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# HOW SUCCESSFUL ARE MARYLAND COUNTIES IN PREVENTING SCHOOL OVERCROWDING

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April 16, 2016

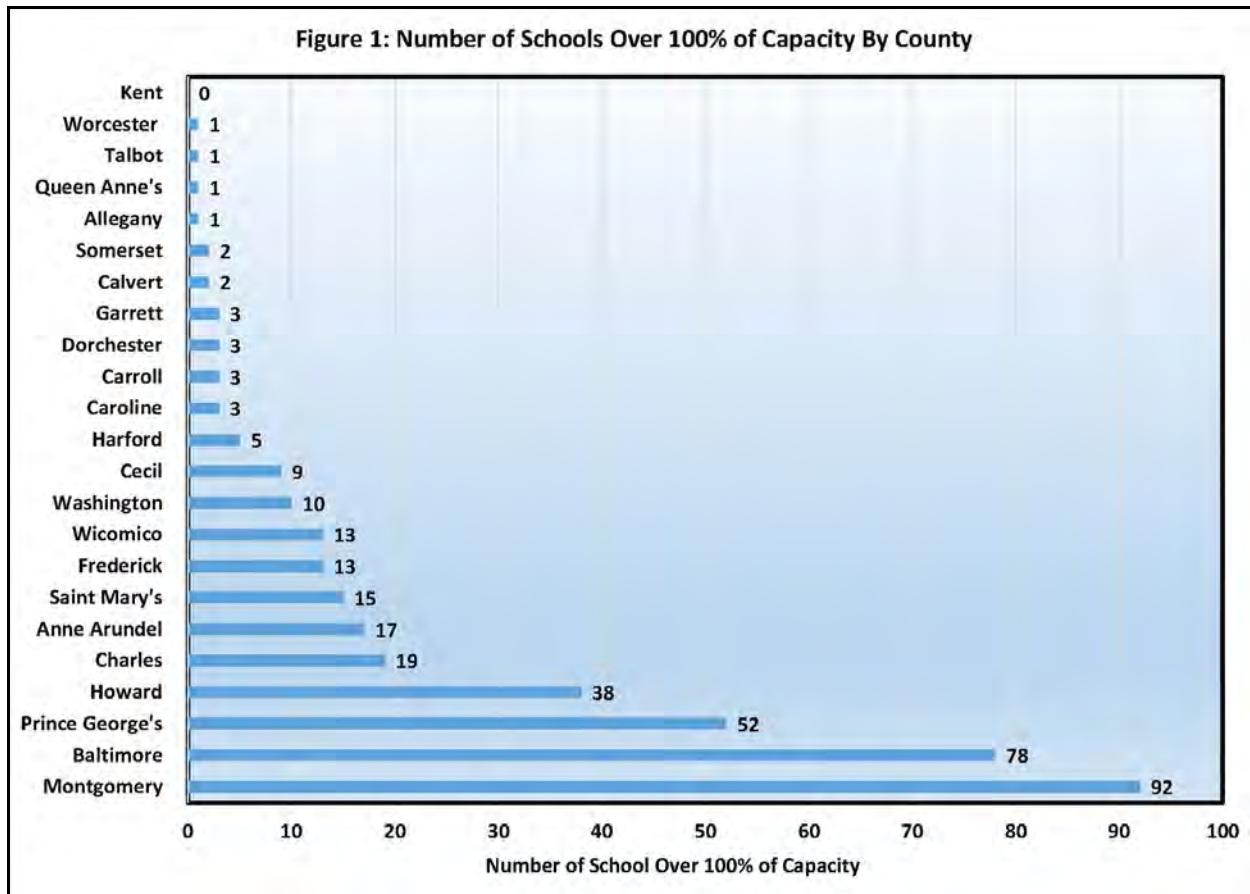
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## SUMMARY

The title of this report posed the question: *How Successful Are Maryland Counties In Preventing School Overcrowding?* Of the 1,245 public elementary, middle and high schools in Maryland's 23 counties, 31% exceed State Rated Capacity. Figure 1, below, shows the number of schools in each county that exceed capacity. Only one county - Kent - has attained the goal of no schools over State Rated Capacity. With an enrollment of 149% of State Rated Capacity, Lansdowne Elementary in Baltimore County is the most overcrowded school in Maryland.



The following statement from the Maryland Department of Planning publication *Managing Maryland's Growth - Adequate Public Facilities Ordinances (APFO) Models and Guidelines*<sup>1</sup>, both defines State Rated Capacity and shows why it is vitally important that schools not exceed this capacity threshold. State Rated Capacity is:

*“The maximum number of students that reasonably can be accommodated in a facility without significantly hampering delivery of the educational program. It (SRC) is not*

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<sup>1</sup> Available online at: <http://www.mdp.state.md.us/PDF/OurProducts/Publications/ModelsGuidelines/mg24.pdf>

*intended to be a standard of what class sizes should be. School system staffing varies widely depending on a number of factors. It is, however, a criteria used in evaluating whether a particular school is overcrowded such that relief is needed and provision of additional space may be warranted.”*

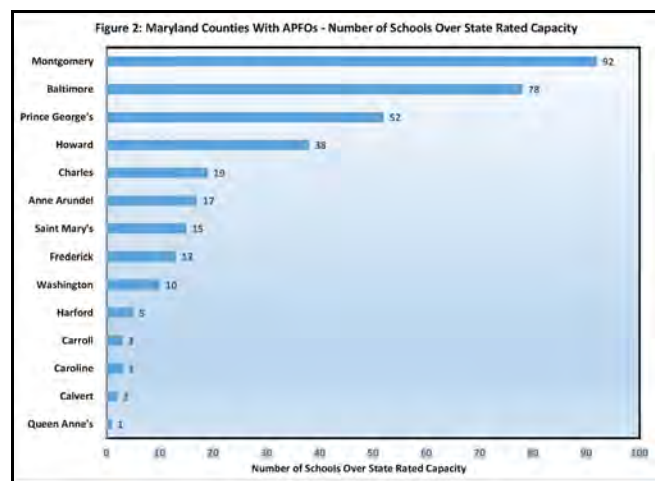
In addition to the preceding testament to the importance of preventing our public schools from exceeding capacity, research cited in this report strongly indicates that the current class sizes allowed by the State Rated Capacity formula may be too large. Additionally, many parents and other homeowners have paid a premium - as much as 6% to 20% - to live near good schools. Allowing schools to become overcrowded may negate this benefit, which is extremely unfair to these and other parents with children attending the impacted school.

Following are the options for dealing with overcrowded schools:

1. Delay approval for proposed development projects until sufficient capacity is available;
2. Allow the use of portable classrooms;
3. Adjust school boundaries through redistricting to shift students from overcrowded School A to underutilized School B;
4. Divert funds from other programs or raise taxes to pay for school additions and/or new schools;
5. Go to Multi-Track Year-Round schooling where the 180-day school year is staggered, which allows many more students to be taught in existing school buildings; or
6. Allow overcrowding to continue.

New homes are not the only cause of increasing enrollment. Turnover of existing housing contributes far more to enrollment growth than new home sales. However, growth is one of the more controllable causes of school overcrowding. Fortunately, Maryland is uniquely suited to a growth management tool that focuses on the first option. In fact, this tool should have prevented student enrollment from exceeding capacity in our elementary and secondary schools: the *Adequate Public Facility Ordinance (APFO)*.

In its simplest form, an APFO prohibits approval of a development project if it would cause student enrollment to exceed the State Rated Capacity of a public school. Figure 2, lists the 14 Maryland counties that have adopted an APFO. Many of the counties have had an APFO since the 1970s and 80s. So, for more than 35 years Maryland’s most populous counties have had a tool that should have allowed us to reap the benefits of growth without sacrificing the quality of our public



schools. However, Figure 2 shows a large number of overcrowded schools in many of these APFO counties.

APFOs should be viewed as a safety valve; not the primary means of preventing overcrowding. Ideally, the county educational facilities master plan would provide the enrollment-capacity data used in the county comprehensive plan to identify areas where school capacity increases should be programmed. Zoning and other land use regulations would be adjusted to guide growth away from areas facing two challenges: overcrowding is likely to occur *and* capacity increases would be difficult to achieve. School expansion projects would then be included in the Capital Improvement Program (CIP). Development impact fees and other revenue sources would be set so funds are available to meet the needs of anticipated growth. An APFO would then serve as a safety valve in the event the preceding planning fails to address overcrowding.

Following are the APFO provisions which appear to have contributed to the largest number of overcapacity schools:

- Development is allowed to continue to add students to schools until they are more than 115% to 120% over capacity (Baltimore, Carroll, Frederick, Howard, Montgomery, Saint Mary's and Washington counties);
- Development is only halted if the subject school and all other schools with adjoining boundaries are also over capacity (Baltimore County);
- Development is not halted regardless of the degree of overcrowding (Prince George's County);
- A development project can only be postponed for three or seven years and is allowed to proceed even if affected schools are still overcapacity (Anne Arundel, Calvert and Howard counties);
- Development is allowed to proceed after making a payment or other mitigation but before the payment-mitigation results in increased school capacity;
- APFO test is based upon not just the individual schools receiving students from a project but multiple schools within a cluster (Baltimore and Montgomery counties) or the cumulative capacity of all schools countywide (Saint Mary's County); and
- An entire development project can proceed if excess capacity at a school is just one seat yet the project will generate many more students (Anne Arundel County).

Following are provisions which would allow APFOs to serve as a more effective safety valve to prevent school over crowding:

1. Development should be postponed if it would cause the enrollment at any individual school to exceed 100% of State Rated Capacity, regardless of excess capacity at adjacent schools.
2. The postponement must continue as long as the individual school remains at or over capacity.
3. Redistricting or other school service area boundary changes should be rarely used. This option is best employed when a new school or large additions have created a major increase in capacity. An exception would be where enrollment has declined to the point that a school may close.
4. The APFO school test should be based upon current year enrollment and projections three- to five-years into the future.
5. School capacity must not include portable or other temporary classroom space.
6. If sufficient capacity is available to accommodate a portion - but not all - of the students generated by a project, then approval should only allow that portion of the project to proceed. For example, if only ten seats are available then approval should only be granted for the construction of the number of homes that would generate ten students.
7. Other counties should consider two provisions employed by Charles County:
  - a. No single project should consume more than 50% of the seats available in a specific school; and
  - b. There may be value in setting a time limit on how long a project can hold onto seats, such as the 24-month limit imposed by Charles County.
8. Applicants should have the option of paying a portion or all of the cost of creating sufficient excess capacity, but building permits should only be issued once it is certain the added capacity will be in place by the time new homes are occupied. Other mitigation options should be allowed, but, again, building permits should only be issued once it is certain the added capacity created will be in place by the time the new homes are occupied.
9. All counties should use impact fees, excise taxes or surcharges to ensure that development pays its full fair share of creating the added school space needed to accommodate growth. The general public then picks up the cost to provide teachers, computers, books and the many other items needed to operate modern, highly-effective schools.

## **INTRODUCTION**

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Community & Environmental Defense Services (CEDS) has been helping citizens nationwide with growth-related concerns for nearly 30 years.<sup>2</sup> We've found that many citizens believe growth is managed in a way that safeguards their quality of life. Most citizens do not aggressively oppose development near their homes except when it poses negative effects any reasonable person would find unacceptable. In fact most development projects go through the review process with little real citizen opposition<sup>3</sup>. For example, the public is genuinely surprised when a development project is proposed that removes the forest behind their home, but only because their realtor said it would remain forever. Or their dead-end street is turned into a through-road. But the greatest shock comes when a highly-regarded public school becomes increasingly crowded. Folks find this particularly egregious when they paid a premium for a home located near the school.

### **Why CEDS Prepared This Publication**

We've helped far too many homeowners and citizen groups wage battles against proposed development projects due to concerns about school overcrowding. Trying to stop a proposed development project is usually an expensive and futile effort. Because of this CEDS has embarked on a search for a better way of resolving the issues which prompt citizens to oppose development, such as school overcrowding.

One of the first things we noticed was that while it's obvious if a specific school is overcapacity, there's no place citizens can go to learn the extent of the problem. Even more difficult for citizens to find are options for getting the benefits of growth without sacrificing the quality of our schools. This report is an attempt to address both needs. It is our hope that this information will allow individuals and advocacy groups to provide elected officials with the public support needed to manage growth and our schools more effectively. This is a far more constructive use of citizens time and money when compared to trying to stop a development project.

