

**Adequate Public Facilities Ordinances
Wait Times, updated April 2019**

Jurisdiction	Code Reference	Wait Time (min)
Anne Arundel	Anne Arundel County Code, Article 17, Title 5, Subtitle 5	6 years, after which residential development can move forward without regard to the adequacy of public facilities for schools. Exception: if any school in a district adjacent to the overcrowded school district has sufficient capacity to render the overcrowded school less than 115% of SRC. At least 6 years None indicated
Baltimore County	Baltimore County Code, Article 32, Title 6	No residential plat may be recorded or final residential site plan approved until a relief facility planned to address the inadequacy in the current CIP has construction underway and completion is anticipated within 6 months or the developer provides mitigation acceptable to county. None indicated
Calvert County	Calvert County Zoning Ordinance, Article 7, Title 5	
Caroline County	Caroline County Code, Chapter 16Z, Article VII	
Carroll County	Carroll County Code, Chapter 156	School Construction Fee Account for county to collect/deposit for construction (interest bearing); option to request mitigation strategies to move forward. School Construction Fee option. (not valid after July 20, 2016)
Charles County	Charles County Chapter 287, Article XVI	
Fredrick County	Fredrick County Code, Chapter 1-20, Article VI	Up to 4 years (after immediately receiving housing unit allocation) OR if waited 3 years or fewer years for housing unit allocation, then total combined wait between schools and housing unit tests not exceed 6 years OR if waited for 4 or 5 years for housing unit allocation, then total combined wait for housing allocation and school test shall not exceed 7 years; OR if a housing unit allocation receive after 6 or more years, then fails school's test, project proceeds following year. Placeholder project in CIP for enough capacity to resolve the moratorium. None indicated Optional mitigation plan that must result in the construction, dedication or funding of a capital improvement included or to be included within the first 2 years of County's CIP.
Hartford County	Hartford County Zoning Code, Chapter 267, Article XV	
Howard County	Howard County Code, Title 16, Subtitle 11	Optional mitigation plan that is acceptable to the BOE. Options for mitigation but does not exceed 120% of SRC, applicant can request the BOE to determine the viability of redistricting to accommodate new development if adjoining school district at the same level is at least 20% below SRC.
Montgomery County	Montgomery County Subdivision Staging Policy, Pages 47-56	
Prince George's County	Prince George's County Code, Section 24 (superceded by Council Resolution)	Optional mitigation plan that is acceptable to the BOE. Options for mitigation but does not exceed 120% of SRC, applicant can request the BOE to determine the viability of redistricting to accommodate new development if adjoining school district at the same level is at least 20% below SRC.
Queen Anne's County	Queen Anne's County Code, Part III, Chapter 28	
St. Mary's County	St. Mary's County Zoning Ordinance, Article 7, Chapter 70	Optional mitigation plan that is acceptable to the BOE. Options for mitigation but does not exceed 120% of SRC, applicant can request the BOE to determine the viability of redistricting to accommodate new development if adjoining school district at the same level is at least 20% below SRC.
Washington County	Washington County Adequate Public Facilities Ordinance	

Public School Facilities Surcharge (Excise Tax) Rates or Impact Fees by County

County	Rate*	Rate (per sq. ft., if applicable)	FY18 Revenue (\$ in millions)
Montgomery	23,062		\$33.6
Prince George's	15,972		\$24.3
Frederick	15,515		\$13.4
Charles	15,229		\$9.4
Anne Arundel	12,963		\$16.3
Calvert	12,950		\$3.3
Queen Anne's**	10,580	\$5.29/sq. ft.	\$1.8
Talbot	7,427		\$.3
Harford	6,000		\$2.5
St. Mary's	5,500		\$1.5
Caroline	5,000		\$.075
Howard**	2,640	\$1.32/sq. ft.	\$6.2
Washington**	2,000	\$1.00/sq. ft.	\$.6
Carroll	533		\$.08

*Per dwelling unit

**Assumes 2,000 square foot home

Source: Maryland Department of Legislative Services

Good evening Board members, my name is Renee Kamen, AICP, School Planning Manager, and I am here with Ms. Danielle Leuking, from the General Counsel Office to discuss Council Bill 17-2019. The bill, as introduced by Council Member Walsh, proposes a change in wait times for the schools test.

