

## Update on state accountability system at MASC Learning Lunch

At the January Learning Lunch program, MASC members received an update on the state accountability system from Department of Elementary and Secondary Education Chief Officer for Data, Assessment, and Accountability Rob Curtin. Reviewing the past several years, Curtin reminded members of the federal accountability waivers of both 2019-20 and 2020-21, as well as the assessment waiver of 2019-20. The Department further applied for and was granted flexibility around certain federal accountability reporting requirements in the 2021-22 year; those changes were codified in state regulation by the Board of Elementary and Secondary Education.

The requirement to set targets for student subgroups, schools, districts, and the state is requirement between the federal Elementary

and Secondary Education Act and the state Student Opportunity Act. In working to adhere to these requirements, which require the annual setting of between 60-70,000 different targets, the Department reviewed the various accountability data to date. While impacts were seen across the system, there is a significant disparity across districts in student achievement data not seen in other sectors like graduation, dropout, or attendance. Some districts, schools, and subgroups saw a drop in student achievement at a rate never before seen; some saw only a small drop; some gained. It is notable that historically underperforming subgroups, schools, and districts are not universally those that saw the greatest drops. This never-before-seen variance in student achievement makes setting targets that simply move

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**Jake Oliveira** (center), a former member of the Ludlow School Committee, Past President of MASC, and former member of the Board of Directors of the National School Boards Association, following his swearing-in as Senator for the Hampden, Hampshire and Worcester district. Jake will be assisted by his Chief of Staff **Devin Sheehan** (far left), a former member of the Holyoke School Committee and also a Past President of MASC. Devin also currently serves as a trustee for the Greenfield Commonwealth Virtual Schools, and also on the NSBA Board of Directors as a Regional Director.

## Governor announces education priorities

Less than two weeks after her historic inauguration as the state's 73rd Governor, Maura Healey joined municipal leaders at their annual meeting and shared some of her plans and priorities.

Among the policy and budgetary initiatives that she announced were pledges to fully fund the Student Opportunity Act, seek supplemental funding to cover costs associated with serving migrant children in the state's public schools, and file an executive order to create a working group on how to structure the new housing secretariat the governor promised on the campaign trail.

In addition to fully funding the

landmark 2019 K-12 education funding law (SOA), Healey said her administration will assist school districts with the cost of transporting students amid a nationwide bus driver shortage, and that her first budget will



also fully fund the McKinney-Vento program, which supports homeless students.

Without specifying how much funding she plans to include in her first state budget proposal, Healey also said she would support the special education circuit breaker program to "help maintain funding" to assist all school districts for the cost of the special education services.

"We know that the pandemic hit every student, every family and it widened disparities that existed in the first place," Healey said. "We need to really focus on getting our students back on track. Luckily, we have the Student Opportunity Act and federal aid that we'll rely on. The

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### IN POLL, MOST PARENTS GIVE SCHOOLS HIGH MARKS

Less than a quarter of Massachusetts parents think their child is behind grade level compared to before the pandemic, even while national and state test scores show considerable drops in student learning.

A new MassINC statewide poll, sponsored by The Education Trust, shows only 24 percent of parents see their children as behind grade level. However, these numbers are higher for parents whose students are on an individualized education plan and parents who make less than \$50,000 annually, and lower for Asian parents. The most recent (2022) MCAS test showed mixed results compared with the 2021 scores. Math and science scores increased, while English language arts declined for the second year in a row.

"Globally and around the country we've seen academic losses brought on by the pandemic. Massachusetts is no exception," state Education Commissioner Jeffrey Riley said in October. "Though we remain the top performing state ... I think it's fair to say we have a lot of work ahead of us to remediate the learning loss that our students have experienced." Overall, parents gave their children's schools high marks, with 40% offering a grade of A and 41% a B, according to the poll.

About two-thirds of high school parents (68%) said their child's school adequately prepares students for life after graduation.

Seven out of 10 of the parents polled believe their child's school has enough resources to help students in need, but 56% of parents who see their children as behind grade level say the same.