### **Benefits of Not Exceeding School Capacity**

Citizens are right, of course, to become alarmed by overcrowded schools and class sizes that steadily increase. Considerable research over the past four decades has shown a relationship between class size and student achievement. One of the earliest studies of class size effects was the Tennessee Student Teacher Achievement Ratio (STAR) project<sup>4</sup> which began in 1985. This project compared student performance in small and normal Kindergarten to Third grade class sizes. Subsequent studies have followed the STAR students into adulthood and documented these benefits:

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<sup>2</sup> For further information about CEDS visit: [ceds.org](http://ceds.org) For detail on how we can with school issues visit: [ceds.org/school](http://ceds.org/school).

<sup>3</sup> For an example of the extent of citizen opposition in one jurisdiction see *A Citizens Perspective on the Baltimore County Development Review Process* posted at: <http://www.ceds.org/BaltimoreCounty/Study.pdf>

<sup>4</sup> See: [https://www.princeton.edu/futureofchildren/publications/docs/05\\_02\\_08.pdf](https://www.princeton.edu/futureofchildren/publications/docs/05_02_08.pdf)



- 72% of STAR student graduated on time vs. 65% of other students;
- STAR students completed more advanced math and English courses in high school;
- Drop-out rates among STAR students was 19% vs. 23% for others; and
- More STAR students graduated with honors.

Several more recent studies have shown that student performance improves significantly in smaller classes.<sup>5</sup> A 1997 survey revealed that 83% of teachers and 60% of school principals believed that class size should not exceed 17 students.<sup>6</sup> The National Education Association recommends a class size of 15 students.<sup>7</sup> Class size reduction appears to be most effective when applied to “low-achieving students from impoverished socioeconomic backgrounds” in kindergarten through third grade (K-3).<sup>8</sup> The benefits of smaller, early grade class size lasts at least into 7<sup>th</sup> and 8<sup>th</sup> grade.<sup>9</sup> The students from small K-3 classes may be 6- to 13-months ahead of other students in math, reading and science.<sup>10</sup> It is unclear though how small is small enough. In *Small Classes, Big Possibilities*, Professor of Education Charles Achilles argues for a teacher to student ratio of 1:15.<sup>11</sup>

It is not just educators who are aware of the benefits of preventing class size increases by avoiding enrollment that exceeds school capacity. A 2002 Gallup poll<sup>12</sup> found that...

*There is no doubt that Americans believe school size has a real effect on learning. When asked, "Does the number of students in a school affect the level of achievement of its*

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<sup>5</sup> See: [https://www.princeton.edu/futureofchildren/publications/docs/05\\_02\\_08.pdf](https://www.princeton.edu/futureofchildren/publications/docs/05_02_08.pdf)

<sup>6</sup> *Class Size Reduction: Effects and Relative Costs*, by Lawrence Picus, ERIC Clearinghouse on Educational Management, 5207 University of Oregon, Eugene, OR 97403-5207, 800-438-8841. Available online at: [http://eric.uoregon.edu/hot\\_topics/class\\_size.html](http://eric.uoregon.edu/hot_topics/class_size.html)

<sup>7</sup> See the National Education Association class size website at: <http://www.nea.org/classsize/>

<sup>8</sup> *When does small class size help student achievement?*, ERIC Clearinghouse on Educational Management, 5207 University of Oregon, Eugene, OR 97403-5207, 800-438-8841. Available online at: [http://eric.uoregon.edu/publications/policy\\_reports/class\\_size/student\\_achievement.html](http://eric.uoregon.edu/publications/policy_reports/class_size/student_achievement.html)

<sup>9</sup> *Class Size Reduction: Effects and Relative Costs*, by Lawrence Picus, ERIC Clearinghouse on Educational Management, 5207 University of Oregon, Eugene, OR 97403-5207, 800-438-8841. Available online at: [http://eric.uoregon.edu/hot\\_topics/class\\_size.html](http://eric.uoregon.edu/hot_topics/class_size.html)

<sup>10</sup> *Class Size Reduction*, National Education Association, 1201 16<sup>th</sup> Street, NW, Washington, D.C. 20036, June 2001. Available online at: <http://www.nea.org/classsize/>

<sup>11</sup> *Small Classes, Big Possibilities*, The School Administrator Web Edition, October 1997. Available online at: [http://www.aasa.org/publications/sa/1997\\_10/achilles.htm](http://www.aasa.org/publications/sa/1997_10/achilles.htm)

<sup>12</sup> Does Overcrowding Mean Undereducating?: <http://www.gallup.com/poll/7423/does-overcrowding-mean-undereducating.aspx>

*students," 77% of Americans agreed that school size affects achievement "a great deal" (40%) or "a fair amount" (37%).*

This same poll showed that a majority felt an elementary school should have no more than 500 students, a middle or high school 500 to 1,000 students. Overcrowded schools range from second to fifth among the biggest problems of U.S. schools based upon a recent PDK/Gallup poll of the public's attitudes towards public schools.<sup>13</sup> Parents will pay a premium to purchase a home served by highly-rated schools. A *Realtor.com* survey documented that home buyers are willing to pay 6% to 20% more for a home served by good schools.<sup>14</sup> Given these facts it is no mystery why parents are upset when they learn that a development proposal threatens to cause their child's school to become overcrowded.

### **The Many Challenges of Balancing Growth & School Capacity**

Most Maryland school boards produce an educational facilities master plan. The 2016 Montgomery County plan gives the *desired range* for student enrollment as 80% to 100% of school capacity. Staying within this desired range can be challenging. A school board must anticipate changes in enrollment and plan to either increase or decrease capacity. But unforeseen events can cause reality to differ substantially from best estimates. Take the 2008 recession for example.

In Maryland, enrollment took two big swings since 2005. In the 2015 *Final Report of the Study of Increasing and Declining Enrollment in Maryland Public Schools*<sup>15</sup>, the authors noted:

*Looking only at 2005 and 2014, it would seem that overall enrollment in the Maryland school system have been exceedingly stable with only a 207 student difference between 2005 enrollments and 2014 enrollment. However, this is a misleading picture. Enrollment in the state represent two significantly different time periods. During the first five years, school systems in Maryland have experienced a decline of more than 20,000 students, reaching a low of 844,000 students in 2009, followed by an increase of more than 20,000 students over the next five-year period.*

and...

*The economic recession of 2007 through 2009 had a number of impacts on school enrollment in Maryland. In many areas of the state birth rates declined. Many people*

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<sup>13</sup> 45<sup>th</sup> and 47<sup>th</sup> Annual PDK/Gallup Poll of the Public's Attitudes Toward the Public Schools: [http://pdkpoll2015.pdkintl.org/wp-content/uploads/2015/10/pdkpoll47\\_2015.pdf](http://pdkpoll2015.pdkintl.org/wp-content/uploads/2015/10/pdkpoll47_2015.pdf)

<sup>14</sup> The Right School District: How Much Do Schools Affect Real Estate Prices?: <http://www.realtor.com/advice/buy/the-right-school-district-how-much-do-schools-affect-real-estate-prices/>

<sup>15</sup> Available online at: <http://www.marylandpublicschools.org/adequacystudy/docs/MDEnrollmentReportFinal-071815.pdf>

*chose to remain in their homes rather than purchase new homes, so construction of new homes slowed dramatically. As the economy improves birth rates should also increase. Additionally, demand for new housing could increase. Potential increases in birth rates and in housing demand could have significant impacts on school enrollment and school attendance boundaries, particularly at the elementary level. This potential for population growth and migration across communities is another factor that needs to be monitored and assessed regularly in the next few years.*

In a recent *Washington Post* article, Maryland Department of Education officials were quoted as saying that statewide public school enrollment may soon top 870,000 students for the first time.<sup>16</sup> The bulge in the student population is presently moving through elementary schools. In the next ten years, secondary (middle-high) school enrollment will reach the highest ever and overcrowding at elementary schools should decrease.<sup>17</sup> The effect of the recession on birth rates is uncertain which makes future enrollment projections shaky.<sup>18</sup> Growth is not the only cause of school overcrowding. However, it is one of the more manageable causes. And next to good planning, one of the most effective Smart Growth tools we have to curb school overcrowding is the Adequate Public Facilities Ordinance.

### **Other Growth Priorities Affecting Schools**

If the prevention of school overcrowding were the only growth issue, then it would be a much easier problem to solve. Beginning in the 1990s, Maryland set the goal of reducing the sprawl which was gobbling up farm and forestland. Instead, growth would be concentrated within and adjacent to existing towns, cities and suburbs. This policy also makes for more efficient use of tax dollars. Options such as mass transit become more viable.

Each county established *Priority Funding Areas*<sup>19</sup> where growth would be concentrated. As the phrase implies, priority would be given to the use of State funds within these areas to build the new schools, roads and other infrastructure needed to accommodate the concentration of growth. These policies set up a potential conflict though. If growth accelerated within the PFAs but

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<sup>16</sup> Maryland poised to set record for statewide public school enrollment: [https://www.washingtonpost.com/local/education/maryland-poised-to-set-record-for-statewide-public-school-enrollment/2015/08/18/39a8975e-451a-11e5-8e7d-9c033e6745d8\\_story.html](https://www.washingtonpost.com/local/education/maryland-poised-to-set-record-for-statewide-public-school-enrollment/2015/08/18/39a8975e-451a-11e5-8e7d-9c033e6745d8_story.html)

<sup>17</sup> 2015 *Final Report of the Study of Increasing and Declining Enrollment in Maryland Public Schools*, available online at: <http://www.marylandpublicschools.org/adequacystudy/docs/MDEnrollmentReportFinal-071815.pdf>

<sup>18</sup> Ibid.

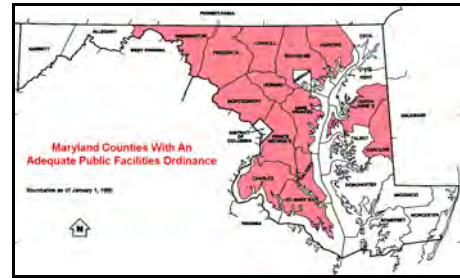
<sup>19</sup> Each County identifies Priority Funding Areas (PFA). By concentrating growth within PFAs rural sprawl is minimized along with the costs of growth. Priority is given to the use of State funds in these areas for building new schools, roads, etc., hence the phrase Priority Funding Area. For further detail, including maps of PFAs in each county, visit: <http://www.mdp.state.md.us/OurProducts/pfamap.shtml>

infrastructure expansions did not keep pace, then existing PFA residents would see their schools become increasingly overcrowded and their roads more congested.

In far too many PFAs this is just what happened. But if you search the internet for critiques of Maryland APFOs most writings focus on how they divert growth away from PFAs and into rural areas. What you don't see is the price many of us pay in the form of declining quality of life when APFO restrictions are relaxed and schools, roads, parks as well as emergency services become increasingly overtaxed. Instead of benefitting from Smart Growth, PFA residents simply experience growth that smarts.

## **ADEQUATE PUBLIC FACILITY ORDINANCE**

In its simplest form, an Adequate Public Facility Ordinance (APFO) prohibits approval of a development project if it would cause student enrollment to exceed the capacity of a public school. This includes the elementary and secondary (middle and high) schools that would receive students from the project. As shown in the map to the right, to date 14 of Maryland's 23 counties have adopted an APFO as well as 26 of Maryland's 157 municipalities. Many of these jurisdictions adopted an APFO in the 1970s and 1980s.



For more than 35 years Maryland's most populous counties have had a tool that should have allowed us to reap the benefits of growth without sacrificing the quality of our public schools. However, of the 1,245 public schools present in Maryland's 23 counties, 31% exceed State Rated Capacity (see Table 2 on page 17). In one County 58% of all public elementary-secondary schools exceed State Rated Capacity. With an enrollment of 149% of State Rated Capacity, Lansdowne Elementary in Baltimore County is the most overcrowded school in Maryland<sup>20</sup>.

### **APFOs Are A Safety Valve; Not A Panacea**

An APFO should be viewed as a safety valve; not the main control for preventing school overcrowding. In an ideal world a county master plan would factor in the student enrollment and school capacity projections presented in the education facilities master plan prepared by the local school board. The master plan would identify individual schools and school clusters likely to become overcrowded. Recommendations would be included in the master plan for resolving existing and projected overcrowding. In many cases the recommendation would be to build an addition to existing schools or construct new schools. This recommendation must then be implemented by including the project in the County's Capital Improvement Program (CIP) document. Finally, the CIP project must be funded so it can be completed and begin receiving students before overcrowding occurs. If funds are insufficient then the County should consider alternatives such as requiring development companies to pay the cost of expanding schools to accommodate the students their project will generate. This approach is known as a development impact fee, excise tax or surcharge. The APFO is there to act as a safety valve in case the capacity increase is delayed or enrollment projections are off.