For new Board members, the amended APFO law approved in 2018, which introduced varying wait times and introduced the high school capacity test (115% capacity utilization); and reduced the threshold of when a school is considered “closed” to new development at the elementary and elementary school region to 105% utilization and middle school levels to 110%. The proposed APFO amendment, changes the number of consecutive years if a development (or phases) does not wait for a housing unit allocation to seven. No other changes are proposed.

:

- *If a project passes the housing unit allocation and was never waiting for a housing unit allocation, then the development (or phases) has 4 years to pass the school capacity test. If it fails after four retest, then the project may move forward.*
- *If a project waits three or less years to receive a housing unit allocation, then the combined number of years the development (or phase) waits to pass both the housing unit allocation and schools test is no more than six years. (1 year of HUA + 4 years of school test = 5 years wait; 2 years of HUA + 4 years school capacity = 6 year wait; 3 year HUA + 3 year school capacity = 6 year wait). After the 6th test year, the development moves out of the waiting bin.*
- *If a project (or phase) waits four or five years for a housing unit allocation, then the combined number of years the development (or phase) waits to pass both the housing unit allocation and schools test is no more than seven years. After the seventh test year, the development moves out of the waiting bin.*
- *If a project (or phase) waits 6 or more years years for a housing unit allocation and receives allocations after six years or more, then passes the schools test it may proceed. OR if it fails the school capacity test on it must wait an additional year to be tested. After the retest the project shall be deemed to have passed the school capacity test.*

At the previous Board meeting, Danielle and I were asked, what do other Counties have in terms of wait times, and based on research, Ann Arundel and Calvert Counties, appear to have a wait time of six years, but many others do not have wait times, rather mitigation strategies in the CIP.

We were also asked what, if any, financial implications on the budget if this proposed legislation moves forward? Howard County Department of Planning and Zoning, who administers the APFO law, along with a team of consultants from of Urban Analytics, University of Baltimore and Artemel & Associates presented preliminary findings of a fiscal impact analysis of the amended APFO on April 8, 2019 to the Howard County Council. The preliminary findings of the study indicates a decline in revenue received from new construction, including the school surcharge fee and transfer taxes. We would anticipate the reduction of revenue would continue a three additional years, if the proposed legislation would pass.

At the request of Board members, staff reviewed potential impacts on the Office of School Planning if the legislation passes. In sort, the impacts of the proposed legislation stretches any effects on the projected

enrollment anticipated from the amendment APFO law. What does that mean? Currently, the average number of new students is about 8,000 per year. Of that, it is anticipated about 400-500 less students per year based on the amended APFO legislation between the years 2022 and 2026, and that could continue another 3 years, if the legislation passes. So, rather than less 2,500 students over 10 years, which is estimated by the fiscal impact study, it is about 3,000 less student over ten years. This estimate does not include:

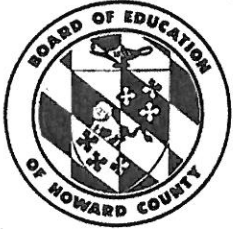
- Effects on migration patterns between existing homes and new construction
- Effects on other student generation rates (births, prek move-ins, apartment turnover, cohort survival, etc.)
- Effects on multiple families living in either SFA or SFD homes
- Effects redistricting has on the APFO school capacity chart

It is important for Board members to know that APFO does NOT stop new development. It slows it down; at some point, the new units come online.

Finally, our last thought as the Board discusses the effects of the pending legislation on school capacity and projections, is that there will be an effect on the school capacity charts with redistricting. My Office cannot measure the effect (what schools open on the school capacity chart) until there are redistricting scenarios and Board decision on boundary changes.

An example is the effect of New HS #13 and HaHS capacity will have at the high school level when they open in SY 2022-23 (APFO test year is 2026).

Thank you, and with that we will take any questions.



Board of Education of Howard County
Testimony Submitted to the Howard County Council
April 22, 2019

Board of Education
of Howard County

Mavis Ellis
Chair

Kirsten A. Coombs
Vice Chair

Vicky Cutroneo

Christina Delmont-Small

Jennifer Swickard Mallo

Sabina Taj

Chao Wu, Ph.D.