About six out of 10 parents who responded to the survey gave schools "As and Bs" for making sure all students who need help with their mental health get it.

Levels of mental health concerns have shown steady decline over the last year, but still remain elevated with 44% of parents saying it is still a

concern, according to the seventh of these pandemic education recovery polls that MassINC has conducted since 2021.

Meanwhile, 56% of parents say their schools have enough mental health resources and 20% responded they did not.

When it comes to extra support, survey respondents prefer activities that occur on days when school is already in session. Small-group tutoring during school days was most popular, with 38% of parents saying they would be "very likely" to send their children, followed by the option of after-school tutoring.

While summer school, at 19%, and school during vacation, at 11%, were the least popular forms of extra support option, parents of color are generally more interested than white parents in having students receive additional academic support during vacations and breaks.

The statewide poll surveyed 1,519 parents of school-age children in Massachusetts, including oversamples of Black, Latino and Asian parents to "let us dig into the disparate impact of the pandemic more than a representative sample," according to MassINC Polling Group president Steve Koczela. The poll was conducted between Nov. 17 and Dec. 4, 2022 via live telephone and online interviewing in English and Spanish.

### SCHOOLS URGED TO RESIST CALLS TO BAN BOOKS

Civil liberties groups are urging state and local education officials to push back against "coordinated" efforts to ban books, warning that pulling any controversial titles from libraries could run afoul of anti-discrimination laws. In a letter to the state's public school districts, the Massachusetts chapter of the American Civil Liberties Union (ACLU) and GLBTQ Legal Advocates & Defenders (GLAD) cited a recent uptick in library book challenges from parents and conservative groups targeting titles related to LGBTQ issues, communities of color, and other marginalized groups.

The groups called on school officials to "take a stand against censor-

ship and protect student access" by "resisting calls to remove books from school libraries." But they also hinted at legal challenges over book banning efforts.

In the letter to school committee members and superintendents, the ACLU and GLAD ticked off a litany of court rulings which determined that efforts to ban books in school libraries violate the right to receive information, "which is protected by constitutional and statutory free speech guarantees."

The letter further noted that Massachusetts librarians are fielding a dramatic uptick in the number of book challenges from parents and outside groups who are upset about what they view as inappropriate content on sexuality and racism for younger readers.

A recent survey conducted by the Massachusetts Library Association found that informal challenges, disruptions and objections "quadrupled" between 2021 and 2022. More than 100 libraries that responded to the group's annual survey reported at least 78 book challenges so far this year – up from only 20 last year.

Details about the number of books that are challenged – or whether the efforts are successful – remain anecdotal. It's not clear how many books, if any, are ultimately pulled from shelves of the estimated 1,600 public libraries across the state.

Locally, the "culture war" fights are playing out at contentious school committee hearings and in cyberspace with parents and conservative groups filing "challenges" to get the materials removed.

Nationally, documented book challenges rose from 273 to 1,597 between 2020 and 2021 – a more than 400% increase, according to the American Library Association.

# Board of Education in a New Administration

With the inauguration of Governor Healey have come a number of questions concerning what authority the Governor has over K-12 school governance in Massachusetts.

This involves the interaction of three sets of players: the Secretary of Education; the Board of Elementary and Secondary Education; and the Commissioner of Education

The Secretary of Education is a cabinet member of the Governor—appointed by the Governor, serving at the pleasure of the Governor. The Secretary oversees the Executive Office of Education. By virtue of that appointment, the Secretary has a voting seat on three Boards:

- The Board of Early Education
- The Board of Elementary and Secondary Education
- The Board of Higher Education

Governor Healey has appointed Dr. Patrick Tutwiler as Secretary of Education; this position was held by James Peyser under Governor Baker.

