



Maryland State Board of Education

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TO: County Executives/Administrators
Local Education Agencies
Interested Parties

FROM: Anthony South, Executive Director, Maryland State Board of Education
Anthony South

DATE: April 11, 2012

SUBJECT: Submitting Maintenance of Effort (MOE) Waiver Requests: Timeline and Content of Waiver Request

The Maryland State Board of Education will accept briefs and responses to FY 2013 Maintenance of Effort Waiver Requests in accordance with the following schedule and requirements.

Timeline:

April 16	Counties Submit Waiver Requests
April 23	Local School Systems and Interested Parties Respond
May 2	State Superintendent's Preliminary Assessment Submitted to the State Board of Education
TBD	Public Hearing
May 22	State Board of Education Issues Decisions

Content of Waiver Request Applications:

There are three types of waivers:

- "Impeded Ability" Waiver — Waiver Because County's Ability to Meet MOE Is Impeded.
- "Agreed On" Waiver — Waiver Based On Agreement Between County and County Board To Reduce Recurring Costs.
- "Rebasing" Waiver — Waiver to Rebase Because County's Ability to Meet MOE Is Permanently Impeded.

There are different criteria for each waiver type.

- "Agreed On" Waiver Application

The State Board urges counties to utilize this waiver option. This Waiver Application must not exceed 5 pages. The Application must explain:

- (1) the amount of the waiver requested;
- (2) the recurring costs that will be reduced by line item; and
- (3) why funding will remain adequate even with the waiver.

If the county and county board agree on a reduction in recurring costs, the statute mandates that the State Board approve this type of waiver if: (1) the amount of the Agreed On waiver does not exceed the entire amount of the reduction in recurring costs or (2) if the amount of the Agreed On waiver does not reduce the county's education appropriation¹ below the local share of the foundation program. If the reduction in recurring costs includes reduction in personnel or personnel costs, the county must provide proof that the amount of the waiver request was mutually agreed on by the county, county board, and the exclusive employee representative. The application should address those issues.

- **“Impeded Ability” Waiver Application**

This Waiver Application should not exceed 10 pages of argument plus exhibits explaining clearly and concisely the effect that some or all of the following factors will have on the county's ability to fully fund MOE in the relevant fiscal year:

- (1) External environmental factors such as a loss of a major employer or industry affecting a county or a broad economic downturn affecting more than one county;
- (2) A county's tax base;
- (3) Rate of inflation relative to growth of student population in a county;
- (4) Maintenance of effort requirement to a county's statutory ability to raise revenues;
- (5) A county's history of exceeding the required maintenance of effort amount;
- (6) An agreement between a county and a county board that a waiver should be granted;
- (7) Significant reductions in State Aid to a county and municipalities of the county for the fiscal year for which a waiver is requested;
- (8) The number of waivers a county has received in the past 5 years; and
- (9) The history of compensation adjustment for employees of the county board and county government.
- (10) The county must explain in its application, if granted the requested waiver, how and why education funding will remain adequate.

¹“Education Appropriation” includes any money redirected to a county board under §5-213 or 5-213.1 of Education Article.

- **“Rebasing” Waiver**

A very limited number of counties will be eligible to apply for this type of waiver. A county is eligible to request a Rebasing Waiver if the county has:

- (1) Been granted an “Impeded Ability” waiver; and
- (2) A required county education appropriation for the waiver year² that exceeds 100% of the statewide 5-year moving average³ of education effort⁴ times a county’s local wealth.

The application should address the following factors clearly and concisely.

- (1) Whether a county has submitted sufficient evidence that the factors for meeting the Impeded Ability waiver affect a county’s ongoing ability to meet the maintenance of effort requirement;
- (2) Whether a county is at its maximum taxing authority under the law;
- (3) Whether a county’s education appropriation is commensurate with a county’s wealth;
- (4) Whether a county’s history of exceeding the required maintenance of effort has made meeting the maintenance of effort requirement in future years unsustainable; and
- (5) Whether a county has received a Rebasing waiver in the past 5 years.

If a Rebasing waiver is granted, there are some restrictions on the amount of the Rebasing waiver. The amount is limited to the lesser of:

- (1) An amount that would result in a county’s education effort for the waiver year falling below certain level defined in the Statute; or
- (2) (a) For a county with a 5-year moving average for education effort that is less than or equal to 110% of the statewide 5-year moving average of education effort, 1% of the county’s required maintenance of effort requirement;
- (b) For a county with a 5-year moving average of education effort that is more than 110% and less than or equal to 120% of the statewide moving average of education effort, 2% of the county’s required maintenance of effort requirement; or
- (c) For a county with a 5-year moving average for education effort that is more than 120% of the 5-year moving statewide average of education effort, 3% of the county’s required maintenance of effort requirement.

² “Waiver Year” means the fiscal year for which a waiver from the maintenance of effort requirement is requested.

³ “5-Year Moving Average” means the average of the 5 years before the waiver year.

⁴ “Education Effort” means a county’s education appropriation divided by the county’s wealth.

The waiver application may not exceed 10 pages of argument, plus exhibits. The application must explain how the county meets the eligibility requirements; the effect some or all of the factors on the county's on-going ability to find MOE at the current level, and whether and how the amount of the waiver requested meets the restrictions set forth above.

How to File Briefs and Responses:

An electronic copy of each Brief/Response must be submitted to the Maryland State Board of Education no later than 5:00 p.m. on the due date set forth above. In addition to the electronic copy, five hard copies of each Brief/Response are to be mailed or hand delivered to the Maryland State Board of Education for receipt no later than 5:00 p.m. the day following the due date indicated above.

The electronic copy is to be sent to tsouth@msde.state.md.us.

Hard copies are to be addressed to:

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If you have any questions, please e-mail tsouth@msde.state.md.us.