Ambika Siddabathula
Student Member

Michael J. Martirano, Ed.D.
Superintendent
Secretary/Treasurer

County Bill 17 - 2019: Amendments to Adequate Public Facilities Wait
Period

The Board of Education of Howard County (the Board) understands that educational quality provided by the Howard County Public School System (HCPSS) is one of the primary draws for residents in Howard County. In order to maintain a superior level of service, however, we are committed to working closely with our counterparts in the Howard County Council (the Council) to address population growth.

The introduction of CB17-2019 has spurred discussions previously considered during the Council's adoption of Adequate Public Facilities Ordinance (APFO) amendments just last year.

How, for instance, do we balance the financial needs of the school system, including the full cost to educate both current and expected students we are legally bound to serve, with the potential loss in revenues by slowing residential housing growth?

As the Board and the Council are currently in the midst of the FY2020 budget process, and the Board recently initiated the redistricting process to address overcrowding in our schools, we are all aware of the fiscal needs to support the education of Howard County students. As a district with nearly 58,000 students, and an anticipated enrollment growth of as many as 1,000 students annually for the foreseeable future, the Board has a requested ten year long-range master plan totaling \$1.3 billion dollars in capital projects.

The preliminary findings of a study conducted by the Howard County Department of Planning and a team of consultants from of Urban Analytics, University of Baltimore and Artemel & Associates, as presented to the Council on April 8, 2019, indicated the 2018 changes to APFO would result in a decline in revenue received from new construction, including the school surcharge fee and transfer taxes. With the extension of wait times to seven years under CB17-2019, HCPSS staff anticipates this reduction of revenue would continue for three additional years, meaning less income to cover our capital debt.

Based on the 2018 amendments to APFO, HCPSS staff also anticipates the school system will see approximately 400-500 fewer ^{income paying} students per year between the years 2022 and 2026. Similar to the above effects, CB17-2019 would stretch the

* APFO IS only Capital

* unforeseen hazards

It doesn't matter if regs changed
 Would want them to still be subject

HCPSS may have

reduction in incoming students another three years. Thus, rather than 2,500 fewer students over 10 years, which is estimated by the fiscal impact study noted above, ~~it is~~ about 3,000 fewer students over ten years.

Thus, it is that capital that B17-2019 would slow the growth of student enrollment in ~~long~~ decrease revenues.

The students, however, will eventually come. APFO does not stop new development, nor does it take into account the overall impact of the cost to educate each additional student that follows the influx of residential housing development. We would encourage the Council to consider comprehensive data which explains the positive and negative financial impact of APFO on all aspects of County operations.

The Board has also discussed at length the proper balance between developer rights and County needs. Such as when is a wait time for development considered a "takings" of property rights?

Through a review of other APFO regulations throughout Maryland, HCPSS staff indicates Anne Arundel and Calvert Counties both have wait periods of six years - two years beyond the current four years in Howard County. Other options, where a county does not specify a wait time, include placeholders within a Capital Improvement Program, or the option for a developer to present mitigation strategies that are approved by the Board.

HCPSS has also reviewed a comparison of Public School Facility Surcharge Rates and/or Impact Fees, presented by County staff during the January 12, 2019, legislative work session of the Howard County Delegation. Of note is the fact that Howard County currently charges one of the lowest rates in Maryland, ranking second to last in our rate per dwelling and the lowest among the state's larger counties (Montgomery, Prince George's, Anne Arundel, and Frederick) in annual revenue from such fees in FY2018. Under HB 1409 Howard County - School Facilities Surcharge - Rates Ho. Co. 03-19 recently passed by the Maryland General Assembly, the Council has the ability to set an increase in these fees moving forward.

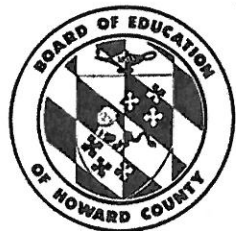
Recommendation
 collaboration with
 discussion of
 how

1 & 2
 2 new sentences

Given the many factors which can and will influence population and student growth, as well as the many factors which impact County revenues, we are looking to truly understand how a delay in wait periods as proposed under CB17-2019 would impact the County. We thank Council Woman Walsh for her introduction of legislation which would have the anticipated effect of delaying an influx of students until hopefully a time of increased financial stability for the County. We also look forward to continued discussion regarding CB17-2019, APFO, school facilities surcharges, and the overall needs of our County.

that educational

slowing
 student
 growth



**Board of Education of Howard County
Testimony Submitted to the Howard County Council
April 22, 2019**

**Board of Education
of Howard County**

Mavis Ellis
Chair

Kirsten A. Coombs
Vice Chair

Vicky Cutroneo

Christina Delmont-Small

Jennifer Swickard Mallo

Sabina Taj

Chao Wu, Ph.D.

