

**Legislative Update for the
Michigan School Counselor Association (MSCA) Board**

April 23, 2021

Legislative Environment

- The partisan divide between the Republican-led Legislature and the Democratic Governor continues to widen, mainly in regard to the state's response to the COVID-19 pandemic.
- Budgets for FY 21-22 are out of subcommittee, now before full House and Senate Appropriations Committees.
- Supplemental appropriations bills utilizing mostly federal dollars to address COVID-19 passed in early March, including an additional \$20 million for School Mental Health and Support Services (31n), bringing total funding for the program up to \$55.6 million. Unfortunately, the program model is based on Medicaid-eligible services, which largely omits opportunities to increase student access to school counseling services.

Michigan to Receive \$10.1 Billion in Federal Stimulus Funds

The \$1.9 trillion American Rescue Plan (ARP) Act of 2021 passed by Congress and signed by the President in March includes \$10.1 billion for Michigan to respond to the coronavirus pandemic. \$3.9 billion of that amount is targeted for Elementary and Secondary School Emergency Relief (ESSER).

Requirements for ESSER funds include:

- State must grant at least 90% of funds based on based Title I Part A.
- State must make allocations in an expedited and timely manner and, to the extent practicable, not later than 60 days after the receipt of such funds.
- Districts must reserve not less than 20% of funds to address learning loss through the following evidence-based interventions and ensure that such interventions respond to students' academic, social, and emotional needs and address the disproportionate impact of the coronavirus on disadvantaged students, students experiencing homelessness, and children in foster care:
 - summer learning or summer enrichment,
 - extended day,
 - comprehensive afterschool programs,
 - or extended school year programs.
- The State shall reserve not less than the following percent of the total to carry out, directly or through grants or contracts, for:
 - Activities to Address Learning Loss (5%)
 - Summer Enrichment Programs (1%)
 - Comprehensive Afterschool Programs (1%)
 - May reserve 0.5% for administrative costs
 - Remainder for emergency needs as determined by the state educational agency
 - Funds must be awarded within 1 year of receipt.

- Maintenance of Effort
 - State must maintain state support for K12 and for higher education (including funding to institutions and need-based financial aid) in FYs 2022 and 2023 at proportional levels of state support for K12 and higher education relative to the State’s overall spending, averaged over FYs 2017, 2018, and 2019.
 - The Secretary of Education may waive MOE

The Governor and legislators are soliciting ideas for eligible uses of the funds. MSCA will want to take advantage of this opportunity to provide its own recommendations. See MSCA leaders’ reports on concepts developed to-date.

Legislature Withholding Spending Authority for Billions from First Round of Federal Relief Funds

While the March supplemental budget bills (mentioned above) appropriated \$1.0 billion in spending authority, the Legislature continues to withhold spending authority for \$3.3 billion from the first round of federal relief funding. Of that, \$26.8 million is intended to help schools pay for COVID-19 testing, academic support, social and emotional support for students, and ongoing costs related to the pandemic. Attached separately is a county-by-county analysis of unallocated federal relief funds.

Legislation Passes House Ed Committee Eliminating WorkKeys Requirement and Creating New Fund

On March 23rd, the House Education Committee passed a package of three bills eliminating the requirement that schools administer a workforce readiness assessment (currently the ACT WorkKeys assessment). House Bills 4037 (H-1), HB 4038 (H-1), and HB 4538 are now awaiting a vote before the full House.

The difference between these bills and similar legislation introduced last session, is the addition of a bill creating the “Student Postsecondary Preparedness” (SPP) fund, for funds allocated to the assessments required by Michigan as a prerequisite for obtaining a professional certification or license necessary for employment in the field of certification or licensure.

HB 4038 (H-1) (sponsored by Rep. Reilly, R-Oakland Twp.) would amend the Revised School Code to explicitly prohibit the Michigan Department of Education (MDE) from requiring the administration of a workforce readiness assessment by a district or Public School Academy (PSA) that assesses a student’s ability to apply reading and mathematics skills. However, HB 4038 provides that the board of a school district or board of directors of a PSA could provide students with the opportunity to take such an assessment and also that, if a student requested to take the assessment, the district would have to ensure the student was provided with that opportunity. If a district or PSA offered the assessment, the legislature would have to appropriate funds for reimbursement of that cost. Finally, MDE would have to submit a report by June 1, 2021, and yearly thereafter on the number of districts and PSAs that offered the assessment and the number of students that took the assessment.

House Bill 4037 (H-1) (sponsored by Rep. Hornberger, R-Chesterfield) would make complementary changes to the State School Aid Act. It would also provide that MDE could not require, as a condition of the receipt of school aid, the administration by a district of a workforce readiness assessment.

House Bill 4538 would create the SPP Fund and allow the state treasurer to credit money to the fund that was allocated for assessments but not used because of the removal of the requirement that districts administer a workforce readiness assessment described in HB 4038 (currently, the ACT WorkKeys assessment).

Money in the fund at the close of the fiscal year would remain there and not lapse to the School Aid Fund or the general fund. The Department of Treasury would serve as the fund's administrator for auditing purposes. For the fiscal year ending September 30, 2021, MDE would have to make payments from the SPP Fund to eligible districts and ISDs.

