



# Regional School Construction: Feasibility and Financing

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## Mandate

Section 5 of 2018’s HB 1783 (2018 Md. Laws, Chap. 14) mandated that the Interagency Commission on School Construction:

- “[E]xplore the feasibility of regional school construction projects, including regional public-private partnership zones and regional career and technical education high schools; . . .”
- “[D]evelop mechanisms and incentives to provide State funding for regional school construction projects; . . .” and,
- “On or before July 1, 2018 . . . report on the feasibility and financing of regional school construction projects to the Commission on Innovation and Excellence in Education.”

Section 2 of 2019’s SB 653 (2019 Md. Laws, Chap. 528) mandates that the IAC:

- [S]tudy and develop a State and local cost-share formula for county boards of education that choose to collaborate and operate a regional school involving more than one county board; and
- “On or before January 1, 2020 . . . submit a report with its findings and recommendations to the Governor and . . . the General Assembly.”

This report describes the IAC’s analysis of regional school feasibility and financing and related conclusions and proposes a mechanism, founded on the State Cost Share Formula identified in the Code of Maryland Regulations (COMAR), for funding regional schools.

## Regional Schools [*Definitions and Types*]

For the purposes of this analysis, a regional school is defined as a school that is jointly operated by two or more local education agencies (LEAs). A regional school might serve any number of grade levels and



house either comprehensive or specialized programs or both. At this time, no K–12 public school meeting this definition is currently operating in Maryland.<sup>1</sup>

## Potential Benefits of Regional Schools

The primary potential benefits of a regional school are cost savings and an increase in convenience for students. The total cost of operating a school is a combination of the program cost and the facility cost. The full cost of a facility—known as the total cost of facility ownership or TCO—is made up of all costs in the lifecycle of the facility, including its planning, design, financing, construction, operation, and maintenance, as well as, eventually, its decommissioning and disposal.<sup>2</sup> When comparing the cost of operating two or more school options, an LEA (or set of LEAs) must include all operational and facility costs in its calculations, beginning at the educational specifications development phase.

Due to the per-student-based nature of education-program funding and economies of scale with regard to both programs and facilities, there often is a minimum enrollment level below which the per-student cost of a program or facility (or both) rises steeply and becomes unacceptable or unaffordable for an LEA.<sup>3</sup> On the program side, operating undersized classes can be unaffordable on a per-student basis. On the facility side, operating spaces that are not fully utilized can be unaffordable or unjustifiable on a per-student basis when there are lower-cost alternatives. As a result, combining unaffordably small enrollments from two or more LEAs can create one larger enrollment that would have a per-student cost that is acceptable to both LEAs.

Such a situation might arise in the case of two small communities in different jurisdictions that are located near each other but far from other communities in their own LEAs. In such a case, the number of students in each LEA might be insufficient to make separate schools affordable, but adding each group of students to other schools within their own LEAs might incur unaffordable transportation, time, or capital costs. Instead of each LEA transporting its students a long distance, combining the two student groups into one shared school might save operating costs, reduce student commute times, and provide a civic anchor in the area. In an era of shrinking budgets and increased need for service improvements, productive partnerships can make financial and practical sense.

The development of distance learning as a technique for delivery of instruction has broadened the potential utility of regional facilities. If students can receive some part of their instruction online, LEAs may be able to serve students in a regional school even when it does not physically contain staff dedicated to every content area.

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<sup>1</sup> We distinguish regional schools from schools that are operated by a single LEA but serve students from multiple jurisdictions (often under reciprocity agreements), such as Delmar Elementary School (Wicomico County, Maryland) and Delmar Middle/High School (Sussex County, Delaware).

<sup>2</sup> For definitions of the various activity categories in a facility's life cycle, see "Definitions of Key Facilities Data Elements", National Council on School Facilities, 2015.

<sup>3</sup> The minimum enrollment size for affordability of a given program can vary widely based upon the type of program and its attributes.



## Career-Technology Education Programs as an Application of Regional Schools

Perhaps the foremost application of regional K–12 schools has been in the area of career-technology education (CTE) (formerly “vocational”) high schools. This is due to the fact that the highly specialized and technical nature of the programs requires specialized facilities, while the percentage of students in a given area that the specialized facilities serve may be relatively small. Many small towns and rural areas may not be able to generate enough CTE students to make a CTE school viable. A regional school that draws students from a larger geographic area can ensure that the enrollment is sufficient to both support a viable per-student operating budget and fully utilize the specialized spaces required to deliver CTE programming.

For more than 50 years, eight Massachusetts towns have jointly operated a regional CTE high school that serves students from all eight towns.<sup>4</sup> The partnership makes it possible for the eight towns to offer educational options that they could not separately afford to offer to their students. Their joint agreement divides the costs into four defined categories—operating, capital, debt, and transportation—and apportions them to member towns based on usage (enrollment in the school) and other factors. The agreement created a regional district that can incur debt and is eligible for supporting state appropriations.

The utility of a regional school in Maryland is likely to be greatest in the case of a CTE high school because of the specialized nature of the programs and the facility spaces that they require.<sup>5</sup>

## Challenges and Potential Barriers

The longstanding tradition of local autonomy or “home rule” in Maryland can make sharing control and accountability a deterrent to regional partnerships because integration of LEAs’ differing policies can be challenging. Enticing two school boards to share authority may be difficult. LEAs may address this challenge by placing the regional school under the governance of a separate governing body comprised of members from each board, as in the Massachusetts model.