Ambika Siddabathula
Student Member

Michael J. Martirano, Ed.D.
*Superintendent
Secretary/Treasurer*

**County Bill 17 - 2019: Amendments to Adequate Public Facilities Wait
Period**

The Board of Education of Howard County (the Board) understands that educational quality provided by the Howard County Public School System (HCPSS) is one of the primary draws for residents in Howard County. In order to maintain the expected level of service, however, we are committed to working closely with our counterparts in the Howard County Council (the Council) to address population growth.

The introduction of CB17-2019 has spurred discussions previously considered during the Council's adoption of Adequate Public Facilities Ordinance (APFO) amendments just last year. How, for instance, do we balance the financial needs of the school system, including the full cost to educate both current and expected students we are legally bound to serve, with the potential loss in revenues by slowing residential housing growth?

As the Board and the Council are currently in the midst of the FY2020 budget process, and the Board recently initiated the redistricting process to address overcrowding in our schools, we are all aware of the fiscal needs to support the education of Howard County students. As a district with nearly 58,000 students, and an anticipated enrollment growth of as many as 1,000 students annually for the foreseeable future, the Board has a requested ten year long-range master plan totaling \$1.1 billion dollars in capital projects.

The preliminary findings of a study conducted by the Howard County Department of Planning and a team of consultants from of Urban Analytics, University of Baltimore and Artemel & Associates, as presented to the Council on April 8, 2019, indicated the 2018 changes to APFO would result in a decline in revenue received from new construction, including the school surcharge fee and transfer taxes. With the extension of wait times to seven years under CB17-2019, HCPSS staff anticipates this reduction of revenue would continue for three additional years, meaning less income to cover our capital debt.

Based on the 2018 amendments to APFO, HCPSS staff also anticipates the school system will see approximately 400-500 fewer incoming students per year between the years 2022 and 2026. Similar to the above effects, CB17-2019 would stretch the reduction in incoming students another three years. Thus, rather than 2,500

*used for
school
construction
and*

but also

fewer students over 10 years, which is estimated by the fiscal impact study noted above, HCPSS may have about 3,000 fewer students over ten years.

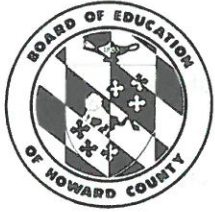
It is anticipated that CB 17-2019 would ~~both~~ slow the growth of student enrollment and decrease revenues. We encourage the Council to consider comprehensive data that explains the positive and negative financial impact of APFO on all aspects of school system and county government operations.

*taxes
costs
County
operations
and
fees*

The Board has also discussed at length the proper balance between developer rights and county-wide needs. Through a review of other APFO regulations throughout Maryland, HCPSS staff indicates Anne Arundel and Calvert Counties both have wait periods of six years – two years beyond the current four years in Howard County. Other options, where a county does not specify a wait time, include placeholders within a Capital Improvement Program, or the option for a developer to present mitigation strategies that are approved by the Board.

HCPSS has also reviewed a comparison of Public School Facility Surcharge Rates and/or Impact Fees, presented by Howard County staff during the January 12, 2019, legislative work session of the Howard County Delegation. Of note is the fact that Howard County currently charges one of the lowest rates in Maryland, ranking second to last in our rate per dwelling and the lowest among the state's larger counties (Montgomery, Prince George's, Anne Arundel, and Frederick) in annual revenue from such fees in FY2018. Under HB1409 Howard County - School Facilities Surcharge - Rates Ho. Co. 03-19 recently passed by the Maryland General Assembly, the Council has the ability to set an increase in these fees moving forward.

The Board thanks Councilwoman Liz Walsh for her introduction of legislation that would have the anticipated effect of slowing student growth until hopefully a time of increased financial stability for the County. Given the many factors that influence population and student growth, as well as the many factors that impact Howard County revenues, we recommend ^{continued} collaborative discussions on ~~how~~ ^{taking into account} CB17-2019 would impact the County. We look forward to ~~continued discussion~~ regarding CB17-2019, APFO, school facilities surcharges, and the overall educational needs of our county.