The Board of Elementary and Secondary Education, created by MGL Ch. 15, sec. 1E, consists of eleven voting members as follows:

1. The Secretary of Education: As above, this is **Dr. Tutwiler**. His term is entirely up to the Governor.
2. The Chair of the Statewide Student Advisory Council--This student member is the only elected member of the Board of Elementary and Secondary Education, as the chair is elected by their peers on the Council. They are elected in June and serve for one year. This seat is currently held by **Eric Plankey**, who is a senior at Westford Academy (which is the public high school in Westford).
3. A member whose term is coterminous with the Governor. That seat was held by **Tricia Canavan** of South Hadley; as such, this is a seat which Governor Healey now can fill with a person of her choice.

The term of all the other seats is for five years, with a single renewal of an additional five years allowed.

4. A labor representative, selected by the Governor from a list put forward by the State Labor Council, AFL-CIO. This seat is currently held by **Darlene Lombos** of Boston, who is the executive secretary-treasurer of the Greater Boston Labor Council.
5. A "representative of business or industry selected by the governor with a demonstrated commitment to education." This seat is held by **Katherine Craven** of Brookline, who is Chief Administrative Officer of Babson College. It is important to note that though Craven currently serves as Chair, the Governor appoints the Chair, thus Governor Healey may appoint a different chair from among the members if she wishes.
6. A "representative of parents of school children" selected by the Governor from a list of three put forward by the Massachusetts Parent Teacher Association. This seat is held by **Mary Ann Stewart**, formerly a member of the Lexington School Committee.

The remainder of the five seats are non-specific, though the law specifies that no member of the Board may be employed by or receive compensation from the Department, nor any school system, nor may they be a member of any school committee. No more than two members may work for the state.

Currently, they are:

7. **Matt Hills**, Vice-Chair (elected to that position by his colleagues for the year), formerly a member of the Newton School Committee, is a Managing Director at LLM Capital Partners.
8. **Farzana Mohamed**, also of Newton, was appointed by Governor Baker this past July, who has a history of working in health care.
9. **Michael Moriarty**, a former member of the Holyoke School Committee (prior to receivership), is the Executive Director of the OneHolyoke Community Development Corporation.
10. **Paymon Rouhanifard** of Brookline, is the former superintendent of the Camden, NJ schools, now under state control; he currently runs Propel America.
11. **Martin West of Newton**, is a profession of education at the Harvard Graduate School of Education.

## MSBA seeks SOIs for Core Program: construction/renovation/repair grants

The Massachusetts School Building Authority (the "MSBA") has announced it began accepting Core Program Statements of Interest ("SOIs") for consideration in 2023 on Friday, January 13, 2023.

Submitting a Core Program SOI is the critical first step in the MSBA's program for school building construction, addition/renovation, and extensive repair grants. It allows districts to inform the Authority about deficiencies that may exist in a local school facility and how those deficiencies inhibit the delivery of the district's educational program.

The following provides Core Program detail and closing date information to guide local actions and approvals for those planning to file an SOI; **please note if you did not file in 2022, there are changes specific to the vote requirements that are highlighted below:**

### NEW SOI VOTE REQUIREMENTS:

- All required vote documentation must be uploaded in the SOI system in order to submit an SOI and in the prescribed format set forth within the MSBA's SOI Application System.
- Cities and Towns must submit the following vote documentation:
- Vote of the municipal governing body (i.e. City Council/Board of Aldermen/Board of Selectmen/equivalent governing body) authorizing the Superintendent of Schools to submit the SOI.
- Vote of the School Committee authorizing the Superintendent of Schools to submit the SOI (meeting minutes are NOT required).
- Regional School Districts must submit the following vote documentation:
  - Vote of the Regional School Committee authorizing the Superintendent of Schools to submit the SOI (meeting minutes are NOT required).
- The SOI closing date for districts submitting for consideration under the Core Program, which is primarily for projects considered as extensive repairs, renovations, addition/renovations, and new school construction, is **Friday, April 14, 2023**.

For more information on submitting a Core Program SOI: [www.massschoolbuildings.org/building/SOIs](http://www.massschoolbuildings.org/building/SOIs)

### COPIES STILL AVAILABLE

MASC has begun work on the 2023 edition of our Selected General Laws for School Committees and School Personnel book, but it will not be available until later this summer. In the meantime, we still have some copies of the 2022 edition available for purchase for districts that have new members or new central office/administrative/professional staff. To order additional copies, contact Communications Director Jenifer Handy at [jhandy@masc.org](mailto:jhandy@masc.org).

