



Lillian M. Lowery, Ed.D.
State Superintendent of Schools

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD

TO: Members of the State Board of Education
FROM: Lillian M. Lowery, Ed.D. *Lillian M. Lowery*
DATE: April 22, 2014
SUBJECT: Agreed Upon MOE Waiver Request

PURPOSE:

To present for your approval an Agreed Upon Maintenance of Effort (MOE) Waiver Request jointly filed by the City of Baltimore and the Baltimore City Board of School Commissioners.

HISTORICAL BACKGROUND:

During the Fiscal Year 2013 budget process the City Schools used an incorrect enrollment number to calculate the City's MOE. The projected Fiscal Year enrollment of 79,849 FTE was used to calculate the MOE. However, the Fall 2011 MSDE-certified enrollment number on which the Fiscal Year 2013 MOE calculation should have been based was only 78,871 FTE. Based on the incorrect enrollment count, the City appropriated an additional \$2,925,582 for Fiscal Year 2013.

EXECUTIVE SUMMARY:

Pursuant to MD Education Article §5-202(d)(8)(i)(2), the State Board shall grant an MOE recurring costs waiver request, if the waiver request is agreed upon by the parties as long as the amount agreed on does not "exceed the entire amount of the reduction in recurring costs" or reduce the education appropriation below the minimum education funding required by statute. Md. Educ. Art. §5-202(d)(9).

The Agreed Upon Waiver request attached here seeks a \$2,925,582 reduction in recurring costs to reduce the increased MOE funding level caused by the enrollment count error. That amount does not exceed the amount of the reduction in recurring costs and does not reduce the appropriation level below the statutory minimum requirement.

ACTION:

I recommend approval of the Agreed Upon Waiver request. The statute requires a public hearing which is scheduled for the April 22, 2014 Board meeting.

Attachments



MAR 31 2014

**STEPHANIE RAWLINGS-BLAKE
MAYOR**

*100 Holliday Street, Room 250
Baltimore, Maryland 21202*

March 26, 2014

Lillian M. Lowery, Ed.D., State Superintendent of Schools
Office of State Superintendent
Maryland State Department of Education
Nancy S. Grasmick State Education Building,
200 West Baltimore St.
Baltimore, MD 21201 - 2595

Dear Dr. Lowery,

This letter requests the approval of MSDE to an agreement which has been reached between Mayor and City Council of Baltimore (the City) and Baltimore City Public Schools (BCPS) in connection with the Fiscal 2015 Maintenance of Effort (MOE). We have agreed on a waiver of \$2,925,582 from the City's expected Fiscal 2015 Maintenance of Effort (MOE) base of \$205,549,607. The City and BCPS also agree that the new base MOE for Fiscal 2015 should be \$202,624,025. This letter is to request MSDE's approval of this agreement.

Background

During the Fiscal 2013 budget process an incorrect enrollment number was used to calculate the City's MOE contribution to BCPS. A projected Fiscal 2013 enrollment of 79,849 FTE was used to calculate the MOE. However, the Fall 2011 MSDE-certified enrollment number on which the Fiscal 2013 MOE calculation should have been based was only 78,871 FTE. This error was identified by the City's Budget Department. Based on the incorrect enrollment, the City appropriated \$204.5 million for Fiscal 2013 which was higher than the \$202.1 million which should have been appropriated.

Long-Term Impact

If the City and BCPS are unable to correct the enrollment error beginning in Fiscal 2015, the City will be required to appropriate approximately \$28 million over the course of the next ten years in excess of the amounts required by the MOE law using certified enrollment figures, not including any impact from the escalator.

1) The Amount of the Waiver Requested

The City and BCPS request a waiver of \$2,925,582 to correct the enrollment error. This correction begins with the Fiscal 2015 appropriation and will establish a new baseline in future years for MOE.

In Fiscal 2014, the City provided an additional MOE appropriation to comply with the MOE law requiring calculation from the highest net local appropriation of the previous year. The \$2,925,582 waiver request for Fiscal 2015 is the amount of additional appropriation in Fiscal 2014 based on the enrollment error.



phone: 410.396.3835 fax: 410.576.9425 email: mayor@baltimorecity.gov

The City and BCPS agree to this waiver amount and agree that the new base MOE for Fiscal 2015 will be \$202,624,025.