The following text from the 2012 report *Adequate Public Facilities Ordinances in Maryland: (Discussion Draft) Annual Report Review*<sup>21</sup>, from the Maryland Sustainable Growth Commission, raises a question about how well counties are using the APFO process to inform decisions about which projects are included in CIPs:

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<sup>20</sup> See 2015-16 Baltimore County Public Schools Enrollment & Capacity table at: <http://resources.baltimorecountymd.gov/Documents/Planning/apfo/SchoolEnrollmentSept2015.pdf>

<sup>21</sup> Available online at: <https://planning.maryland.gov/PDF/YourPart/773/20130325/AdequatePublicFacilitiesDraftReport032513.pdf>

*“Finally, there continues to be little evidence if the jurisdictions are using their APFOs to inform decisions about which projects should receive priority funding in county capital improvement programs (CIPs). There is little linkage or information about capacity improvement reported in APFO reports. APFO standards themselves are often lacking detail in available facility capacity. Available capacity, or capacity improvements resulting from developer contributions [impact fees?] or local government CIPs are simply not identified.”*

### **Maryland Well-Suited To APFOs**

The discussion draft of the 2012 *Adequate Public Facilities Ordinances in Maryland: Annual Report Review*<sup>22</sup>, contained the following regarding the suitability of Maryland for APFOs:

*“For a number of reasons, Maryland is a state well-suited to incorporate APFOs into local planning. First, major responsibility for land use planning rests with the state’s 23 counties and Baltimore City. Second, local governments in Maryland are required to prepare six-year capital improvement programs that are updated annually and also to revise their comprehensive plans every six years.”*

*“For capital improvement projects, these plans require financial statements and fiscal reports on debt service to all lending agencies. School districts are coterminous with county boundaries, and there are existing linkages between county elected officials and school budgets. Thus, also unlike many other states, counties have the capacity to coordinate infrastructure and school funding so that development in Smart Growth areas is provided with needed services and facilities.”*

### **How School APFOs Work**

School APFOs only apply to the construction of new homes since commercial, industrial or institutional development would not add to student enrollment. Here’s how most school APFOs work.

1. Annually the school board provides the County planning department with enrollment and capacity figures for each school. The figures may just be for the current year or for projections three- to five-years into the future.
2. When an application is received for a proposed residential project the planning staff estimate the number of elementary, middle and high school students the project will generate. This estimate is usually based upon pupil yield tables<sup>23</sup> prepared by the school

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<sup>22</sup> Available online at: <https://planning.maryland.gov/PDF/YourPart/773/20130325/AdequatePublicFacilitiesDraftReport032513.pdf>

<sup>23</sup> For an example of a pupil yield table go to: <https://frederickcountymd.gov/DocumentCenter/View/262>

board which show the number of elementary and secondary students generated by different housing types: single-family detached homes, townhouses, apartments, etc.

3. The planning staff checks that all affected schools have sufficient capacity to accommodate the students generated by the project. If sufficient capacity is there then the project can proceed through the review process. Seats are then set aside on paper in each affected school for the students coming from the project. This paper tally prevents multiple projects from being approved for the same seats.

A number of counties exempt small projects (less than three- to five-homes) and projects restricted to seniors. Most Maryland county APFOs impose restrictions if a project will cause a school to exceed a percent capacity threshold, which ranges from 90% to 120%. In some counties the developer can pay a fee towards school expansion or propose other mitigation that resolves the overcrowding issue. In other counties the project cannot proceed until capacity drops below the threshold. On paper, most of the 14 APFO counties will prohibit further development once a school reaches a certain overcrowding threshold. But in reality far too many APFOs have loopholes so large development is almost never halted. Instead of being a safety valve, these APFOs are more like bypass highways.

Table 1, on the next two pages, provides a summary of the Adequate Public Facility Ordinances adopted by Maryland's 14 counties. The first draft of the summary table and the first draft of this report was forwarded to the all counties for verification. Table 1, provides the following information.

#### **APFO Capacity Threshold**

All 14 APFO counties have adopted a threshold for regulating growth that may cause a school capacity issue. Most counties have a single threshold like Anne Arundel County where a project may not proceed if any of the affected schools are over 100% of State Rated Capacity. Other counties have a two-tiered test such as Washington County where APFO requirements kick-in when an elementary school exceeds 90% of capacity and above 100% for middle and high schools. Saint Mary's County has three-tiers: above 107% for elementary schools, above 109% for middle schools and in excess of 116% for high schools.

#### **Adequate Public Facility Ordinance Details**

Table 1 presents the following details contained in the APFOs adopted by each of the 14 counties.

**Future Years Tested:** Some counties look at just the current year with regard to school capacity. Others will impose restrictions if school capacity is projected to be inadequate three- to five-years into the future.

**Length of Time a Project May Be Held Up:** Some counties place a limit on how long a project may be postponed due to school overcrowding. The limit ranges from three- to

**Table 1: Summary of Maryland County Adequate Public Facility Requirements for Schools**

| COUNTY              | CAPACITY THRESHOLD  | ADEQUATE PUBLIC FACILITY ORDINANCE DETAILS   |
|---------------------|---------------------|--|
| Anne Arundel County | >100%               | The Anne Arundel APFO affects projects that would cause enrollment at any school to exceed 100% of State Rated Capacity. However, a project may only be held up for a maximum of six years. After six years the project can proceed even if enrollment at affected schools remains above State Rated Capacity. Also, if a school is one seat under State Rated Capacity an entire development project can proceed even if it would add many more than one student.   |
| Baltimore County    | >115%               | If a proposed development will add students to a school which is currently above 115% and all of the adjoining schools are also above 115% of State Rated Capacity then development projects adding students to that school cannot proceed. For example, let's say Elementary School A is above 115% of capacity. The service area of Elementary School A adjoins that of Elementary Schools B, C and D. If enrollment at Elementary School B, C and D is also above 115% then no further development can occur which would add students to Elementary School A. However, if a single adjoining school (B, C or D) is at or below 115% of capacity then the development can proceed.   |
| Calvert County      | >100%               | The Calvert County APFO prohibits development that would cause enrollment at any school to exceed 100% of State Rated Capacity. If a project had received preliminary approval, but could not proceed due to lack of school capacity, then it can proceed when seven years have passed even if affected schools are still over capacity.   |
| Caroline County     | >100%               | The Caroline County APFO prohibits development that would cause enrollment at any school to exceed 100% of State Rated Capacity.   |
| Carroll County      | 110% - 119%<br>120% | The Carroll County APFO prohibits development that would cause enrollment at any school to reach or exceed 120% of State Rated Capacity. If a development project would cause enrollment at a school to range from 110% to 119% then it may be subject to permit restrictions, such as breaking large projects into phases which would not exceed the 120% threshold. However, a project may receive conditional approval if adequate capacity will be available within six years.   |
| Charles County      | >100%               | In 2008, Charles County made a number of revisions to their Adequate Public Facility requirements for schools. It appears that previously a development project would be put on hold only if all three levels (elementary, middle and high) of schools serving a proposed project exceeded 100% of capacity. Today, only one of the three levels need exceed 100% of capacity to restrict a project from proceeding. Previously it appears capacity included not only State Rated Capacity but that provided by portable classrooms too. Today it is based solely on State Rated Capacity. While developers have the option of paying into a fund or proposing a mitigation plan to lift the restriction, the Charles County government is not obligated to consent. To prevent large projects from consuming all available school capacity, Charles County restricts development projects to a maximum of 75 school seats per year and no project may receive more than 50% of the total number of seats available. Seat allocations expire if not used within 24 months. |
| Frederick County    | >100%               | The Frederick County APFO prohibits development that would cause enrollment at any school to exceed 120% of State Rated Capacity. If enrollment at an affected schools falls between 100% and 120% of State Rated Capacity, then the project may proceed if the developer pays the School Construction Fee in addition to the normal school impact fee. If school capacity exceeds 120% under current enrollment (and there is no improvement programmed in the CIP in the first 2 years), a developer does not have the option of paying the school construction fee, and must fully fund the necessary school improvement if they want to proceed.   |



| <b>COUNTY</b>          | <b>CAPACITY THRESHOLD</b>                    | <b>ADEQUATE PUBLIC FACILITY ORDINANCE DETAILS</b>  |
|------------------------|--|--|
| Harford County         | >110%  | The Harford County APFO prohibits development that would cause enrollment at any school to exceed 110% of State Rated Capacity based on the current year and projections for the next three years.   |
| Howard County          | >115%  | If a development proposal will cause a school to exceed 115% of capacity then it may be placed on a waiting list for a maximum of four years. After three years the project may proceed even if the affected school(s) remain above 115% of capacity.  |
| Montgomery County      | 105% - 120%<br>>120%                         | Montgomery County is divided into 17 school clusters and 2 school consortiums. Each cluster has a single high school, one or more middle schools and multiple elementary schools. The two consortiums contain several high schools along with multiple middle and elementary schools. If a proposed development will add students to a school which is currently or projected to be at 105% to 120% of capacity then a School Fee Payment must be made. If a school exceeds 120% of capacity then a moratorium is imposed on further development that would add students to that school.   |
| Prince George's County | >105%  | The Prince George's County APFO only exists for planning purposes. A project causing a school to exceed the 105% APFO school threshold will not be held up because of overcrowding.  |
| Queen Anne's County    | >100%  | The Queen Anne's County APFO prohibits development that would cause enrollment at any school to exceed 100% of State Rated Capacity. An applicant has the option of making a payment into fund for school expansion or the applicant can propose another mitigation plan.  |
| St. Mary's County      | >107% Elem<br><br>>109% Middle<br>>116% High | The Saint Mary's County APFO has three tests, one for each school level. If Elementary schools in a North or South area have a cumulative enrollment equal to or exceeding 107% of State Rated Capacity then development may not proceed. If the cumulative enrollment of all middle schools in Saint Mary's County exceeds 109% of the cumulative capacity of all middle schools, then a development project may not proceed. With regard to high schools, development may not proceed if the cumulative enrollment at all high schools exceeds 116% of the cumulative capacity. All three tests are based on current enrollment-capacity and projections for the next three years. |
| Washington County      | >90% Elem<br>>100% Middle-High               | The Washington County APFO prohibits development that would cause enrollment at any elementary school to exceed 90% of State Rated Capacity and 100% for middle and high schools. However, if an adjacent school is at least 20% below State Rated Capacity then an applicant may request redistricting. A project may proceed with Alternate Mitigation Contribution provided affected schools do not exceed 120% of State Rated Capacity.  |

seven-years. Once three- to seven-years have elapsed the project may proceed regardless of whether the overcrowding issue has been resolved.

**Conditions Under Which Projects May Proceed:** A number of county APFOs contain options allowing a development proposal to proceed if certain conditions are met. These conditions involve one of several options for increasing school capacity. The most common is if an applicant pays into a fund that will go to school additions or new schools. If school additions or new schools appear in the Capital Improvement Program (CIP) document and they have been fully funded, then development should be timed so the increased capacity is available when new homes are occupied. Inclusion in the CIP and full funding makes it fairly certain that the addition-expansion will happen. Of course, the CIP project must increase capacity sufficiently to accommodate the number of anticipated students. Some counties will only approve a portion of a development proposal if the CIP project does not provide sufficient excess capacity. In this case an applicant may be required to divide a large project into phases. Each phase is only approved as the increased school capacity comes on line. Some counties also allow an applicant to request redistricting if the affected, overcrowded school service area adjoins another school service area where excess capacity exists. But this option tends to be very unpopular with parents.

## **APFO YEAR, ENROLLMENT, CAPACITY, UTILIZATION, THRESHOLDS & IMPACT FEES**

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Table 2, which follows this page, provides the data described below.

### **Year the County Adopted an Adequate Public Facilities Ordinance**

This information was obtained from *Adequate Public Facilities Ordinances in Maryland: An Analysis of their Implementation and Effects on Residential Development in the Baltimore Metropolitan Area*<sup>24</sup> and by looking up the adoption in the online version of the ordinance. While most Maryland counties refer to their APFO as an Adequate Public Facilities Ordinance, it is a *Subdivision Staging Policy* in Montgomery County. Nine counties have not adopted an APFO.

