



**MONTGOMERY COUNTY PUBLIC SCHOOLS**  
MARYLAND

www.montgomeryschoolsmd.org

June 4, 2009

Dr. Nancy S. Grasmick  
State Superintendent of Schools  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, Maryland 21201

Dear  Dr. Grasmick:

On May 21, 2009, the Montgomery County Council adopted its Fiscal Year 2010 operating budget, adding \$79.5 million to the Board of Education's operating budget to meet its maintenance of effort requirements. However, the council resolution states that these funds are to be returned to the county as reimbursement for debt service for public school facilities. I am writing to ask whether the council's action with respect to these funds meets the maintenance of local effort requirements of Section 5-202 of the Education Article, Annotated Code of Maryland. We find ourselves in uncharted waters and seek your guidance on this issue because the penalty that can be imposed on communities that don't meet local funding requirements can be severe and result in the loss of millions in state education aid for schools. The situation could be further compounded by the fact that any such penalty may be imposed at the end of the fiscal year when there is little time to address the matter. As a result, it is important to resolve this issue as soon as possible so that all of the school districts across our state have clear guidance.

This year's budget situation presented us with an unusual scenario; yet, one that all parties in Montgomery County worked collaboratively to solve. Our priority as a community has been to ensure that we continue to have the funding necessary to maintain our exceptional school system and to guard against any unintended consequences. As you know, earlier this spring, the County Executive and the County Council requested from the State Board of Education a one time waiver of maintenance of effort. In a spirit of collaboration, the Board of Education supported the request, with limitations, because of the county's dire financial circumstances and the direct infusion of additional state and federal education aid. The Board cooperated on this request believing it was fiscally responsible and would create greater budget sustainability in Fiscal Year 2011.

The waiver denial required the county to find another approach to meeting the needs of the school system and the county as a whole. We proposed that the \$79.5 million be appropriated and incorporated into our budget. As in past years, we said we would aim to reserve resources to ensure the sustainability of future budgets. In fact, we anticipated that a fund balance would have been available in Fiscal Year 2011 for the county to use to more easily meet the maintenance of effort requirements.

The County Executive proffered a different solution whereby the reserve would be used to pay, for one year only, \$79.5 million of the county's debt service. With the one year limitation, we believed that the intent was not to transfer the responsibility in the future. The council did not concur with the Executive's recommendation and instead passed the attached resolution which is silent on whether the debt service payments would be made by Montgomery County Public Schools (MCPS) for one

Office of the Superintendent of Schools

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850 Hungerford Drive, Room 122 ♦ Rockville, Maryland 20850 ♦ 301-279-3381

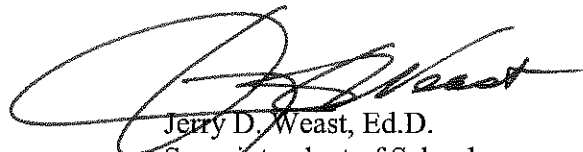
year or whether the council intended for this to become an ongoing component of our budget. This now leaves the possibility of an open ended shifting of this responsibility to the school system which is completely unacceptable. In fact, the council action requiring the school system to reimburse the county for debt service calls into question whether such a directive is consistent with maintenance of effort statutory requirements or whether it might be inconsistent with the spirit of the law.

I am concerned that these circumstances may have exposed MCPS to consequences that could substantially harm our system. As you know, any county's failure to maintain local effort can result in directly penalizing the school system by the denial of state education funds. Such a penalty would adversely affect the education of the public school children of Montgomery County by greatly reducing education funds available to MCPS. It hardly seems fair to penalize the children when they are in no way responsible for a funding body's failure to meet its statutory obligations. While this may be what the statutes require, I believe that our state leaders did not intend for children to bear the brunt of the punishment. This certainly is an issue that I believe our elected state leaders need to take up in the Maryland General Assembly. While MCPS is facing this issue today, other jurisdictions could suffer similar consequences. Clear enforcement mechanisms and strong language are needed to protect the priority of education funding in every county, but that is not the current state of affairs. I am willing to work with you and our elected leaders to achieve a legislative fix to ensure that no school district is penalized by any county's failure to meet maintenance of effort requirements.

That said, our legal experts believe that even if you find that Montgomery County has not met its maintenance of effort requirements, you have the discretion to lessen the punitive impact of the county's noncompliance on our school district this year. I am requesting that you not ask the comptroller to impose a financial penalty on our school district because it would be unjust to do so, especially if we are able to achieve a solution in the Maryland General Assembly.

