education Article, because the county's fiscal condition prevents it from funding the Maintenance of Effort requirement without seriously impairing other county services; and

WHEREAS, This amount of local contribution will result in a total of \$1,940,540,941 in tax-supported resources (excluding grants and enterprise funds), which is exactly the same amount for educational programs in the FY 2010 operating budget despite a projected increase of 2,809 students; and

WHEREAS, Pursuant to Maryland State Board of Education procedures, the Montgomery County Board of Education must state its position on the county's waiver request no later than April 10, 2010; and

WHEREAS, Montgomery County Public Schools' staff has received information about the county's fiscal condition and has worked closely with county staff to review economic and revenue data; and

WHEREAS, The county executive's Recommended FY 2011 Operating Budget requires the Board of Education to make \$137.7 million in nonrecommended reductions in its FY 2011 Operating Budget Request; and

WHEREAS, No further reductions can be made without seriously endangering the quality of education for Montgomery County Public Schools' students; now therefore be it

Resolved, That the Board of Education supports the Montgomery County request for a waiver of the Maintenance of Effort requirements for FY 2011, if the following conditions are agreed to by the county executive and the County Council and are included in the action of the Maryland State Board of Education:

1. The operating budget amount of \$1,940,540,941 in tax-supported resources (excluding grants and enterprise funds) recommended by the county executive on March 15, 2010, is fully funded by the County Council. This amount necessitates \$137.7 million in nonrecommended reductions in the Board of Education's Operating Budget Request.



2. The FY 2011 appropriation does not include any transfers of functions or expenditures from the County Government budget to the Board of Education budget unless the amount of the transfer is added to the amount recommended by the county executive.
3. The Maintenance of Effort requirement for FY 2012 will be based on the FY 2010 level of \$11,249 per student, unless subsequent action of the General Assembly changes the amount of the FY 2012 requirement by law; and be it further

Resolved, That the president of the Board of Education be authorized to submit this resolution to the Maryland State Board of Education and to represent the Board of Education at a public hearing on the county's waiver request; and be it further

Resolved, That a copy of this resolution be sent to the county executive and the County Council.

JDW:LAB:MCS:jp

Attachment

## Article- Education

§5-202.

(d) (1) To be eligible to receive the State share of the foundation program:

(i) The county governing body shall levy an annual tax sufficient to provide an amount of revenue for elementary and secondary public education purposes equal to the local share of the foundation program; and

(ii) The county governing body shall appropriate local funds to the school operating budget in an amount no less than the product of the county's full-time equivalent enrollment for the current fiscal year and the local appropriation on a per pupil basis for the prior fiscal year.

(2) Except as provided in paragraph (3) of this subsection, for purposes of this subsection, the local appropriation on a per pupil basis for the prior fiscal year for a county is derived by dividing the county's highest local appropriation to its school operating budget for the prior fiscal year by the county's full-time equivalent enrollment for the prior fiscal year. For example, the calculation of the foundation aid for fiscal year 2003 shall be based on the highest local appropriation for the school operating budget for a county for fiscal year 2002. Program shifts between a county operating budget and a county school operating budget may not be used to artificially satisfy the requirements of this paragraph.

(3) For purposes of this subsection, for fiscal year 1997 and each subsequent fiscal year, the calculation of the county's highest local appropriation to its school operating budget for the prior fiscal year shall exclude:

(i) A nonrecurring cost that is supplemental to the regular school operating budget, if the exclusion qualifies under regulations adopted by the State Board; and

(ii) A cost of a program that has been shifted from the county school operating budget to the county operating budget.

(4) The county board must present satisfactory evidence to the county government that any appropriation under paragraph (3)(i) of this subsection is used only for the purpose designated by the county government in its request for approval.

(5) Any appropriation that is not excluded under paragraph (3)(i) of this subsection as a qualifying nonrecurring cost shall be included in calculating the county's highest local appropriation to its school operating budget.

(6) Qualifying nonrecurring costs, as defined in regulations adopted by the State Board, shall include but are not limited to:

(i) Computer laboratories;

(ii) Technology enhancement;

(iii) New instructional program start-up costs; and

(iv) Books other than classroom textbooks.

(7) (i) The provisions of this subsection do not apply to a county if the county is granted a temporary waiver or partial waiver from the provisions by the State Board of Education based on a determination that the county's fiscal condition significantly impedes the county's ability to fund the maintenance of effort requirement.

(ii) After a public hearing, the State Board of Education may grant a waiver under this paragraph in accordance with its regulations.

(iii) In order to qualify for the waiver under this paragraph for a fiscal year, a county shall make a request for a waiver to the State Board of Education by April 1 of the prior fiscal year.

(iv) The State Board of Education shall inform the county whether the waiver for a fiscal year is approved or denied in whole or in part by May 15 of the prior fiscal year.