### **Full-Time Equivalent (FTE) Enrollment**

Full-Time Equivalent (FTE) Enrollment takes into account students who may only attend a public school for a half-day. FTE provides a way to more accurately compare student enrollment from one county to another, although it may not include Pre-Kindergarten students in some counties. The Maryland Department of Planning periodically publishes past, current and future enrollment figures for the counties. The most recent data appears in *Public School Enrollment Projections 2015 -2024*, by the Maryland Department of Planning<sup>25</sup>, published in September 2015. This publication provided FTE for the years 2004, 2014 and 2024. By comparing data for these three points in time one can get a feeling for how enrollment has been changing in each of the counties. A county with declining enrollment should have fewer schools overcapacity.

### **Number of Schools in Each County**

The Maryland Department of Education publication *Final Report of the Study of Increasing and Declining Enrollment in Maryland Public Schools*<sup>26</sup>, dated June 2015, provided data on the number of public schools present in each county in 2005-2006 and 2014-2015. This data indicates how school additions, new school construction or school closures have kept pace with large changes in enrollment.

### **Number and Percent of Schools Over State Rated Capacity (SRC)**

The following description of the purpose of State Rated Capacity (SRC) appears in the Maryland Department of Planning Adequate Public Facilities guidelines<sup>27</sup>:

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<sup>24</sup> This report is available online at: <http://smartgrowth.umd.edu/APFOBaltimore.html>

<sup>25</sup> Available online at: [http://www.mdp.state.md.us/msdc/School\\_Enrollment/PublicSchoolEnrollmentProjection\\_2015\\_forView.pdf](http://www.mdp.state.md.us/msdc/School_Enrollment/PublicSchoolEnrollmentProjection_2015_forView.pdf)

<sup>26</sup> Available online at: <http://www.marylandpublicschools.org/adequacystudy/docs/MDEnrollmentReportFinal-071815.pdf>

<sup>27</sup> Available online at: <http://www.mdp.state.md.us/PDF/OurProducts/Publications/ModelsGuidelines/mg24.pdf>

**Table 2: Maryland County School Enrollment-Capacity Trends, Overcrowding, APFO Thresholds & Impact Fees**

| COUNTY          | YEAR COUNTY ADOPTED SCHOOL APFO | FULL TIME EQUIVALENT (FTE) ENROLLMENT |                |                  |                |                  | NUMBER OF SCHOOLS |              |           | NUMBER OF SCHOOLS OVER STATE RATED CAPACITY (SRC) & LOCAL ADEQUATE PUBLIC FACILITIES ORDINANCE (APFO) THRESHOLD |                                     |                                |                                       |  | Fiscal 2013 School Impact & Excise Fees Collected |
|-----------------|---------------------------------|---------------------------------------|----------------|------------------|----------------|------------------|-------------------|--------------|-----------|---|-------------------------------------|--------------------------------|---------------------------------------|--|---|
|                 |                                 | 2004                                  | 2014           | 2004-2014 Change | 2024           | 2014-2024 Change | 2005-2006         | 2014-2015    | Change    | Number of Schools Over 100% of SRC  | Percent of Schools Over 100% of SRC | APFO School Capacity Threshold | Number of Schools Over APFO Threshold | Percent of Schools Over APFO Threshold |   |
|                 |                                 | Allegany                              | None           | 9,445            | 8,357          | -1,088           | 8,060             | -297         | 23        | 22  | -1                                  | 1                              | 5%                                    | None                                   |   |
| Anne Arundel    | 1978                            | 72,641                                | 77,438         | 4,797            | 84,240         | 6,802            | 118               | 121          | 3         | 17  | 14%                                 | >100%                          | 17                                    | 14%                                    | \$8,528,563                                       |
| Baltimore       | 1979                            | 104,072                               | 106,078        | 2,006            | 117,670        | 11,592           | 168               | 173          | 5         | 78  | 45%                                 | >115%                          | 30                                    | 17%                                    | \$0   |
| Calvert         | 1988                            | 17,101                                | 15,632         | -1,469           | 15,363         | -269             | 27                | 26           | -1        | 2   | 8%                                  | >100%                          | 3                                     | 12%                                    | \$1,873,591                                       |
| Caroline        | 1989                            | 5,171                                 | 5,592          | 421              | 5,550          | -42              | 10                | 10           | 0         | 3   | 30%                                 | 100%                           | 3                                     | 30%                                    | \$91,902  |
| Carroll         | 1998                            | 28,576                                | 25,517         | -3,059           | 23,660         | -1,857           | 45                | 47           | 2         | 3   | 6%                                  | 110% - 119%<br>120%            | 0<br>0                                | 0%<br>0%                               | \$80,150  |
| Cecil           | None                            | 16,042                                | 14,938         | -1,104           | 15,290         | 352              | 31                | 29           | -2        | 9   | 31%                                 | None                           |                                       |  | \$0   |
| Charles         | 1992                            | 25,292                                | 25,419         | 127              | 28,610         | 3,191            | 34                | 37           | 3         | 19  | 51%                                 | >100%                          | 19                                    | 51%                                    | \$8,828,192                                       |
| Dorchester      | None                            | 4,559                                 | 4,583          | 24               | 5,110          | 527              | 13                | 13           | 0         | 3   | 23%                                 | None                           |                                       |  | \$238,185   |
| Frederick       | 1991                            | 38,487                                | 39,680         | 1,193            | 43,171         | 3,491            | 61                | 67           | 6         | 13  | 19%                                 | >100%<br>>120%                 | 13<br>7                               | 19%<br>10%                             | \$9,135,853                                       |
| Garrett         | None                            | 4,574                                 | 3,710          | -864             | 3,490          | -220             | 18                | 12           | -6        | 3   | 25%                                 | None                           |                                       |  | \$0   |
| Harford         | 1991                            | 39,355                                | 36,765         | -2,590           | 36,560         | -205             | 51                | 54           | 3         | 5   | 9%                                  | >110%                          | 0                                     | 0%                                     | \$2,027,400                                       |
| Howard          | 1992                            | 47,463                                | 52,511         | 5,048            | 61,310         | 8,799            | 70                | 75           | 5         | 38  | 51%                                 | 115%                           | 5                                     | 7%                                     | \$6,581,536                                       |
| Kent            | None                            | 2,392                                 | 1,967          | -425             | 1,960          | -7               | 8                 | 7            | -1        | 0   | 0%                                  | None                           |                                       |  | \$0   |
| Montgomery      | 1973                            | 136,465                               | 150,320        | 13,855           | 160,990        | 10,670           | 192               | 202          | 10        | 92  | 46%                                 | 105% - %120<br>>120%           | 38<br>35                              | 19%<br>17%                             | \$27,901,753                                      |
| Prince George's | 1981                            | 131,965                               | 121,783        | -10,182          | 129,620        | 7,837            | 205               | 209          | 4         | 52  | 25%                                 | >105%                          | 43                                    | 21%                                    | \$29,292,330                                      |
| Queen Anne's    | 2001                            | 7,365                                 | 7,480          | 115              | 7,800          | 320              | 13                | 14           | 1         | 1   | 7%                                  | >100%                          | 1                                     | 7%                                     | \$1,052,691                                       |
| Somerset        | None                            | 2,794                                 | 2,733          | -61              | 2,890          | 157              | 10                | 9            | -1        | 2   | 22%                                 | None                           |                                       |  | \$0   |
| Saint Mary's    | 1990                            | 15,369                                | 17,238         | 1,869            | 19,129         | 1,891            | 24                | 26           | 2         | 15  | 58%                                 | 107% - 116%                    | 8                                     | 31%                                    | \$1,437,075                                       |
| Talbot          | None                            | 4,419                                 | 4,500          | 81               | 4,663          | 163              | 8                 | 8            | 0         | 1   | 13%                                 | None                           |                                       |  | \$68,109  |
| Washington      | 1990                            | 20,367                                | 21,773         | 1,406            | 22,940         | 1,167            | 46                | 46           | 0         | 10  | 22%                                 | >90% Elem<br>>100%             | 13<br>2                               | 48%<br>15%                             | \$267,508   |
| Wicomico        | None                            | 13,944                                | 14,924         | 980              | 15,434         | 510              | 24                | 24           | 0         | 13  | 54%                                 | None                           |                                       |  | \$1,261,911                                       |
| Worcester       | None                            | 6,559                                 | 6,466          | -93              | 6,816          | 350              | 14                | 14           | 0         | 1   | 7%                                  | None                           |                                       |  | \$0   |
| <b>Total</b>    |                                 | <b>754,417</b>                        | <b>765,404</b> | <b>10,987</b>    | <b>820,326</b> | <b>54,922</b>    | <b>1,213</b>      | <b>1,245</b> | <b>32</b> | <b>381</b>  | <b>31%</b>                          |                                | <b>237</b>                            | <b>19%</b>                             | <b>\$98,666,749</b>                               |
| <b>Maximum</b>  |                                 | <b>136,465</b>                        | <b>150,320</b> | <b>13,855</b>    | <b>160,990</b> | <b>11,592</b>    | <b>205</b>        | <b>209</b>   | <b>10</b> | <b>92</b>   | <b>58%</b>                          | <b>&gt;120%</b>                | <b>43</b>                             | <b>21%</b>                             |   |

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### Enrollment:

Public School Enrollment Projections 2015 -2024, Maryland Department of Planning, Sept 2015 May exclude Pre-K students in some counties.

[http://www.mdp.state.md.us/msdc/School\\_Enrollment/PublicSchoolEnrollmentProjection\\_2015\\_forView.pdf](http://www.mdp.state.md.us/msdc/School_Enrollment/PublicSchoolEnrollmentProjection_2015_forView.pdf)

### Number of Schools:

Final Report of the Study of Increasing and Declining Enrollment in Maryland Public Schools, MD Dept Education, June 2015.

<http://www.marylandpublicschools.org/adequacystudy/docs/MDEnrollmentReportFinal-071815.pdf>

### Enrollment as Percent of Capacity:

Allegany, Caroline, Cecil, Charles, Dorchester, Montgomery and St. Mary's documents did not show enrollment as a percent of capacity. Percentages were computed on the worksheets following this one.

Allegany County enrollment-capacity data was obtained from the Public School Construction Program Facility Inventory website.

<http://www.pscp.state.md.us/fi/MainFrame.cfm>

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Charles County: Capacity Analysis System-Wide Capital Improvement Plan

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|---|---|
| Harford County: Public Schools 2015 - 2022 Capacity, Enrollment, and Projections, Nov 16, 2015  | <a href="https://www.hcps.org/schools/docs/balancingenrollment/Sept2015Enrollment.pdf">https://www.hcps.org/schools/docs/balancingenrollment/Sept2015Enrollment.pdf</a>   |
| Howard County: 2015 Feasibility Study: An Annual Review of Long-Term Capital Planning and Redistricting Options, June 2015. Pre-Measures tables on pages 46, 48 and 50, 2016-17 Utilization %.      | <a href="http://www.hcpss.org/f/schoolplanning/2015-feasibility-study.pdf">http://www.hcpss.org/f/schoolplanning/2015-feasibility-study.pdf</a>   |
| Kent County: School Consolidation & Redistricting PowerPoint January 11, 2016, Slides 10 & 12   | <a href="http://www.kent.k12.md.us/index.php/consolidation/work-session-2-3-16">http://www.kent.k12.md.us/index.php/consolidation/work-session-2-3-16</a>   |
| Montgomery County: Capital Improvements Program/Master Plan, FY 2017  | <a href="http://www.montgomeryschoolsmd.org/departments/planning/cipmaster.aspx">http://www.montgomeryschoolsmd.org/departments/planning/cipmaster.aspx</a>   |
| Prince George's County: FY2015 Educational Facilities Master Plan, Appendix W   | <a href="http://www1.pgcps.org/cip/index.aspx?id=213241">http://www1.pgcps.org/cip/index.aspx?id=213241</a>   |
| Queen Anne's County: Table on p. 106, 2015 Educational Facilities MasterPlan  | <a href="http://qacps.schoolwires.net/cms/lib02/MD01001006/Centricity/Domain/2013/FY2015_EFMP_Combined_Website.pdf">http://qacps.schoolwires.net/cms/lib02/MD01001006/Centricity/Domain/2013/FY2015_EFMP_Combined_Website.pdf</a>           |
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| Washington County: Pages 2-4, 2015 Washington County Educational Facilities Master Plan   | <a href="http://wcpsmd.com/documents/educational-facilities-master-plan-efmp">http://wcpsmd.com/documents/educational-facilities-master-plan-efmp</a>   |
| Wicomico County: Facilities Inventory, 2015 Wicomico County Educational Facilities Master Plan  | <a href="http://www.wcboe.org/administrative_services/facility_services/planning/educational_facilities_master_plan/">http://www.wcboe.org/administrative_services/facility_services/planning/educational_facilities_master_plan/</a>       |
| Worcester County: Table 16, 2015 Worcester County Educational Facilities Master Plan  | <a href="http://www.worcesterk12.com/about-wcps/strategic-planning/facilities-master-plan">http://www.worcesterk12.com/about-wcps/strategic-planning/facilities-master-plan</a>   |
| <b>Fiscal 2013 School Impact &amp; Excise Fees Collected:</b><br>County Development Impact Fees and Building Excise Taxes in Maryland Amounts and Revenues, Department of Legislative Services 2014 | <a href="http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2014-Impact-Fees-excise-taxes.pdf">http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2014-Impact-Fees-excise-taxes.pdf</a>   |