## new administration

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It is the Board that appoints the Commissioner of Elementary and Secondary Education, who is the executive of the Department of Elementary and Secondary Education, which oversees K-12 education in Massachusetts. Currently, the Commissioner is Jeffrey Riley, former receiver of Lawrence, who was appointed Commissioner in 2018. He can serve as long as the Board wishes him to do so.

The relationship of the Board to the Commissioner is similar to that of the School Committee to the Superintendent, with the Secretary simply serving as a voting member.

## state accountability

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forward from 2019 unworkable.

Working with the Accountability and Assistance Advisory Council, the Department has worked to set rigorous and realistic goals that meet schools where they are. As such, they are setting out a twofold path: for districts, schools, and subgroups that have seen significant drops in student achievement, targets will be a path to recovery, to ramp up to and then beyond where those were in 2019. They then will join those without significant losses on a path forward.

Curtin noted that due to the interaction of the district, school, and subgroup data and the disparities in which were most impacted, districts may have groups on both paths. These are, he stressed, rigorous paths in either case, but they address schools and districts where they are, without repeating the historical error of the No Child Left Behind Act of setting a goal that is unrealistic and unreachable.

### BOARD OF ED MEETING UPDATE:

The Department's proposed "A Path to Recovery" accountability plan received strong support from a large showing of school superintendents at the BESE's January 24 meeting. At that time, Curtin reported that the Department had made an adjustment to the previously presented plan based on concerns that had been raised. The Department, he said, is committed to ensuring that the annual achievement expectations would be at least as rigorous as they had been under their previous target setting methodology. The original proposed plan already accomplished this for over 95% of schools and in this meeting the commitment was made to accomplish this for 100% of schools.

A Board vote is not needed for DESE to move forward with the adjusted accountability targets. The Department has not announced an official timeline for when targets will be released to schools, but it has indicated that they will be finalized soon so that districts can make appropriate plans.

## education priorities

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challenge is helping our school districts deploy those funds as quickly and as effectively as possible.”

The fiscal 2024 state budget will mark the third budget cycle for the Student Opportunity Act, which aims to address education equity gaps with \$1.5 billion in new funds rolled out over a seven-year span.

Before he departed office, former Gov. Charlie Baker warned lawmakers that an influx of migrants into the state was putting a strain on the public school system. He filed a supplemental budget seeking \$37 million to help manage the costs of placing students from migrant families in schools, but it didn't pass the Legislature.

Healey did not say how much supplemental funding she would seek for schools accepting migrant students, but said it would “ensure that they have access to the education and support they need to learn and thrive, and that communities have the resources to make that happen.”

She also indicated that her administration is looking to find more resources to aid migrants, including expanded shelter housing.

The Governor's Budget (H.2) is usually released the last week in January; because of the administration turnover this year, Healey has until March 1 to file her budget. Two questions of particular interest to school leaders that will be included in that budget are how much unrestricted government aid (UGGA) and Chapter 70 education funding will be allocated.

## Court Rules School did not Violate Parents' Rights in Gender Identity Suit

*(Analysis below provided by Marc L. Terry, Esq. and Massiel L. Sanchez, Esq., attorneys at Mirick O'Connell LLP, a member of the MASC Council of School Attorneys. Marc Terry is also a member of the Ashland School Committee and a former member of the MASC Board of Directors).*

In *Foote v. Town of Ludlow*, the parents of two middle school aged children filed suit against the Ludlow Public Schools alleging the school violated their fundamental, parental rights protected by the Fourteenth Amendment to the United States Constitution.

