

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
State Board of Education**  
(DLS Control No. 14-276)

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## **Overview and Legal and Fiscal Impact**

These regulations update, revise, and clarify requirements relating to the provision of home and hospital instructional services to public school students who are unable to attend school due to a physical or emotional condition.

The regulations present no legal issue of concern.

There is no impact on State agencies. Local education agency expenditures increase minimally.

## **Regulations of COMAR Affected**

### **State Board of Education:**

General Instructional Programs: Administration of Home and Hospital Teaching for Students: COMAR 13A.03.05.01, .03, and .04

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## **Legal Analysis**

### **Background**

Under federal and Maryland law, a local school system must provide instructional services to a public school student who is unable to attend school due to a physical or emotional condition. When a condition requires a student to be absent on an intermittent basis, the instructional services are characterized as “concurrent” with enrollment.

The State Board of Education advises that the regulations were considered during a public meeting on September 23, 2014. Final action on the regulations will be considered during a public meeting scheduled for January 27, 2015.

### **Summary of Regulations**

The regulations require a public school to provide concurrent instructional services for a student whose intermittent absence is due to an emotional condition, including depression or bipolar disorder.

The regulations also specify that a local school system may make an initial determination that instructional services are needed through verification of a physical condition by a certified nurse practitioner, or verification of an emotional condition by a certified school psychologist.

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The student's parent or guardian is responsible for submitting a statement from a designated health practitioner verifying that the condition prevents the student from participating in school.

The regulations further provide that continuation of service need is subject to review by the local school system and requires reverification of the condition (1) 60 calendar days after the initial determination of eligibility and every 60 days thereafter, or sooner at the request of a parent, guardian, or local school system; or (2) annually for a student who receives concurrent delivery of instructional services.

In addition, the regulations update a reference to the Office for Children and a cross-reference to the regulations governing home instruction provided by parents and guardians. Finally, the regulations delete obsolete provisions related to the initial implementation of home and hospital instructional services.

### **Legal Issue**

The regulations present no legal issues of concern.

### **Statutory Authority and Legislative Intent**

The State Board of Education cites §§ 2-205, 6-704, 7-101, 7-301, and 8-403 of the Education Article as legal authority for the regulations. Subsection 2-205(c) requires the board to adopt regulations for the administration of the public schools. More specifically, § 7-301 exempts children from general school attendance requirements if a mental, emotional, or physical condition makes instruction detrimental to the child's progress or presents a danger of serious physical harm to others; in such cases, if a child withdraws from school under this exemption the county school board must make appropriate provisions for the education of the child.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

### **Fiscal Analysis**

There is no impact on State agencies. Local education agency expenditures increase minimally.

### **Agency Estimate of Projected Fiscal Impact**

The regulations require concurrent delivery of instructional services and enrollment in a public school to be provided for students whose physical or emotional condition requires the student to intermittently be absent from school. The current regulations do not require that concurrent services be provided in response to an emotional condition, only in response to a physical condition. Also, the requirement that the need for continuation of concurrent services be verified is altered such that it occurs annually, instead of every 60 days. Further, the regulations add certified nurse practitioners to the list of professionals who may provide verification of the need for home and hospital teaching generally.

The department advises that the regulations will have no fiscal impact on State government and will minimally increase local education agency expenditures for the purpose of providing concurrent instructional services to students with emotional conditions causing intermittent absence from school. The Department of Legislative Services concurs.

### **Impact on Budget**

There is no impact on the State operating or capital budget.

### **Agency Estimate of Projected Small Business Impact**

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

### **Contact Information**

**Legal Analysis:** Kathryn H. Selle – (410) 946/(301) 970-5350

**Fiscal Analysis:** Scott P. Gates – (410) 946/(301) 970-5510