*“The Administrative Procedures Guide for Maryland’s Public School Construction Program defines SRC [State Rated Capacity] as “the maximum number of students that reasonably can be accommodated in a facility without significantly hampering delivery of the educational program.” The Guide goes on further to state that “It (SRC) is not intended to be a standard of what class sizes should be. School system staffing varies widely depending on a number of factors. It is, however, a criteria used in evaluating whether a particular school is overcrowded such that relief is needed and provision of additional space may be warranted.”*

The APFO guidelines then provide the following formula for computing State Rated Capacity for public schools throughout Maryland:<sup>28</sup>

|                                    |               |
|------------------------------------|---------------|
| Prekindergarten classrooms         | x 20 students |
| Kindergarten classrooms            | x 22 students |
| Grades 1 – 5                       | x 23 students |
| Grade 6                            | x 25 students |
| Special Education (self contained) | x 10 students |

Secondary School (middle, junior, and senior high grades 6 – 12 inclusive) capacities are derived by taking 85 percent of the product of the number of teaching stations and 25 and then adding the product of the number teaching stations for special education and 10. Put another way the formula is:

|                      |                      |
|----------------------|----------------------|
| Secondary classrooms | x 25 students x 0.85 |
| Special education    | x 10 students.       |

As very rough averages, each Maryland elementary, middle and high school respectively accommodates about 500, 700 and 1200 students, though this varies considerably.<sup>29</sup>

Enrollment, capacity and percent of capacity data was obtained from the most recent online educational facilities master plan for each county, through a personal communication with school board staff, or the Facility Inventory on the Public School Construction Program website<sup>30</sup>. The actual source of this data is shown in the References section following Table 2, on page 18.

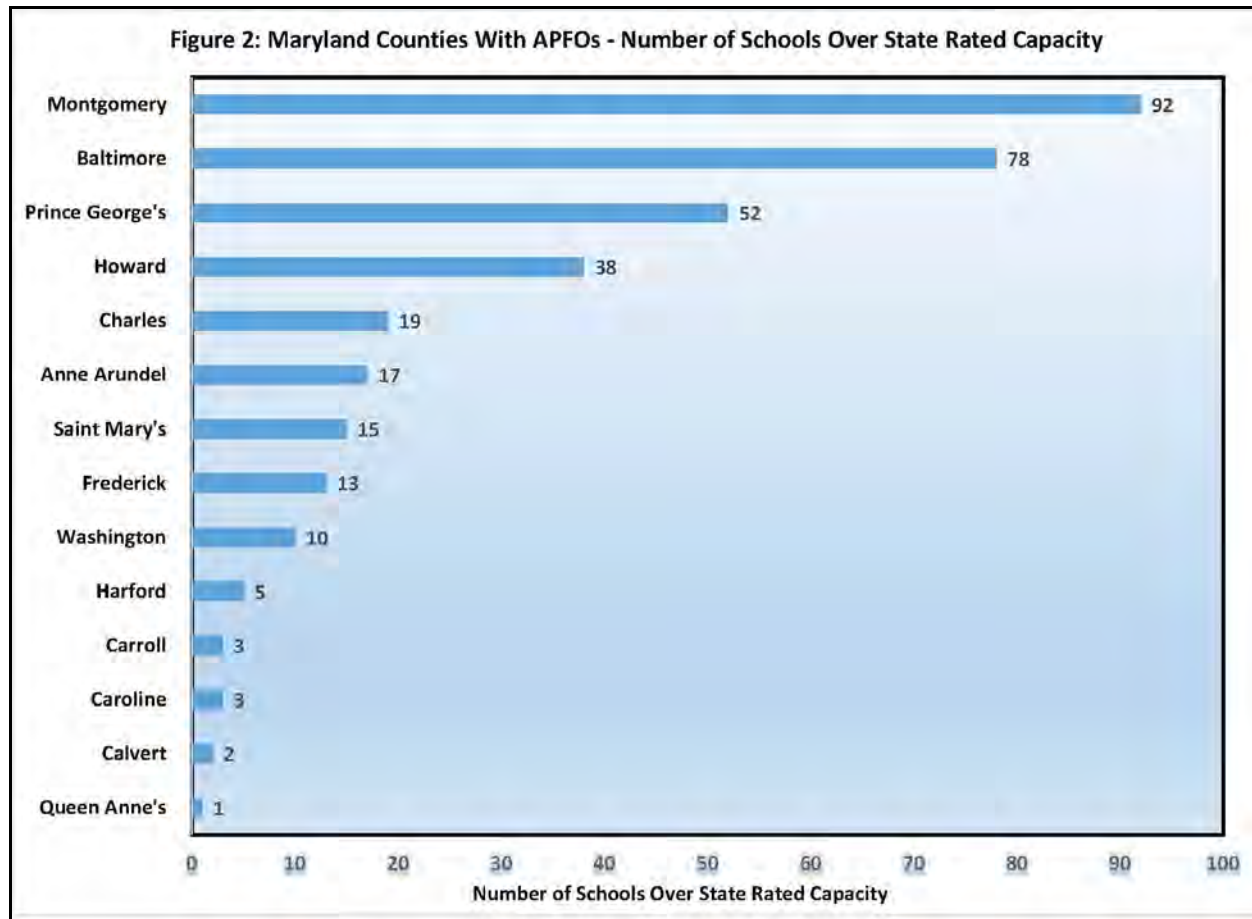
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<sup>28</sup> The SRC formula also appear in the Code of Maryland Regulations (COMAR) 23.03.02.04 at: <http://www.dsd.state.md.us/comar/comarhtml/23/23.03.02.04.htm>

<sup>29</sup> Preliminary Report on the Impact of School Size, prepared for the Maryland State Department of Education, September 2015, at: <http://marylandpublicschools.org/adequacystudy/docs/PreliminaryImpactofSchoolSize.pdf>

<sup>30</sup> The PSCP website is at: <http://www.pscp.state.md.us/fi/MainFrame.cfm>

For eight counties the master plan only contained enrollment and capacity data. A worksheet for each county was added to the Excel file for this research. Enrollment and capacity data was transferred to a separate worksheet for each of the eight counties. A column was then added to compute percent capacity utilization. The Excel file is posted at: [ceds.org/bcp/MASTERMarylandCountiesAPFOComparisonEnrollmentCapacity.xlsx](https://ceds.org/bcp/MASTERMarylandCountiesAPFOComparisonEnrollmentCapacity.xlsx) Figure 2 shows the number of schools over capacity for the 14 APFO counties.



**County School Adequate Public Facility Ordinance (APFO) Threshold**

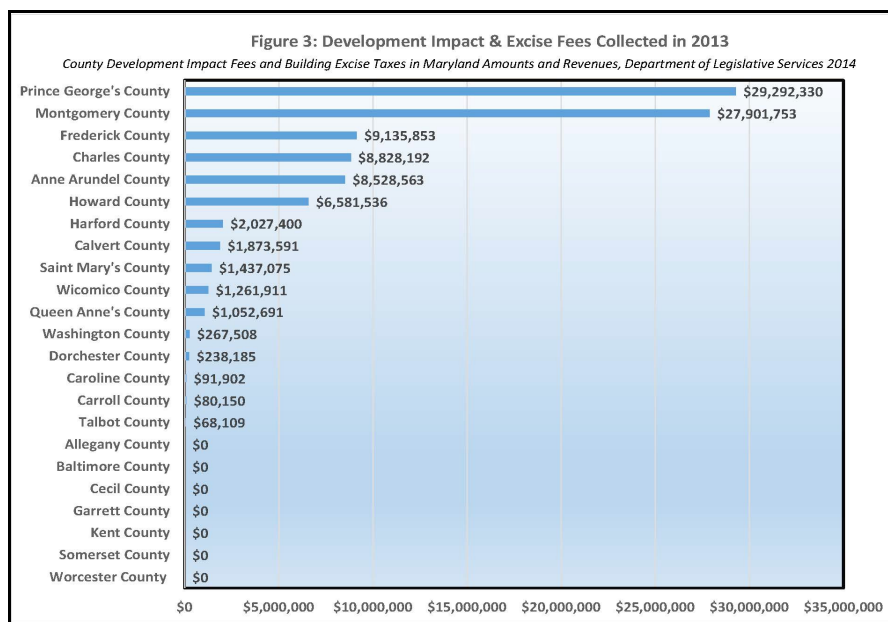
Of the 14 Maryland counties that have adopted APFOs, 13 have set a threshold at which development restrictions kick-in. Prince George's County has a threshold but no development restrictions are imposed when it is exceeded. The threshold is expressed as a percent of State Rated Capacity. Several counties have two thresholds and one has three. The lowest threshold has been adopted by Washington County where APFO restrictions kick-in when an elementary school reaches 90% of capacity. As shown in Table 1, a number of APFOs contain options that would allow a project to proceed even though a capacity threshold would be exceeded. These options mostly involve an applicant covering a portion or all of the cost to expand school capacity.



This portion of Table 2, shows the number and percent of all schools in a county that exceed each APFO threshold. Just because a threshold is exceeded, schools are not necessarily closed to additional students. As stated earlier, a number of the APFOs allow development projects to proceed if: capacity additions-expansions are in the CIP and funded, adjoining schools have excess capacity, the developer makes a payment, etc.

### School Impact & Excise Fees Collected

Figure 3 is based on Maryland Department of Legislative Services<sup>31</sup> records which show that 16 of the 23 counties charge a development impact fee or building excise tax to offset the cost of expanding school capacity. In Fiscal Year 2013, the 16 counties took in nearly \$100 million through these fees.



To show how far \$100 million might go in expanding capacity, consider that in 2014 the cost to build a new elementary, middle and high school in our region was, respectively, \$25-, \$22- and \$80-million.<sup>32</sup> The impact fee, excise tax or surcharge imposed by the 16 counties range from \$533 to \$39,450 per new home. Given the range of per new home fees, some counties may be charging far less than the actual cost to provide space for the students coming from new homes.

For example, the table on the next page indicates that a rough estimate of the per home impact fee needed to cover the cost to build new schools in Baltimore County is \$13,737. As shown in Figure 3, Baltimore County is the only APFO jurisdiction which does not require developers to pay a school impact fee.

<sup>31</sup> Available online at: <http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2014-Impact-Fees-excise-taxes.pdf>

<sup>32</sup> See Annual School Construction Report 2015 at: <http://www.haddonfield.k12.nj.us/Attachments/AnnualSchoolConstructionReport2015.pdf>

| School Level | A<br>Average State Rated Capacity <sup>1</sup> | B<br>Pupils Per Single-Family Detached Home <sup>2</sup> | C<br>Number of Homes Needed to Reach Capacity <sup>3</sup> | D<br>Cost To Build A New School <sup>4</sup> | E<br>Per Home Fee Needed to Cover Cost Of New School <sup>5</sup> |
|--------------|--|--|--|--|---|
| Elementary   | 473  | 0.134  | 3,530  | \$25,000,000                                 | \$7,082   |
| Middle       | 1,045  | 0.064  | 16,328   | \$22,000,000                                 | \$1,347   |
| High         | 1,417  | 0.094  | 15,074   | \$80,000,000                                 | \$5,307   |
| <b>Total</b> | <b>2,935</b>                                   | <b>0.292</b>   | <b>34,932</b>  | <b>\$127,000,000</b>                         | <b>\$13,737</b>   |

1. Based on 2014 – 2015 School Adequate Public Facilities Ordinance Report, Baltimore County Department of Planning: <http://www.baltimorecountymd.gov/Agencies/planning/devrevandlanduse/adequatepublicschoolfacilities.html>
2. Based on pupil yield table posted at: <http://www.baltimorecountymd.gov/Agencies/planning/devrevandlanduse/adequatepublicschoolfacilities.html>
3. Capacity (A) divided by pupils per single-family detached home (B).
4. Annual School Construction Report 2015 at: <https://webspm.com/research/2015/02/annual-school-construction-report/asset.aspx?tc=assetpg>
5. Cost (D) divided by number of homes needed to reach capacity ©.