I appreciate your serious consideration of my requests and look forward to your responses as promptly as you are able to provide them. Thank you for your unwavering support for public education in Maryland and I know you will do whatever you can to support our educational system.

Respectfully,



Jerry D. Weast, Ed.D.  
Superintendent of Schools

JDW:spm

Attachments

Copy to:

Ms. Brandman and Members of the Board of Education

Mr. Andrews

Mr. Berliner

Ms. Ervin

Mr. Leggett

Resolution No.: 16-971  
Introduced: May 21, 2009  
Adopted: May 21, 2009

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT:** Approval of and Appropriation for the FY10 Operating Budget of the  
Montgomery County Public School System

**Background**

1. As required by the Education Article, Sections 5-101 and 5-102, of the Maryland Code, the Board of Education sent to the County Executive and the County Council the FY10 Operating Budget for the Montgomery County Public School (MCPS) system as shown below.
2. The Executive sent to the Council his recommendations regarding this budget.
3. As required by Section 304 of the County Charter, the Council held public hearings on the Operating Budget and the Executive's recommendations on April 13, 14, 15, and 16, 2009.
4. The appropriation in this resolution is based on the following projected revenues for FY10:

State:	\$440,089,248
Federal:	\$115,609,261
Other:	\$ 14,980,651
Enterprise:	\$ 56,143,393
5. This appropriation requires a local contribution of \$1,529,554,447 to Montgomery County Public Schools.
6. This resolution reappropriates \$20,000,000 of projected FY09 MCPS Current Fund balance. This resolution also appropriates State funds received in FY09 totaling \$24,200,000.

7. Federal grant revenue totaling \$27,845,773 to be received in FY10 through the State from the State Fiscal Stabilization Fund of the American Recovery and Reinvestment Act is unrestricted in use but is considered as restricted revenue in this appropriation as required by the United States Department of Education for the purpose of financial reporting.
8. The Superintendent submitted to the Council proposed reductions by State category to meet the approved expenditure level as reflected in this appropriation.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

1. The Council approves the FY10 Operating Budget for the Montgomery County Public School system and appropriates the funds as shown below.
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## Resolution No.

## FY 2010 OPERATING BUDGET FOR MONTGOMERY COUNTY PUBLIC SCHOOLS

The Council approves and appropriates the following amounts.

I. Current Fund Category	BOE Request March, 2009	Council (Reduction)/ Addition	Council Approved Budget
1 Administration	41,809,677	64,426	41,874,103
2 Mid-level Administration	135,542,318	329,102	135,871,420
3 Instructional Salaries	856,035,209	(258,495)	855,776,714
4 Textbooks and Instructional Supplies	31,905,545	(1,783)	31,903,762
5 Other Instructional Costs	15,070,581	23,120	15,093,701
6 Special Education	280,339,274		280,339,274
7 Student Personnel Services	11,153,748	21,630	11,175,378
8 Health Services	41,002		41,002
9 Student Transportation	92,765,998		92,765,998
10 Operation of Plant and Equipment	118,589,104		118,589,104
11 Maintenance of Plant	34,961,236	(1,023,000)	33,938,236
12 Fixed Charges	477,537,658	(30,218,560)	447,319,098
14 Community Services	208,495		208,495
Non-Categorized Expenditures			
Debt Service		79,537,322	79,537,322
Subtotal, including specific grants	2,095,959,845	48,473,762	2,144,433,607
Less specific grants	96,719,382	27,635,962	124,355,344
Subtotal, spending affordability	1,999,240,463	20,837,800	<b>2,020,078,263</b>
II. Enterprise Funds			
37 Instructional Television Fund	1,581,608	(98)	1,581,510
51 Real Estate Fund	2,651,095		2,651,095
61 Food Services Fund	47,821,972		47,821,972
71 Field Trip Fund	2,314,716		2,314,716
81 Entrepreneurial Activities Fund	1,774,100		1,774,100
Subtotal, Enterprise Funds	56,143,491	(98)	56,143,393
Total Budget for MCPS	2,152,103,336	48,473,664	<b>2,200,577,000</b>