More specifically, the parents alleged staff spoke about gender identity with their children, complied with the children's request to use alternative names and pronouns, and did not share that information with them. This followed the parents' instruction to the Schools that they not discuss gender identity with their children after one of their children spoke with a teacher and raised concerns about talking with their parents about depression, low self-esteem, poor self-image and possible same-sex attraction. The parents claimed that by doing so the Schools violated their fundamental parental rights to direct the education and upbringing of their children, direct medical and mental health decision-making for their children, and family privacy.

Granting the Schools' Motion to Dismiss, the United States District Court found the parents failed to raise sufficient factual allegations to support their conclusory statements that by honoring the children's request to use their preferred names and pronouns, the Schools provided medical or mental health treatment. The Court also found the parents failed to allege facts to establish the Schools' conduct was “conscience shocking” as required to meet the necessary elements of a civil rights claim on any of the parents' legal theories.

The Court found the staff's conduct was consistent with a School Committee policy of withholding information about a student's gender identity from their parents unless the student consented to such communication. The Court further found that the policy was consistent with Massachusetts law and “the goal of providing transgender and gender nonconforming students with a safe school environment.” Though the Court opined that students and parents would be better served by a policy that facilitates safe and supportive communications between students and parents, the Court recognized the challenges students and parents face with the subject and the potential negative and harmful reactions it could evoke.

For many years, Massachusetts has recognized gender identity as a personal characteristic deserving of protection from discrimination. Indeed, the Court noted that “[a]ddressing a person using their preferred name and pronouns simply accords the person the basic level of respect expected in a civil society generally, and, more specifically, in Massachusetts public schools where discrimination on the basis of gender identity is not permitted.”

The decision is a victory for schools, and affirms the actions taken by staff to support the well-being of students pursuant to an internal policy. Schools, however, should take note of the Court's support for a policy that facilitates safe and supportive communications between students and parents.

# Bill Would Make Free School Meals Program Permanent

After agreeing to a \$110 million one-year extension, lawmakers, advocates and families are calling for the state to make school meals free for all Massachusetts students permanently. Supporters of the pandemic-era policy gathered in a State House hearing room on January 26 to promote the benefits of a program that they say ensures students have the nourishment they need to learn, while taking pressure off families.

New legislation (HD 766 / SD 1013) filed by Rep. Andres Vargas and Sen. Sal DiDomenico would allow every MA student to receive free breakfast or lunch in school without providing income or other eligibility information, supporters say. The bills call for schools to maximize access to federal funds to cover the cost of breakfast and lunch programs, and for the Department of Elementary and Secondary Education to fill the gaps for uncovered costs. Former Gov. Charlie Baker and lawmakers agreed in July to a one-year extension of free school meals for all students to the tune of \$110 million in the state budget, which campaign organizers said makes MA one of only five states continuing to offer no-cost meals to all students after the expiration of federal waivers in June. Project Bread President Erin McAleer said there are 56,000 more children eating lunch daily in MA schools today than there were in 2019, before the federal free lunch policy began.

MASC's Delegate Assembly, Legislative Committee and Board of Directors supports, in the strongest terms, the legislation that would make permanent the "School Meals for All program". MASC applauds the State Legislature for funding this program in the FY23 Budget and are pleased to urge you to reach out to your local Representatives and Senators to support these bills.

## UPCOMING EVENTS

Friday, February 3  
**Cape Cod Collaborative  
Legislative Breakfast**  
Co-sponsored by  
MASC Division VII  
8:30-11:45am (ZOOM)  
RSVP: a.prouty@  
capecodcollaborative.org

Friday, February 3  
**MASC Learning Lunch**  
Topic: School Budgets Ahead  
Noon-1:00pm

Friday, March 2  
**MASC Learning Lunch**  
Topic: Legislative Update  
Noon-1:00pm

Saturday, March 11  
**MASC Charting the Course**  
Assabet Valley Voc., Marlboro

Thursday, May 4  
**MASC DAY ON THE HILL**  
Morning program  
9:00-11:30am  
UMass Club, Boston  
(NEW LOCATION this year)  
**Vocational School lunch event:**  
Noon-1:30pm  
Great Hall, The State House  
**Visits with Legislators**  
Noon-3:00pm

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One McKinley Square  
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