**Board of Education of Howard County
Testimony Submitted to the Howard County Council
April 22, 2019**

**Board of Education
of Howard County**

Mavis Ellis
Chair

Kirsten A. Coombs
Vice Chair

Vicky Cutroneo

Christina Delmont-Small

Jennifer Swickard Mallo

Sabina Taj

Chao Wu, Ph.D.

Ambika Siddabathula
Student Member

Michael J. Martirano, Ed.D.
*Superintendent
Secretary/Treasurer*

**County Bill 17 - 2019: Amendments to Adequate Public Facilities Wait
Period**

The Board of Education of Howard County (the Board) understands that the quality education provided by the Howard County Public School System (HCPSS) is one of the primary draws for residents in Howard County. In order to maintain the expected level of service, however, we are committed to working closely with our counterparts in the Howard County Council (the Council) to address population growth.

The introduction of CB17-2019 has spurred discussions previously considered during the Council's adoption of Adequate Public Facilities Ordinance (APFO) amendments just last year. How, for instance, do we balance the financial needs of the school system, including the full cost to educate both current and expected students we are legally bound to serve, with the potential loss in revenues by slowing residential housing growth?

As the Board and the Council are currently in the midst of the FY2020 budget process, and the Board recently initiated the redistricting process to address overcrowding in our schools, we are all aware of the fiscal needs to support the education of Howard County students. As a district with nearly 58,000 students, and an anticipated enrollment growth of as many as 1,000 students annually for the foreseeable future, the Board has a requested ten year long-range master plan totaling \$1.1 billion dollars in capital projects.

The preliminary findings of a study conducted by the Howard County Department of Planning and a team of consultants from of Urban Analytics, University of Baltimore and Artemel & Associates, as presented to the Council on April 8, 2019, indicated the 2018 changes to APFO would result in a decline in revenue received from new construction, including the school surcharge fee and transfer taxes. With the extension of wait times to seven years under CB17-2019, HCPSS staff anticipates this reduction of revenue would continue for three additional years, meaning less income to cover our capital debt during that time.

Based on the 2018 amendments to APFO, HCPSS staff also anticipates the school system will see approximately 400-500 fewer incoming students per year between the years 2022 and 2026. Similar to the above effects, CB17-2019 would stretch the reduction in incoming students another three years. Rather than 2,500 fewer

students over 10 years, which is estimated by the fiscal impact study noted above, HCPSS may have about 3,000 fewer students over ten years.

Thus, it is likely that CB17-2019 would slow the growth of student enrollment and decrease revenues used for school construction, but also taxes that fund operational budgets. We encourage the Council to consider comprehensive data that explains the broader positive and negative financial impact of APFO on all aspects of school system and county government operations.

The Board has also discussed at length the proper balance between developer rights and county-wide needs. Through a review of other APFO regulations throughout Maryland, HCPSS staff indicates Anne Arundel and Calvert Counties both have wait periods of six years – two years beyond the current four years in Howard County. Other options, where a county does not specify a wait time, include placeholders within a Capital Improvement Program, or the option for a developer to present mitigation strategies that are approved by the Board.

HCPSS has also reviewed a comparison of Public School Facility Surcharge Rates and/or Impact Fees, presented by Howard County staff during the January 12, 2019, legislative work session of the Howard County Delegation. Of note is the fact that Howard County currently charges one of the lowest rates in Maryland, ranking second to last in our rate per dwelling and the lowest among the state's larger counties (Montgomery, Prince George's, Anne Arundel, and Frederick) in annual revenue from such fees in FY2018. Under HB1409 Howard County - School Facilities Surcharge - Rates Ho. Co. 03-19 recently passed by the Maryland General Assembly, the Council has the ability to set an increase in these fees moving forward.

The Board thanks Councilwoman Liz Walsh for her introduction of legislation that would have the anticipated effect of slowing student growth until, hopefully, a time of increased financial stability for the County. Given the many factors that influence population and student growth, as well as the many factors that impact Howard County revenues, we recommend continued collaborative discussions on CB17-2019, taking into account APFO, school facilities surcharges, and the overall educational needs of our county.