2) The recurring cost that will be reduced by line item

This is not applicable to the waiver request.

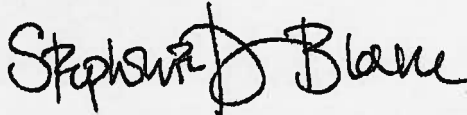
3) Why funding will remain adequate even with waiver

The City has a history of meeting or exceeding the required Maintenance of Effort. The waiver will result in BCPS receiving an appropriate level of funding if the enrollment error had not occurred. The waiver request would result in funding level based on certified enrollment figures consistent with the MOE law.

We appreciate MSDE's consideration of our request. Please contact Andrew Kleine at 410-396-4941 if you need any additional information.

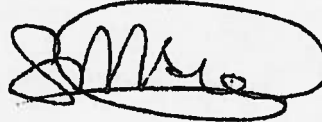
Sincerely,

Stephanie Rawlings-Blake



*Mayor
City of Baltimore*

Dr. Shanaysha Sauls, Ph.D.



*Chair
Baltimore Board of School Commissioners*

CC: Tisha Edwards, Interim Chief Executive Officer
Victor De La Paz, Chief Financial Officer
Dawana M. Sterrette, Government Relations Liaison
Tammy L. Turner, Chief Legal Counsel
Harry E. Black, City Finance Director
George Nilson, City Solicitor
Kristy Michael - Deputy State Superintendent for Finance & Administration,
& Chief Operating Officer

Education Article, §5-202, Annotated Code of Maryland

(8) (i) The maintenance of effort requirement in paragraph (1)(ii) of this subsection does not apply to a county if the county requests and is granted a waiver from the requirement by the State Board based on:

1. A determination under this paragraph that the county's fiscal condition significantly impedes the county's ability to fund the maintenance of effort requirement;
2. Subject to paragraph (9) of this subsection, an agreement between the county and the county board to reduce recurring costs; or
3. Subject to paragraph (10) of this subsection, a determination that a county's ability to meet the maintenance of effort requirement is permanently impeded.

(ii) In order to qualify for a waiver for a fiscal year, a county shall make a request for a waiver to the State Board by the earlier of the seventh day following the end of the legislative regular session or April 20 of the prior fiscal year.

(iii) The State Superintendent shall provide a preliminary assessment of a waiver request to the State Board before a public hearing held in accordance with subparagraph (iv) of this paragraph.

(iv) Before acting on a request for a waiver, the State Board shall hold a public hearing in accordance with regulations adopted by the State Board.

(v) Except as provided in paragraph (9) of this subsection, when considering whether to grant a county's waiver request, the State Board shall consider the following factors:

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 relative to a county's statutory ability to raise revenues;
5. A county's history of exceeding the required maintenance of effort amount under paragraph (1)(ii) of this subsection;
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 adjustments for employees of the county board and county government.

(vi) The State Board shall inform the county whether the waiver for a fiscal year is approved or denied in whole or in part no later than 30 days after receipt of an application or May 20 of the prior fiscal year, whichever is earlier.

(vii) Except as provided in paragraphs (9) and (10) of this subsection, if a county is granted a waiver from the provisions of this subsection by either the State Board or the General Assembly for any fiscal year, the minimum appropriation of local funds required under this subsection for the next fiscal year shall be calculated based on the per pupil local appropriation for the prior fiscal year in which the county met the maintenance of effort requirement under paragraph (1)(ii) of this subsection.

(9) (i) This paragraph applies to a county that requests a waiver under paragraph (8)(i)2 of this subsection.

(ii) 1. The State Board shall grant a waiver request in the amount that has been agreed on by the county and county board that is attributable to reductions in recurring costs.

2. If the reduction in recurring costs includes reductions in personnel or personnel costs, then the State Board shall grant a waiver request in the amount that has been mutually agreed on by the county, county board, and exclusive employee representative.

(iii) The amount of the agreed on waiver may be less than the entire amount of the reduction in recurring costs.

(iv) The amount of the agreed on waiver may not:

1. Exceed the entire amount of the reduction in recurring costs; or

2. Reduce a county's education appropriation below the amount required in paragraph (1)(i) of this subsection.

(v) The minimum appropriation of local funds required under this subsection for the next fiscal year shall be calculated based on the per pupil local appropriation for the current fiscal year approved by the State Board under this paragraph.