The following text from the 2012 report *Adequate Public Facilities Ordinances in Maryland: (Discussion Draft) Annual Report Review*<sup>33</sup>, from the Maryland Sustainable Growth Commission, raises a question about the extent to which developer contributions (impact fees, etc) are actually being used to resolve capacity issues:

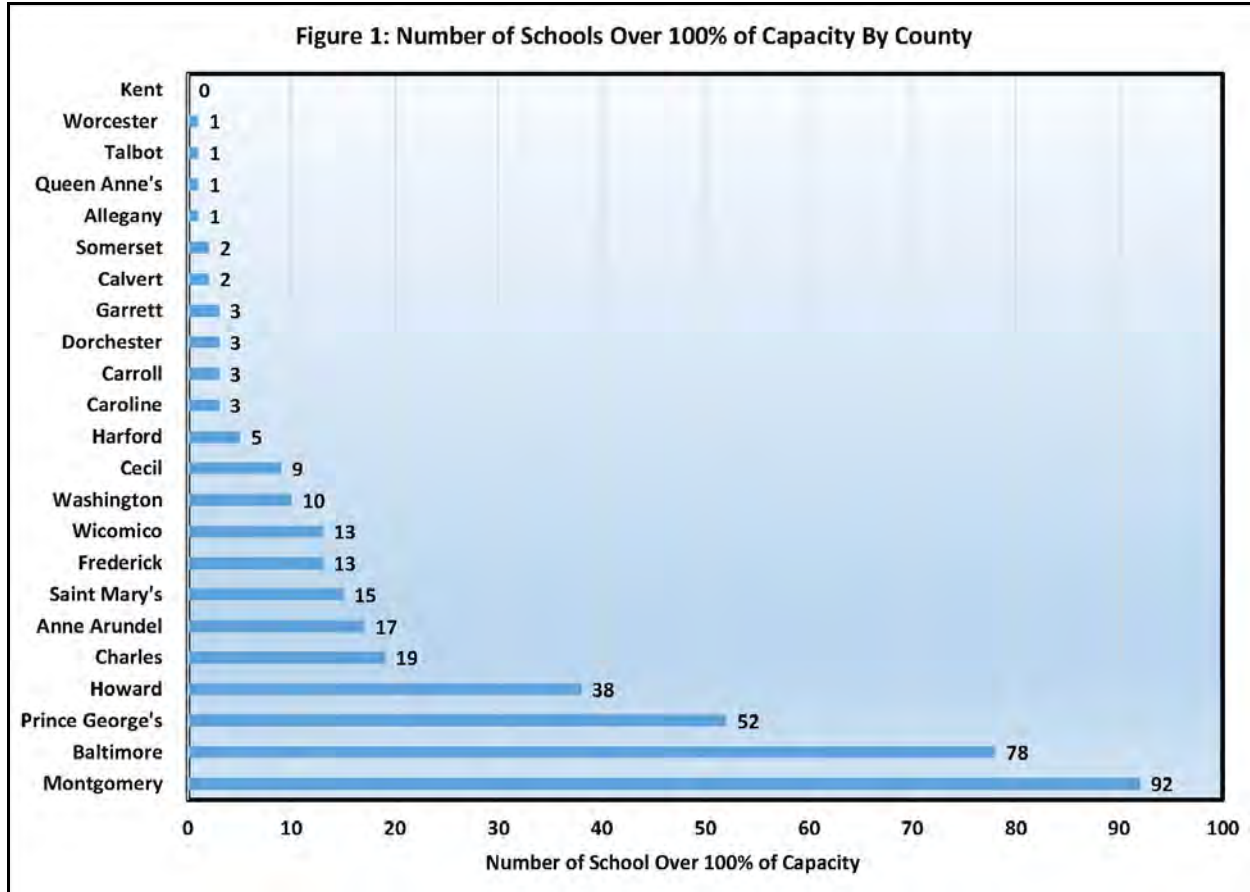
*“Finally, there continues to be little evidence if the jurisdictions are using their APFOs to inform decisions about which projects should receive priority funding in county capital improvement programs (CIPs). There is little linkage or information about capacity improvement reported in APFO reports. APFO standards themselves are often lacking detail in available facility capacity. Available capacity, or capacity improvements resulting from developer contributions [impact fee?] or local government CIPs are simply not identified.”*

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<sup>33</sup> Available online at: <https://planning.maryland.gov/PDF/YourPart/773/20130325/AdequatePublicFacilitiesDraftReport032513.pdf>

## REVIEW OF COUNTY SUCCESS IN PREVENTING OVERCROWDING

Figure 1, below, shows the number of schools in each county which exceed 100% of State Rated Capacity. Only one county - Kent - has attained the goal of no schools over State Rated Capacity. This clearly shows just how challenging it is to achieve this goal. The eight counties with the largest number of over capacity schools all have Adequate Public Facility Ordinances.



The six APFO counties with the least number of over capacity schools are: Queen Anne's, Calvert, Carroll, Caroline, Harford and Washington. Enrollment declined in three of these six counties between 2004 and 2014: Calvert, Carroll and Harford. The number of schools increased between 2005 and 2015 in: Carroll, Harford and Queen Anne's.

In this section further detail will be provided for these counties in hopes of identifying factors that may compromise the effectiveness of APFOs in minimizing the number of over capacity schools. The data presented below comes from Table 2. Sources of this data are provided in the References section following Table 2, on page 18.

## **COUNTIES WITH ADEQUATE PUBLIC FACILITY ORDINANCES**

The analysis will begin with the 14 Maryland counties that have adopted APFOs. Data on past and future enrollment changes will be reviewed along with changes in the number of schools. The number and percentage of schools exceeding State Rated Capacity along with local APFO threshold(s) is presented. The amount of funds collected in FY2013 is provided followed by a brief summary of APFO provisions including those which are most and least effective in preventing overcrowding.

### **Anne Arundel County**

An Adequate Public Facilities Ordinance has been in effect in Anne Arundel County since 1978. Student enrollment in Anne Arundel County grew by 4,797 students (6.2%) between 2004 and 2014. Enrollment is projected to grow by another 6,802 students (8.1%) by 2024. In 2005-06 Anne Arundel County had 118 schools which increased to 121 by 2014-15. Of the 121 schools, 17 schools (14%) exceed State Rated Capacity. In FY2013, Anne Arundel County received \$8,528,563 in development impact fees for schools.

The Anne Arundel APFO affects projects that would cause enrollment at any school to exceed 100% of State Rated Capacity. However, a project may only be held up for a maximum of six years. After six years the project can proceed even if enrollment at affected schools remains above State Rated Capacity. Also, if a school is one seat under State Rated Capacity an entire development project can proceed even if it would add many more than one student.

### **Baltimore County**

An Adequate Public Facilities Ordinance has been in effect in Baltimore County since 1979. Student enrollment in Baltimore County grew by 2,006 students (1.9%) between 2004 and 2014. Enrollment is projected to grow by another 11,592 students (9.9%) by 2024. In 2005-06 Baltimore County had 168 schools which increased to 173 by 2014-15. Of the 173 schools, 78 schools (45%) exceed State Rated Capacity. Of the 14 counties with APFOs, Baltimore County is the only one which does not charge a development impact fee for schools.

The Baltimore County APFO threshold is set at >115%. If a proposed development project will add students to a Baltimore County school which is currently above 115% and just one of the adjoining schools is far enough below State Rated Capacity to accommodate the students generated by the project, then it can proceed. For example, let's say Elementary School A is above 115% of capacity and the proposed development project would add 15 students. Let's also say that the service area of Elementary School A adjoins that of Elementary Schools B, C and D. If enrollment at Elementary School B, C and D is also above 115% then no further development can occur which would add students to Elementary School A. However, if a single adjoining school (B, C or D) has sufficient excess capacity to accommodate 15 students then the project can proceed. A project can also proceed if school improvements creating sufficient space has been included in the Capital Improvement Program and are fully funded. With an enrollment of 149% of State Rated Capacity, Lansdowne Elementary in Baltimore County is the most overcrowded school in Maryland.

The table below shows how many Baltimore County schools were above 115% of capacity from 2002-03 through to school year 2014-15. Note that except for 2011-12 the over capacity schools all adjoined schools at or below 115% of capacity. Therefore, over the past 13 years it was only in 2011-12 that development was prohibited. And that was only at one out of 15 schools overcapacity in 2011-12. This is likely a major reason why Baltimore County has the second highest number of overcrowded schools of any Maryland county.

| <b>Baltimore County Adequate Public Facility Ordinance Thresholds</b> | <b>2002-03</b> | <b>2003-04</b> | <b>2004-05</b> | <b>2005-06</b> | <b>2006-07</b> | <b>2007-08</b> | <b>2008-09</b> | <b>2009-10</b> | <b>2010-11</b> | <b>2011-12</b> | <b>2012-13</b> | <b>2013-14</b> | <b>2014-15</b> |
|---|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Number of Schools >115%   | 11             | 9              | 14             | 15             | 11             | 11             | 7              | 11             | 12             | 15             | 22             | 28             | 30             |
| # Adjacent to Schools ≤115%   | 11             | 9              | 14             | 15             | 11             | 11             | 7              | 11             | 12             | 14             | 22             | 28             | 30             |
| # Not Adjacent to Schools ≤115%                                       | 0              | 0              | 0              | 0              | 0              | 0              | 0              | 0              | 0              | 1              | 0              | 0              | 0              |

Source: Annual School Adequate Public Facilities Ordinance Reports<sup>34</sup>, Baltimore County Department of Planning

### **Calvert County**

An Adequate Public Facilities Ordinance has been in effect in Calvert County since 1988. Student enrollment in Calvert County decreased by 1,469 students (-8.6%) between 2004 and 2014. Enrollment is projected to further decrease by another 269 students (-1.7%) by 2024. In 2005-06 Calvert County had 27 schools which decreased to 26 by 2014-15. Of the 26 schools, 2 schools (8%) exceed State Rated Capacity. In FY2013 Calvert County received \$1,873,591 in development impact fees for schools.

The Calvert County APFO prohibits development that would cause enrollment at any school to exceed 100% of State Rated Capacity. If a project had received preliminary approval, but could not proceed due to a lack of school capacity, then it can proceed when seven years have passed even if the affected schools are still over capacity.

### **Caroline County**

An Adequate Public Facilities Ordinance has been in effect in Caroline County since 1989. Student enrollment in Caroline County grew by 421 students (7.5%) between 2004 and 2014. Enrollment is projected to decrease by 42 students (-0.8%) come 2024. In 2005-06 Caroline County had 10 schools which has not changed as of 2014-15. Of the 10 schools, 3 schools (30%) exceed State Rated Capacity. In FY2013 Caroline County received \$91,902 in development impact fees for schools.

The Caroline County APFO prohibits development that would cause enrollment at any school to exceed 100% of State Rated Capacity.

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<sup>34</sup> Available online at: <http://www.baltimorecountymd.gov/Agencies/planning/devrevandlanduse/adequatepublicschoolfacilities.html>

### **Carroll County**

An Adequate Public Facilities Ordinance has been in effect in Carroll County since 1998. Student enrollment in Carroll County decreased by 3,059 students (-12%) between 2004 and 2014. By 2024, enrollment is projected to further decrease by another 1,857 students (-7.3%). In 2005-06 Carroll County had 45 schools which increased to 47 by 2014-15. Of the 47 schools, 3 schools (6%) exceed State Rated Capacity. In FY2013 Carroll County received \$80,150 in development impact fees for schools.

The Carroll County APFO prohibits development that would cause enrollment at any school to reach or exceed 120% of State Rated Capacity. If a development project would cause enrollment at a school to range from 110% to 119% of capacity then it may be subject to permit restrictions, such as breaking large projects into phases. The phases would be sized so the first would not cause the affected schools to exceed the 120% threshold. However, a project may receive conditional approval if adequate capacity will be available within six years. The 2008 recession helped to create a situation where Carroll County is looking at closing schools.