2. This resolution appropriates \$8,991,083 for the account titled "Provision for Future Supported Projects", which provides funds for specific programs designated in a grant, contribution, reimbursement, or other non-county funding source received in FY10. When MCPS receives funds for a program from one of these sources, MCPS may transfer funds from this appropriation to the program. The following conditions are established on the use of this transfer authority:
  - a) The program must not require any present or future County funds.
  - b) Subject to the balance in the account, any amount can be transferred in FY10 for any program which meets at least one of the following four conditions: (1) the amount is \$200,000 or less; (2) the program was funded in FY 2009; (3) the program was included in the FY10 budget; (4) the program was funded by the Council in a supplemental or special appropriation in FY10. Any program that does not meet one of these four conditions must be funded by a supplemental or special appropriation.
  - c) MCPS must notify the Executive and the Council within 30 days after each transfer.
3. Any appropriation authorized in this resolution for any expenditure funded by non-County funds is contingent on the receipt of the non-County funds.
4. This resolution reappropriates or appropriates revenue received from non-County sources for programs funded in whole or in part from those non-County funds:
  - a) together with matching County funds, if any; and
  - b) to the extent that the program period approved by the non-County source encompasses more than one fiscal year, in order to complete the grant program under the terms of receipt of the non-County revenues.
5. This resolution reappropriates the fund balance of the Warehouse account.
6. The Council continues the procedure for transfers adopted in Resolution 12-889. This procedure applies only to the non-County portion of grant programs, and therefore only applies to those grant programs for which MCPS keeps separate accounts for County and non-County funds.
  - a) The Council will not take action on these transfers, so the transfers will be automatically approved after 30 days, as provided by State law.
  - b) MCPS staff must report each transfer to the Executive and the Council within 30 days after the transfer.

7. The following provision applies when MCPS receives more non-County funds than were budgeted for a project that also receives some County funds:
  - a) Council approval is not required to substitute non-County funds for County funds. In this case, there is no change in the appropriation.
  - b) Council approval is required to increase the appropriation. The Council may decide to substitute non-County funds for the County funds instead of increasing the appropriation.
8. This resolution reappropriates encumbered appropriations, permitting them to be spent in FY10. Unencumbered appropriations lapse at the end of FY10 except as reappropriated elsewhere in this resolution.
9. This resolution appropriates \$12,000,000 for pre-funding retiree health insurance consistent with Resolution No. 16-555, which the Council adopted on May 14, 2008. These funds must not be placed in trust before June 30, 2010. Before June 30, 2010, these funds may be transferred, with Council approval, to address any unanticipated revenue shortfall.
10. This resolution appropriates \$79,537,322 for the payment of debt service due in FY10 for the construction of Montgomery County Public Schools facilities.
  - a) Montgomery County Public Schools must make payment for the debt service through the Montgomery County Government as provided in subparagraph 10(c). These funds must not be spent for any other purpose.
  - b) The inclusion of this amount for debt service will be part of the County's Local Appropriation and part of the calculation of the FY11 Local Appropriation required to comply with the State maintenance of effort requirement.
  - c) Reimbursement must occur no less than five days before each applicable debt service payment.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council

**CERTIFICATION STATEMENT  
STATE SHARE OF THE FOUNDATION PROGRAM  
FOR FISCAL YEAR 2009**

Education Article Section 5-202 (b) through (d) requires that to be eligible to receive State Share of the Foundation Program the following must be met:

A. **Minimum share ( local wealth x local contribution rate)** \$ 734,593,409  
From Foundation Program Calculation for Fiscal Year 2008

B. **The product of Enrollment for the current fiscal year and the  
Local appropriation on a per pupil basis for the prior fiscal year**

Fiscal Year 2008 Highest Local Appropriation \* to the School  
Operating Budget 1,453,227.708

Divided by

FTE Enrollment as of 9-30-2006 for Fiscal Year 2008 134,631.00

Fiscal Year 2008 appropriation Per Student 10,794.15

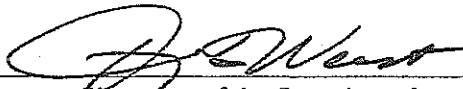
Multiplied by

FTE Enrollment as of 9-30-2007 for Fiscal Year 2009 134,546.75

Equals

**Maintenance of Effort Level** 1,452,318,301

**In accordance with the above requirements of the Acts of the General Assembly,  
I hereby certify that the above information is correct and that \$1,531,487,602  
is the Net Local Appropriation\* that will be provided to the Montgomery  
County Board of Education from County sources beginning July 1, 2008**



\_\_\_\_\_  
Signature of the Superintendent of Schools

3/2/09  
Date

This Certification is to be submitted to the Maryland State Department of Education no later than  
April 17, 2009

\* See other side for instructions to meet this requirement (amount shown from line G)