## MONTGOMERY COUNTY PUBLIC SCHOOLS

### FY 2011 OPERATING BUDGET

### SUMMARY OF POTENTIAL BUDGET REDUCTIONS

In the event that Montgomery County Public Schools does not receive local funding for the Fiscal Year 2011 Operating Budget at the minimum Maintenance of Effort (MOE) level, it will be necessary to consider significant service reductions in the base budget. The amount of reductions will depend on how much local funding is actually received compared to the amount required by the Maintenance of Effort. The following list contains potential major reductions in the budget. The list is not in any priority order, but will give stakeholders an overall idea of what reductions may be necessary to consider before the FY 2011 Operating Budget is approved in June 2010.

	Description	FTE	Savings
	<b>SYSTEMWIDE REDUCTIONS</b>		
A	Class size – Increase class size by an average of 1 student per class at each school level. This would reduce staffing by 240 classroom teacher positions.	240.0	\$15,442,455
B	Academic intervention teachers – Reduce by 20 percent additional teacher staffing for direct support to struggling students and for intervention programs. Currently, there are 128.9 academic intervention teachers. (Reduced by 9.8 positions in FY 2010)	24.0	\$1,662,397
C	Special program teachers – Reduce by 20 percent additional positions allocated to support special programs, including immersion, magnet, IB, signature, and other special programs. Currently, there are 64.6 special program teachers. (Reduced by 16.9 positions in FY 2010)	12.9	\$832,487
D	Staff development substitutes – Reduce by 20 percent availability of substitutes for job-embedded staff development activities in schools.		\$290,000
E	Counselors, psychologists, and pupil personnel workers – Reduce previous increase of 18.0 FTE in counselors, psychologists, and pupil personnel workers. This would increase the ratio of students to professionals for each of these positions.	18.0	\$2,329,642

Item	Description	FTE	Savings
F	Maintenance positions – Reduce 6.0 positions in the Division of Maintenance.	6.0	\$480,000
G	Building service worker positions – Reduce 30.0 building service worker positions in schools and administrative offices.	30.0	\$1,200,000
H	Transportation for optional regular education programs - Eliminate transportation to optional regular education programs outside normal attendance zones, including magnet, immersion, IB, high school consortia, and other special programs. Fees are not permitted for these services. This reduction would not impact special education transportation.	65.0	\$4,900,000
I	Bus Fuel – Purchase regular diesel fuel rather than biodiesel fuel for school buses.		\$400,000
J	Bus Replacement – Obtain a waiver to continue use of 23 older school buses.		\$250,000
K	Central office administrative expenditures – Reduce 30.0 central office administrative positions. Reduce non-position central office expenditures (4 percent of total central office), including temporary part-time salaries, supplies, and other expenditures. (Over last two years, central office cuts have totaled \$17 million—a 13 percent reduction in these expenditures.)	30.0	\$6,000,000
L	Purchase fewer textbooks and instructional materials by eliminating the budgeted 6 percent inflationary increase in this category.		\$1,650,000

<b>ELEMENTARY REDUCTIONS</b>			
M	Focus teachers – Reduce by 20 percent additional staffing for elementary schools that have above average levels of poverty. Currently, there are 47.1 focus teacher positions.	9.4	\$605,680
N	Reading initiative teachers – Eliminate 8.0 reading initiative teachers by increasing class size to 19 students. Current class size for reading in grades 1 and 2 in non-focus schools is 17. Currently, there are 75.7 elementary school reading initiative teachers.	8.0	\$513,437

Item	Description	FTE	Savings
O	Staff development and reading teachers – In the past, all elementary schools received a 1.0 staff development teacher and a 1.0 reading specialist. In FY 2010, the allocation for the smallest schools was reduced by a total of .5, giving schools a choice of which position to reduce. It may be necessary to make further cuts in the smallest schools.	5.0	\$322,170
P	Media assistants – Reduce 40 media assistant positions in elementary schools. Currently, there are 192.5 media assistants and this reduction would require changing staff ratios K-12. (Reduced by 5.0 in FY 2010)	40.0	\$2,311,360
Q	Elementary school regular education paraeducators – Reduce by 10 percent regular education paraeducators that provide instructional support to elementary classroom teachers. Currently, there are 271.25 regular education paraeducators.	27.1	\$1,011,562
R	Elementary school activity buses and extracurricular activity stipends – Reduce activity bus availability or extracurricular activity stipends. A total of \$1.1 million is budgeted for these expenditures.		\$600,000

<b>SECONDARY REDUCTIONS</b>			
S	Middle School Magnet Consortium – Reduce 8.0 additional teacher positions that allow for an eight-period day with specialized course offerings in the three middle schools in the magnet consortium. (Argyle, Loiederman, Parkland).	8.0	\$515,472
T	Secondary School Extracurricular activities - Reduce stipends and other expenses that support extracurricular activities, including athletics, at the secondary level. This could result in added extracurricular fees to offset budget reductions.		\$1,000,000
U	Staff development teachers – Reduce 10.6 staff development teacher positions. Staff development teachers in middle and high schools would teach one class period daily instead of devoting the entire day to staff development activities.	10.6	\$682,000
	<b>Total</b>	<b>534.0</b>	<b>\$42,998,662</b>