### **Charles County**

An Adequate Public Facilities Ordinance has been in effect in Charles County since 1992. Student enrollment in Charles County grew by 127 students (0.5%) between 2004 and 2014. Enrollment is projected to grow by another 3,191 students (11.2%) by 2024. In 2005-06 Charles County had 34 schools which increased to 37 by 2014-15. Of the 37 schools, 19 schools (51%) exceed State Rated Capacity. In FY2013 Charles County received \$8,828,192 in development impact fees for schools.

In 2008, Charles County made a number of revisions to their Adequate Public Facility requirements for schools. It appears that previously a development project would be put on hold only if all three levels (elementary, middle and high) of schools serving a proposed project exceeded 100% of capacity. Today, only one of the three levels need exceed 100% of capacity to restrict a project from proceeding. Previously it appears capacity included not only State Rated Capacity but that provided by portable classrooms too. Today it is based solely on State Rated Capacity. While developers have the option of paying into a fund or proposing a mitigation plan to lift the restriction, the Charles County government is not obligated to consent. To prevent large projects from consuming all available school capacity, Charles County restricts development projects to a maximum of 75 school seats per year and no project may receive more than 50% of the total number of seats available. Seat allocations expire if not used within 24 months.

### **Frederick County**

An Adequate Public Facilities Ordinance has been in effect in Frederick County since 1991. Student enrollment in Frederick County grew by 1,193 students (3.1%) between 2004 and 2014. Enrollment is projected to grow by another 3,491 students (8.8%) by 2024. In 2005-06 Frederick County had 61 schools which increased to 67 by 2014-15. Of the 67 schools, 13 schools (19%)

exceed State Rated Capacity. In FY2013 Frederick County received \$9,135,853 in development impact fees for schools.

Frederick County Public Schools operates 62 k-12 schools that are subject to the APFO. The remaining schools, including our 3 public charter schools and 3 special schools, are not subject to the APFO.

The Frederick County APFO prohibits development that would cause enrollment at any school to exceed 120% of State Rated Capacity. If enrollment at an affected schools falls between 100% and 120% of State Rated Capacity, then the project may proceed if the developer pays the *School Construction Fee* in addition to the normal school impact fee. However, this provision is scheduled to end in the near future. If school capacity exceeds 120% under current enrollment (and there is no improvement programmed in the CIP in the first 2 years), a developer does not have the option of paying the school construction fee, and must fully fund the necessary school improvement if they want to proceed.

### **Harford County**

An Adequate Public Facilities Ordinance has been in effect in Harford County since 1991. Student enrollment in Harford County decreased by 2,590 students (-6.6%) between 2004 and 2014. Enrollment is projected to decrease by another 205 students (-0.6%) by 2024. In 2005-06 Harford County had 51 schools which increased to 54 by 2014-15. Of the 54 schools, 5 schools (9%) exceed State Rated Capacity. In FY2013, Harford County received \$2,027,400 in development impact fees for schools.

The Harford County APFO prohibits development that would cause enrollment at any school to exceed 110% of State Rated Capacity based on the current year and projections for the next three years.

### **Howard County**

An Adequate Public Facilities Ordinance has been in effect in Howard County since 1992. Student enrollment in Howard County grew by 5,048 students (9.6%) between 2004 and 2014. Enrollment is projected to grow by another 8,799 students (14.4%) by 2024. In 2005-06 Howard County had 70 schools which increased to 75 by 2014-15. Of the 75 schools, 38 schools (51%) exceed State Rated Capacity. In FY2013, Howard County received \$6,581,536 in development excise taxes for schools.

If a development proposal will cause a school to exceed 115% of capacity then it may be placed on a waiting list for a maximum of three years. After three years the project may proceed even if the affected school(s) remain above 115% of capacity. Howard County has the fourth highest number of schools over State Rated Capacity of all Maryland counties.

## Montgomery County

An Adequate Public Facilities Ordinance has been in effect in Montgomery County since 1973, the oldest of all 14 counties. It was known as an Annual Growth Policy until recently renamed to the *Subdivision Staging Policy*<sup>35</sup>. Enrollment in Montgomery County grew by 13,855 students (9%) between 2004 and 2014. It is projected to grow by another 10,670 students (6.6%) by 2024. In 2005-06 Montgomery County had 192 schools which increased to 202 by 2014-15. Montgomery County had 92 schools (46%) which exceeded “program” capacity, which is very close to State Rated Capacity. In FY2013 Montgomery County received \$27,901,753 in development impact fees for schools.

Montgomery County is divided into 25 school clusters including two school consortiums. Each cluster has a single high school, one or more middle schools and multiple elementary schools. The two consortiums contain several high schools along with multiple middle and elementary schools. The Montgomery County Educational Facilities Master Plan gives the *desired* range for enrollment as 80% to 100% of capacity. The Montgomery County APFO test is based upon school clusters and the three levels of schools within each cluster: elementary, middle and high school level. This means that within a cluster if projected utilization at the elementary school level (looking at all elementary schools within the cluster as a group) exceeds 105% but remains below 120%, then a School Facility Payment is required on all new residential units approved within the cluster. If a school level exceeds 120% of capacity then a moratorium is imposed on further development that would add students to that school cluster which is at the inadequate level.

For example, the Gaithersburg Cluster includes Gaithersburg HS, Forest Oak MS, Goshen ES, Rosemont ES, Summit Hall ES, Washington Grove ES, Gaithersburg MS, Gaithersburg ES, Laytonsville ES, and Strawberry Knoll ES. If you totaled enrollment and capacity at all seven elementary schools and the cumulative enrollment of all seven was between 106% and 120% of the cumulative capacity then an applicant would need to make a School Facilities Payment before their development project could proceed. If the cumulative enrollment exceeded 120% of cumulative capacity for one of the three levels then a moratorium is imposed on further development that would add students to the school cluster which is at the inadequate level.

It is important to note that Montgomery County takes care to ensure class sizes are not larger in schools that are above their capacity. Staffing ratios are primarily driven by enrollment at schools. The same allocations are provided whether a school is under its capacity or above its capacity. In the case of schools above their capacity, relocatable classrooms will be placed to serve teachers and students who cannot be housed in the main building. If a school system allowed class sizes to be larger in schools that are above their capacity, then there would not be a need for relocatable classrooms.

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<sup>35</sup> See: [http://www.montgomeryplanning.org/research/subdivision\\_staging\\_policy/](http://www.montgomeryplanning.org/research/subdivision_staging_policy/)



No other Maryland county has more schools over State Rated Capacity than Montgomery. However, with regard to percent of schools over capacity, Montgomery County is sixth highest compared to the other 22 school systems.

### **Prince George's County**

An Adequate Public Facilities Ordinance has been in effect in Prince George's County since 1981. Student enrollment in Prince George's County declined by 10,182 students (-7.7%) between 2004 and 2014. Enrollment is projected to grow by another 7,837 students (6%) by 2024. In 2005-06, Prince George's County had 205 schools which increased to 209 by 2014-15. Of the 209 schools, 52 schools (25%) exceed State Rated Capacity. In FY2013, Prince George's County received \$29,292,330 in development impact fees for schools, which was more than any other county.

The Prince George's County APFO only exists for planning purposes. A project causing a school to exceed the 105% APFO school threshold is allowed to proceed through the review process and begin construction. Table 2, on page 17, shows that 43 schools (21%) presently exceed the 105% threshold. Prince George's County has the third highest number of schools over State Rated Capacity of all Maryland counties.

### **Queen Anne's County**

An Adequate Public Facilities Ordinance has been in effect in Queen Anne's County since 2001. Student enrollment in Queen Anne's County grew by 115 students (1.5%) between 2004 and 2014. Enrollment is projected to grow by another 320 students (4.1%) by 2024. In 2005-06, Queen Anne's County had 13 schools which increased to 14 by 2014-15. Of the 14 schools, one school (7%) exceeded State Rated Capacity. In FY2013, Queen Anne's County received \$1,052,691 in development impact fees for schools.

The Queen Anne's County APFO prohibits development that would cause enrollment at any school to exceed 100% of State Rated Capacity. An applicant has the option of making a payment into a fund for school expansion or the applicant can propose another mitigation plan.

### **Saint Mary's County**

An Adequate Public Facilities Ordinance has been in effect in Saint Mary's County since 1990. Student enrollment in Saint Mary's County grew by 1,869 students (10.8%) between 2004 and 2014. Enrollment is projected to grow by another 1,891 students (9.9%) by 2024. In 2005-06 Saint Mary's County had 24 schools which increased to 26 by 2014-15. Of the 26 Saint Mary's schools, 15 schools (58%) exceed State Rated Capacity. In FY2013, Saint Mary's County received \$1,437,075 in development impact fees for schools.

The Saint Mary's County APFO has three tests, one for each school level. If Elementary schools in a North or South area have a cumulative enrollment equal to or exceeding 107% of State Rated Capacity then development may not proceed. If the cumulative enrollment of all middle schools in Saint Mary's County exceeds 109% of the cumulative capacity of all middle schools,

then a development project may not proceed. With regard to high schools, development may not proceed if the cumulative enrollment at all high schools exceeds 116% of the cumulative, countywide capacity. No other Maryland county bases their APFO tests on the cumulative enrollment and capacity of such a large number of schools. All three tests are based on current enrollment-capacity and projections for the next three years.

### **Washington County**

An Adequate Public Facilities Ordinance has been in effect in Washington County since 1990. Student enrollment in Washington County grew by 1,406 students (6.5%) between 2004 and 2014. Enrollment is projected to grow by another 1,167 students (5.1%) come 2024. In 2005-06, Washington County had 46 schools which was unchanged as of 2014-15. Of the 46 schools, 10 schools (22%) exceed State Rated Capacity. In FY2013, Washington County received \$267,508 in development impact fees for schools.

The Washington County APFO prohibits development that would cause enrollment at any elementary school to exceed 90% of State Rated Capacity and 100% for middle and high schools. However, if an adjacent school is at least 20% below State Rated Capacity then an applicant may request redistricting. A project may proceed with Alternate Mitigation Contribution provided affected schools do not exceed 120% of State Rated Capacity.

### **COUNTIES WITHOUT ADEQUATE PUBLIC FACILITY ORDINANCES**

Now for the counties which have not adopted an Adequate Public Facilities Ordinance.

### **Allegany County**

Student enrollment in Allegany County declined by 1,088 students (-11.5%) between 2004 and 2014. Enrollment is projected to decline by another 297 students (-3.6%) by 2024. In 2005-06 Allegany County had 23 schools which decreased to 22 by 2014-15. Of the 22 schools, one school (5%) exceeds State Rated Capacity. Allegany County does not charge a development impact fee for schools.

### **Cecil County**

Student enrollment in Cecil County decreased by 1,104 students (-6.9%) between 2004 and 2014. Enrollment is projected to increase by 352 students (2.3%) come 2024. In 2005-06, Cecil County had 31 schools which decreased to 29 by 2014-15. Of the 29 schools, 9 schools (31%) exceed State Rated Capacity. Cecil County does not charge a development impact fee for schools.

### **Dorchester County**

Student enrollment in Dorchester County increased by 24 students (0.5%) between 2004 and 2014. Enrollment is projected to increase by another 527 students (10.3%) by 2024. In 2005-06, Dorchester County had 13 schools which remained the same as of 2014-15. Of the 13 schools, 3 schools (23%) exceed State Rated Capacity. In FY2013, Dorchester County received \$238,385 in development impact fees for schools.

**Garrett County**

Student enrollment in Garrett County decreased by 864 students (-18.9%) between 2004 and 2014. Enrollment is projected to decline by another 220 students (-5.9%) by 2024. In 2005-06, Garrett County had 18 schools which decreased to 12 by 2014-15. Of the 12 schools, 3 schools (25%) exceed State Rated Capacity. Garrett County does not charge a development impact fee for schools.

**Kent County**

Student enrollment in Kent County decreased by 425 students (-18%) between 2004 and 2014. Enrollment is projected to decline by another 7 students (-0.4%) by 2024. In 2005-06 Kent County had 8 schools which decreased to 7 by 2014-15. Of the 7 schools, none exceed State Rated Capacity. This makes Kent the only Maryland county with no overcapacity schools. Kent County does not charge a development impact fee for schools.