Districts and ISDs would have to apply for the payments as specified by MDE. These payments would be in an amount equal to either of the following, whichever was less:

- Total actual cost submitted in the district's or ISD's application, up to \$100 per student.
- \$100 per student for whom the actual costs are associated. If funds in the SPP Fund were insufficient to fully fund the amounts listed above, MDE would have to prorate the payments proportionally. By September 30, 2021, MDE would have to issue a list of qualifying assessments, after consulting with organizations representing trade unions, educational staff and administrators, and other relevant groups, as determined by MDE.

Qualifying assessments would mean assessments that are included on MDE's list and that are capable of generating postsecondary credentials or credits, including any of the following:

- Assessments required by Michigan as a prerequisite for obtaining a professional certification or license necessary for employment in the field of certification or licensure.
- Career and technical education technical skills assessments necessary to achieve completer status in a career and technical education program.
- Assessments that enable students to earn credit for introductory level courses that count toward completion of a postsecondary credential by achieving satisfactory scores.
- Any other assessments determined by MDE to be capable of generating postsecondary credentials for high school students.

To be an eligible district or eligible ISD, a district or ISD would have to do both of the following in its application:

- Pledge to use payments solely to provide to its 9th to 12th grade students opportunities to participate in qualifying assessments by covering a part or all of the cost of those assessments.
- Include the actual costs per student of providing them with opportunities to participate in those qualifying assessments. (Actual costs may include a student's participation in more than one qualifying assessment.)

(Source: House Fiscal Agency analysis of HBs 4037 (H-1), 4038 (H-1), and 4538, as reported from committee. April 2, 2021)

Rep. Brabec Introduces SC-to-Pupil Ratio Bill

On February 4th, Freshmen State Representative Felicia Brabec (D-Pittsfield Twp.), together with a bipartisan list of 36 cosponsors, introduced House Bill 4156, a bill mandating that all schools maintain a school counselor-to-pupil ratio of 1 to 450. This is the same bill that former State Rep. Love introduced in previous two sessions. The bill was referred to the House Education Committee, chaired by Rep. Pamela Hornberger (R-Chesterfield Twp.), a friend and champion of school counselors. HB 4156 is an excellent opportunity for members to communicate with their state representatives and educate them about Michigan's dismal student-to-school counselor ratio (see copy of the bill attached, plus the ASCA most current listing of state ratios).

As members recall from previous sessions, we also need to anticipate opposition to the bill. As we have discussed in previous legislative sessions (this bill was introduced in the 2018-2018 and 2019-2020 Legislative Sessions), some see a 'mandated ratio' as a problematic approach to solving the school counselor shortage in our state. Some of the challenges to this approach include:

- The "Headlee Amendment" to our state constitution (adopted by voters in 1978) requires - among other things - that the state reimburse local governmental units for any new state-mandated programs. Most, if not all, school groups are likely to oppose the bill as an unfunded mandate;
- Others will argue that Michigan has equally dismal shortages of other school health and mental health professionals, like school nurses;
- Some question if there are enough school counselors in Michigan (or in the pipeline as counseling program grad students) available to fill the positions mandated under the bill; and
- Finally, the ratio of 250:1 student to school counselor is the recommended ratio based upon ASCA research; the ratio in HB 4156 is (approximately) the national average.

STILL, Rep. Brabec's early introduction of HB 4156 and the impressive number of cosponsors she solicited, is incredibly encouraging! Thanks to Rep. Brabec's leadership, we have the perfect opportunity to continue the conversation and challenge lawmakers to work with us to find a solution. MSCA's leaders and lobbyists have now met twice with Rep. Brabec and/or her staff to discuss next steps.

Legislation Re-Introduced Establishing School Counselor Corps Grant Program

On March 23, Representative Alex Garza (D-Taylor), re-introduced his bill creating a \$5 million School Counselor Corps Grant program "to support districts in providing effective school counseling to pupils." House Bill (HB) 4548 is identical to the bill from last session and outlines the application process for districts, factors for the Michigan Department of Education (MDE) must consider in awarding grants, and reporting requirements and other responsibilities of grant recipients. MSCA has long advocated for such a program and has included a description of the Colorado School Counselor Corp Grant program as one of the Association's policy priorities in past Annual Legislative Days. As with the bill from last session, HB 4548 departs from the Colorado model in one problematic way: it requires MDE to contract with the Michigan College Access Network to administer and implement the grant program.

MSCA leaders and lobbyist met with Rep. Garza last session to share our general support of the bill, as well as our concern with this particular provision. MSCA will include Rep. Garza in ongoing conversations with other legislative champions for school counselors to exploring opportunities – particularly related to federal COVID-19 relief funds - to establish this and other school counseling programs. The bill is currently before the House Appropriations Committee.

Bills Addressing Dyslexia Screening and Interventions Re-Introduced

Senate Bills 380, 381, 382, and 383 (sponsored by Senators Jeff Irwin, Lana Theis, Dayna Polehanki and Jim Runestad, respectively) were re-introduced this week and referred to the Senate Committee on Education and Career Readiness. The bills require dyslexia screening and interventions for all pupils starting in kindergarten through grade 3; require that certain school personnel receive professional learning regarding dyslexia and evidence-based intervention programs or approaches that are grounded in the principles of structured literacy and cognitive science; and creates a dyslexia resource guide advisory committee within the Department of Education.