There is a risk that the support for a regional school can erode over time. In order to promote collaboration between LEAs on a project, communities need local champions to articulate a vision, enlist support, and counteract institutional resistance. However, the eventual departure of the originating champions can leave the regional school under-supported without solid and clear formulas to sustain the programs and facility for the remainder of its 30-plus-year lifespan. It is essential that

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<sup>4</sup> See Agreement Among the Towns of Abingdon, Cohasset, Hanover, Hanson, Norwell, Rockland, Scituate, and Whitman, Massachusetts with Respect to the Establishment of a Vocational Regional High School District, available at [https://drive.google.com/file/d/1jSIePnMs8\\_umPCKq0D9jdrZYNatDbZf9/view](https://drive.google.com/file/d/1jSIePnMs8_umPCKq0D9jdrZYNatDbZf9/view), as amended Oct. 31, 2017 (accessed 7/22/2019).

<sup>5</sup> Maryland has done well with its CTE programs. On July 11, 2019, MSDE reported that Maryland’s SkillsUSA delegation brought home 18 medals from the 55th Annual National Leadership and Skills Conference (NLSC), recently held in Louisville, KY. A team of the state’s most talented Career and Technology Education (CTE) high school students showcased their skills in 94 CTE competitions. Demonstrating exemplary CTE training, Maryland students challenged 6,400 other student champions from all 50 states, Puerto Rico, Guam, and the Virgin Islands.



the partner LEAs memorialize the allocation of all costs and responsibilities relating to the regional school in an agreement so that the cost allocation is clear to future generations.

Prior to the expiration of the useful life of a regional school's facility, additional decisions face the partner LEAs. The LEAs must determine whether or not the need for the facility continues and is expected to continue. If it does, they must determine whether the total cost of ownership of a replacement facility is justified or whether the programs should be delivered in another facility. If the need for the facility will continue, the LEAs must determine how they will jointly dispose of the facility, including how to apportion any remaining value or costs.

To adequately protect interests over the long term, a regional school agreement must ensure that measurable expectations of facility condition and performance are included such that all parties are protected. This process will require some sophistication and could benefit from standardization that will also allow greater transparency.

### Feasibility of Regional School Construction Projects

The IAC is not aware of any regulatory barriers in Maryland to creating regional schools. Neither are there are policies prohibiting the IAC from awarding State funds to LEAs for a regional school. The conclusion of IAC staff is that regional school construction projects are feasible but that their value and utility are situation-specific and depend upon a number of factors. These factors include

- the size of the student populations to be served;
- the types of programs and services to be provided to the student populations;
- the population densities and distances involved;
- the costs of transportation; and
- the specific total cost of ownership and the educational suitability of the facilities already existing (or not existing) in reasonable proximity to the student populations.

Identifying whether or not a regional school would benefit a set of LEAs in any specific case will require an analysis of these and potentially other factors.

### Feasibility of Financing Regional Schools Through P3s

Under current Maryland law, LEAs may establish a regional school via traditional design-bid-build methods or may procure a school through alternative financing methods such as a public-private partnership (P3). In a P3, an LEA engages a private entity for some or all of the design, construction, financing, operation, and/or maintenance phases of a facility project and pays the entity for the desired suitability and availability of the facility over a defined contract term.

In Education Article, §4-126, Annotated Code of Maryland, LEAs are authorized to use alternative financing methods for school construction with the approval of the county governing body. County school boards are permitted to take actions including:

- Contracting with a county revenue authority or a private entity for the design, construction, operation, and maintenance of a public school under terms agreed to by the parties; . . .
- Leasing property from a county or a private entity for use as a public school facility; . . .



- Using quality-based selection, in which selection is based on a combination of qualifications and cost factors, to select developers and builders, as provided in regulations adopted by the Board of Public Works; . . . and
- Using contracted arrangements that may include reserves sufficient to cover operation, facility renewal, maintenance, and energy costs.

Public-private partnerships as a financing and delivery method come with their own challenges. P3s—perhaps even more so than shared responsibilities between governances—require a very high level of owner sophistication to form and then to manage over time. It is essential that the LEA define and set in the agreement appropriate performance standards and establish effective methods of measuring performance. An LEA must have sufficient internal capacity and expertise, both prior to the establishment of the partnership and during its implementation. The State can be a resource to review agreements to safeguard the interests of the owners. In a best-case scenario, the State could even create template agreements for use by LEAs that they could modify as necessary to meet their needs but with language provided that is in their best interests. House Bill 1783 (2018) lays a foundation that requires the IAC to provide technical support and best practices to the LEAs. Extending this support to regional schools partnerships is logical and would help to protect all involved.

Contract management is a crucial factor in shared service delivery, and responsibility for services that are more challenging to monitor or fully capture in contractual language can fall back upon the LEA. In a 2007 survey of U.S. city managers, the most difficult was judged to be the operation and management of hospitals, and the least difficult the cleaning of streets and parking lots. The study revealed that communities often fail to sufficiently monitor collaborative agreements or other forms of service delivery: "For instance, in 2002, only 47.3% of managers involved with private firms as delivery partners reported that they evaluate that service delivery. By 2007, that was down to 45.4%. Performance monitoring is a general concern from these surveys and in the scholarly criticisms of these arrangements."<sup>6,7</sup>

## State and Local Cost-Share Formula for Regional Schools

We have described that an agreement for the construction and operation of a regional school must clearly define each LEA's participation. IAC staff recommends that, to calculate the State share of a regional school construction project, each participating LEA's State Cost Share would be applied to their proportional share—based upon enrollment shares outlined in the agreement—of the eligible construction cost.

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<sup>6</sup> Hilvert, Cheryl; Swindell, David (2014). "Collaborative Service Delivery: What Every Local Government Manager Should Know". State and Local Government Review.

<sup>7</sup> "Local government services and contracts: Best practices and key issues to watch". JournalistsResource.org,, Leighton Kille, January 30, 2014