**Somerset County**

Student enrollment in Somerset County decreased by 61 students (-2.2%) between 2004 and 2014. Enrollment is projected to add 157 students (5.4%) by 2024. In 2005-06, Somerset County had 10 schools which decreased to 9 by 2014-15. Of the 9 schools, 2 schools (22%) exceed State Rated Capacity. Somerset County does not charge a development impact fee for schools.

**Talbot County**

Student enrollment in Talbot County increased by 81 students (1.8%) between 2004 and 2014. By 2024, enrollment is projected to increase by another 163 students (3.6%). In 2005-06, Talbot County had 8 schools which was unchanged as of 2014-15. Of the 8 schools, one school (13%) exceeds State Rated Capacity. In FY2013, Talbot County received \$68,109 in development impact fees for schools.

**Wicomico County**

Student enrollment in Wicomico County increased by 980 students (6.6%) between 2004 and 2014. Enrollment is projected to increase by another 510 students (3.3%) by 2024. In 2005-06, Wicomico County had 24 schools which was unchanged as of 2014-15. Of the 24 schools, 13 schools (54%) exceed State Rated Capacity. In FY2013, Wicomico County received \$1,261,911 in development impact fees for schools.

**Worcester County**

Student enrollment in Worcester County decreased by 93 students (-1.4%) between 2004 and 2014. Enrollment is projected to increase by 350 students (5.1%) by 2024. In 2005-06, Worcester County had 14 schools which was unchanged as of 2014-15. Of the 14 schools, one school (7%) exceeds State Rated Capacity. Worcester County does not charge a development impact fee for schools.

## **MOST EFFECTIVE APFO PROVISIONS**

Development is not the only factor causing schools to exceed State Rated Capacity, but it is one of the more controllable factors. Prevention of school overcrowding should begin at the county comprehensive plan and educational facilities master plan stage. The comprehensive plan chapter on schools should use the data and recommendations from the educational facilities plan to show where excess school capacity does or will exist within Priority Funding Areas<sup>36</sup>. The plan should include recommendations that will steer future growth to these areas. Zoning and other land use regulations should be adjusted accordingly. School capacity expansions must then be included in the Capital Improvement Program. Development impact fees and other funding sources must be adjusted so the funds are available to complete CIP expansions in time to accommodate anticipated growth. An Adequate Public Facilities Ordinance must be in place as a safety valve. The APFO must allow a County to postpone development that would degrade school quality by causing enrollment to exceed State Rated Capacity.

Table 3, on the next four pages of this publication, provides a summary of the provisions in the 14 APFOs that are most and least effective in preventing schools from exceeding capacity. Following are the provisions which *increase* the likelihood schools will exceed capacity:

- Development is allowed to continue to add students to schools until they are more than 115% to 120% over capacity (Baltimore, Carroll, Frederick, Howard and Montgomery counties);
- Development is only halted if the subject school and all other schools with adjoining boundaries are also over capacity (Baltimore County);
- Development is not halted regardless of the degree of overcrowding (Prince George's County);
- A development project can only be postponed for three or seven years and is allowed to proceed even if affected schools are still overcapacity (Anne Arundel, Calvert and Howard counties);
- Development is allowed to proceed after making a payment or other mitigation but before the payment-mitigation results in increased school capacity;
- An APFO test is based upon not just the individual schools receiving students from a project but multiple schools (Baltimore and Montgomery counties) or the cumulative capacity of all schools countywide (Saint Mary's County); and
- An entire development project can proceed if excess capacity at a school is just one seat yet the project will generate many more students (Anne Arundel County).

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<sup>36</sup> Each County identifies Priority Funding Areas (PFA). By concentrating growth within PFAs rural sprawl is minimized along with the costs of growth. Priority is given to the use of State funds in these areas for building new schools, roads, etc., hence the phrase Priority Funding Area. For further detail, including maps of PFAs in each county, visit: <http://www.mdp.state.md.us/OurProducts/pfamap.shtml>

**Table 3: Background Data & APFO Provisions That Are Most-Least Effective in Preventing School Overcrowding**

| County       | APFO Threshold | 2004-2014 Enrollment Change |         | Change In Number of Schools 2005-2015 |         | Schools Over State Rated Capacity (SRC) |         | Factors That <i>INCREASE</i> APFO Effectiveness  | Factors That <i>DECREASE</i> APFO Effectiveness   |
|--------------|----------------|-----------------------------|---------|---------------------------------------|---------|---|---------|--|---|
|              |                | Number                      | Percent | Number                                | Percent | Number                                  | Percent |  |   |
| Anne Arundel | >100%          | 4,797                       | 6%      | 3                                     | 4%      | 17                                      | 14%     | Development halted if it would cause enrollment to exceed 100% of SRC of one school.; Test based on current enrollment and three years into the future.  | Development can proceed after being held up for 6 years even if schools are still overcapacity; Development can proceed if excess capacity is just one seat yet a project will add many more students than one. |
| Baltimore    | >115           | 2,006                       | 2%      | 5                                     | 3%      | 71                                      | 41%     |  | APFO Threshold of >115%; Development is only halted if all schools adjoining over-threshold school of the same level also have enrollment >115% of SRC.   |
| Calvert      | >100%          | -1,469                      | -9%     | -1                                    | -4%     | 4                                       | 15%     | Development halted if it would cause enrollment to exceed 100% of SRC of one school.   | Development can proceed after being held up for 7 years even if schools are still overcapacity  |
| Caroline     | 100%           | 421                         | 8%      | 0                                     | 0%      | 3                                       | 30%     | Development halted if it would cause enrollment to exceed 100% of SRC of one school.   |   |
| Carroll      | 110%-120%      | -3,059                      | -12%    | 2                                     | 5%      | 3                                       | 6%      | Permit restrictions-phasing may be imposed <120% threshold; conditional approval may be granted if adequate capacity available within 6 years, but project cannot proceed until capacity exists; Test based on current enrollment and six years into the future. | Development not halted until school at 120% of SRC;   |

| County    | APFO Threshold | 2004-2014 Enrollment Change |         | Change In Number of Schools 2005-2015 |         | Schools Over State Rated Capacity (SRC) |         | Factors That <b>INCREASE</b> APFO Effectiveness  | Factors That <b>DECREASE</b> APFO Effectiveness   |
|-----------|----------------|-----------------------------|---------|---------------------------------------|---------|---|---------|--|---|
|           |                | Number                      | Percent | Number                                | Percent | Number                                  | Percent |  |   |
| Charles   | >100%          | 127                         | 1%      | 3                                     | 9%      | 19                                      | 51%     | Development halted if it would cause enrollment to exceed 100% of SRC of one school.; Developers can make payment or propose other plan to increase capacity but County not obligated to accept; Restrictions in place to prevent very large projects from consuming all available excess school capacity. |   |
| Frederick | >100%<br>-120% | 882                         | 2%      | 6                                     | 10%     | 13                                      | 19%     | If enrollment would exceed capacity then developer has the option of paying the full cost of expansions needed to accommodate a project.   | Development NOT halted unless enrollment would exceed capacity by >120%   |
| Harford   | >110%          | -2,590                      | -7%     | 3                                     | 6%      | 5                                       | 9%      | Capacity assessment based on current year and three years into the future.   | Development NOT halted unless enrollment would exceed capacity by >110%   |
| Howard    | 115%           | 5,048                       | 10%     | 5                                     | 7%      | 38                                      | 51%     | Capacity assessment based on current year and three years into the future.   | Development NOT halted unless enrollment would exceed capacity by >115%; Development can proceed after being held up for 3 years even if schools are still overcapacity |

| County          | APFO Threshold | 2004-2014 Enrollment Change |         | Change In Number of Schools 2005-2015 |         | Schools Over State Rated Capacity (SRC) |         | Factors That <i>INCREASE</i> APFO Effectiveness   | Factors That <i>DECREASE</i> APFO Effectiveness  |
|-----------------|----------------|-----------------------------|---------|---------------------------------------|---------|---|---------|---|--|
|                 |                | Number                      | Percent | Number                                | Percent | Number                                  | Percent |   |  |
| Montgomery      | 105%-120%      | 13,855                      | 9%      | 10                                    | 5%      | 92                                      | 46%     | Capacity assessment based on current year and five years into the future; Montgomery County Public Schools considers an enrollment of 80% to 100% of capacity as the desired range. | Development NOT halted unless enrollment would exceed capacity by >120%  |
| Prince George's | >105%          | -10,182                     | -8%     | 4                                     | 1%      | 52                                      | 25%     |   | Development NOT halted even if enrollment would exceed capacity by 105%  |
| Queen Anne's    | 100%           | 115                         | 2%      | 1                                     | 8%      | 1                                       | 7%      | Development halted if it would cause enrollment to exceed 100% of SRC of one school.  |  |
| St. Mary's      | 107%-116%      | 1,869                       | 11%     | 2                                     | 8%      | 10                                      | 38%     | Capacity assessment based on current year and three years into the future.  | Development NOT halted unless enrollment would exceed capacity by 107% to 116%; Development only halted if ALL elementary schools in the North or South area of the County have a total enrollment in excess of 107% of cumulative school capacity; Secondary school test based on cumulative enrollment and capacity all all middle schools then all high schools in the entire county. |

| County     | APFO Threshold | 2004-2014 Enrollment Change |         | Change In Number of Schools 2005-2015 |         | Schools Over State Rated Capacity (SRC) |         | Factors That <i>INCREASE</i> APFO Effectiveness   | Factors That <i>DECREASE</i> APFO Effectiveness  |
|------------|----------------|-----------------------------|---------|---------------------------------------|---------|---|---------|---|--|
|            |                | Number                      | Percent | Number                                | Percent | Number                                  | Percent |   |  |
| Washington | >90%-100%      | 1,406                       | 7%      | 0                                     | 0%      | 10                                      | 22%     | Development halted if it would cause enrollment to exceed 90% of SRC of one elementary school or 100% of a middle or high school. | Developer may request redistricting if adjacent school is at least 20% below SRC; A project may proceed with Alternate Mitigation Contribution provided affected schools do not exceed 120% of State Rated Capacity. |



## **BEST PRACTICES: APFO SCHOOL OVERCROWDING SAFETY VALVE**

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As stated in the Maryland Department of Planning APFO models and guidelines publication, State Rated Capacity is:

*“The maximum number of students that reasonably can be accommodated in a facility without significantly hampering delivery of the educational program.” The Guide goes on further to state that “It (SRC) is not intended to be a standard of what class size should be. School system staffing varies widely depending on a number of factors. It is, however, a criteria used in evaluating whether a particular school is overcrowded such that relief is needed and provision of additional space may be warranted.”*

In addition to this testament to the importance of preventing our public schools from exceeding capacity, research cited earlier in this report strongly indicates that the current class sizes allowed by the State Rated Capacity formula are too large. Additionally, many parents and other homeowners have paid a premium - as much as 6% to 20% - to live near good schools. Allowing schools to become overcrowded may negate this benefit.

From the information presented in Table 3, an optimum APFO safety valve would include the following provisions.

1. Development should be postponed if it would cause the enrollment at any individual school to exceed 100% of State Rated Capacity, regardless of excess capacity at adjacent schools.
2. The postponement must continue as long as the individual school remains at or over capacity.
3. Redistricting or other school service area boundary changes should be rarely used. This option is best employed when a new school or large additions have created a major increase in capacity. An exception would be where enrollment has declined to the point that a school may close.
4. The APFO school test should be based upon current year enrollment and projections three- to five-years into the future.
5. School capacity must not include portable or other temporary classroom space.
6. If sufficient capacity is available to accommodate a portion - but not all - of the students generated by a project, then approval should only allow that portion of the project to proceed. For example, if only ten seats are available then approval should only be granted for the construction of the number of homes that would generate ten students.
7. Other counties should consider two provisions employed by Charles County:

- a. No single project should consume more than 50% of the seats available in a specific school; and
  - b. There may be value in setting a time limit on how long a project can hold onto seats, such as the 24-month limit imposed by Charles County.
8. Applicants should have the option of paying a portion or all of the cost of creating sufficient excess school capacity, but building permits should only be issued once it is certain the added capacity will be in place by the time new homes are occupied. Other mitigation plans may be proposed but, again, building permits should only be issued once it is certain the added capacity created by the plan will be in place by the time the new homes are occupied.
9. All counties should use impact fees, excise taxes or surcharges to ensure that development pays its full fair share of creating the added school space needed to accommodate growth. The general public then picks up the cost to provide teachers, computers, books and the many other items needed to operate modern, highly-effective schools.