

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	09/25/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 11/14/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

13A 03 05 01, .03 and .04

3. Name of Promulgating Authority

Maryland State Department of Education

4. Name of Regulations Coordinator

Charlene L Necessary

Telephone Number

410-767-0467

Mailing Address

200 W. Baltimore Street

City State Zip Code

Baltimore MD 21201

Email

cnecessary@msde.state.md.us

5. Name of Person to Call About this Document

Michael Linkins

Telephone No.

410-767-0769

Email Address

michael.linkins@maryland.gov

6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: August 1, 2014.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Elizabeth M. Kameen, Assistant Attorney General, (telephone #410-576-6465) on September 24, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Charlene L. Necessary

Title

Regulations Coordinator

Telephone No.

410-767-0467

Date

September 25, 2014

Title 13A
A STATE BOARD OF EDUCATION

Subtitle 03 GENERAL INSTRUCTIONAL PROGRAMS

13A.03.05 Administration of Home and Hospital Teaching for Students

Authority: Education Article, 2-205, 6-704, 7-101, 7-301, and 8-403, Annotated Code of Maryland

Notice of Proposed Action

[]

The Maryland State Board of Education proposes to amend Regulations .01, .03, and .04 under COMAR 13A.03.05 Administration of Home and Hospital Teaching for Students.

This action was considered during the Maryland State Board of Education meeting on September 23, 2014.

Statement of Purpose

The purpose of this action is to require local school systems to provide a specified base amount of weekly instruction to students who are unable to attend their school of enrollment due to a verifiable physical or emotional condition.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

Parents will save money spent on doctors' fees as they now will shift from having to get the referral for home and hospital services renewed every sixty days for those utilizing the concurrent enrollment. Parents will save money when nurse practitioners are allowed to sign the referral as opposed to doctors. We do not expect that there will be an influx of students in need of these sporadic tutoring services. This will be a small segment of the student population made even smaller because many students initially denied services due to an emotional condition have received referrals from their physicians for physical conditions that manifest themselves due to emotional conditions.

Presently, COMAR requires that concurrent enrollment services be provided for students with physical conditions such as sickle cell anemia, severe asthma, and cystic fibrosis. It is silent as far as an emotional condition that is chronic and acute such as depression. This short-term intermittent need for tutoring due to episodes that leaves a student unavailable for learning is not presently recognized in COMAR as physical conditions requiring intermittent instruction are. It is believed that making this

regulation internally congruent will not create a demand for this service. It will simply recognize that such a request can hold as much validity as a request due to a physical condition.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	(E+)	Unknown
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

C. Coordinators of Home and Hospital Programs indicate that the economic impact on their school system will be insignificant or not at all.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michael Linkins, School Counseling Specialist, Division of Student, Family and School Support, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0769 TTY: 410-333-6442, or email to michael.linkins@maryland.gov, or fax to 410-333-8148. Comments will be accepted through December 15, 2014. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on January 27, 2015, 9:00 a.m., at 200 West Baltimore Street, Baltimore, Maryland 21201.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

N/A

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Attached Document:

Title 13A STATE BOARD OF EDUCATION

Subtitle 03 GENERAL INSTRUCTIONAL PROGRAMS

Chapter 05 Administration of Home and Hospital Teaching for Students

Authority: Education Article, 2-205, 6-704, 7-101, 7-301, and 8-403, Annotated Code of Maryland

.01 Scope.

A. (text unchanged)

B. In implementing these regulations, all school systems shall comply with the Individuals with Disabilities Education Act, Americans with Disabilities Act, and §504 of the Rehabilitation Act of 1973, as appropriate.

C. Concurrent delivery of instructional services and enrollment in a public school shall be provided for a student whose physical *or emotional* condition requires the student to be absent from school on an intermittent basis. These conditions include, but are not limited to, kidney failure, cancer, asthma, cystic fibrosis, [and] sickle cell anemia[.], *depression, and bipolar disorder.*

D. Instructional services shall be provided to an identified student with disabilities in accordance with federal and State special education law and regulations, including COMAR 13A.05.01. The student and parents shall be involved in the process and are entitled to all rights and due process procedures included within these laws and regulations.

E. Excluded from these regulations are the home-based programs operated through the Office for Children[, Youth, and Families] and the Maryland Infants and Toddlers Program for the birth through 2-year-old disabled population and

Home Instruction [as defined in] *under* COMAR 13A.10.01.[01.]

.03 Responsibility of Local School Systems.

A. Nature.

(1) Each local school system shall make instructional services available to students who are unable to participate in their school of enrollment for those reasons set forth in this chapter. In making instructional services available, local school systems shall consult with the parent, guardian, student, psychologist, [and] physician, *psychiatrist and nurse practitioner*, as appropriate.

(2) (text unchanged)

B. Service Delivery.

(1) Each local school system shall:

(a) —(c) (text unchanged)

(2) [Beginning July 1, 2001, instructional] *Instructional* services as outlined in this chapter shall be delivered by an individual possessing a minimum of a bachelor's degree from an institution of higher education as defined in COMAR 13A.12.01.02B. This requirement does not apply to an individual who has demonstrated satisfactory performance as a home and hospital teacher in a local school system before July 1, 2001.

C. Delivery Options. The local school system may:

(1)—(4) (text unchanged)

D. Attendance and Time of Instruction.

(1) —(3) (text unchanged)

(4) *A local school system shall determine the need for service and begin instruction* [The instructional service shall begin] as soon as possible, but not later than 10 school calendar days following the:

(a) —(b) (text unchanged)

.04 Verification Procedures.

A.[Initial service need is determined by:]

[(1)] *The local school system determines initial service need through* [Verification] *verification* of the physical condition, including drug and alcohol dependency, by a licensed physician *or certified nurse practitioner*, or verification of emotional condition by a certified school *psychologist*, [or] licensed psychologist, or licensed psychiatrist[; and].

[(2)] *B. The student's parent or guardian shall submit* [A] *a statement* [by the physician or psychologist] *from a practitioner designated in §A of this regulation* verifying that the current physical or emotional condition prevents the student from participating in the student's school of enrollment.

[B. Service need is subject to review:

(1) 60 calendar days after the initial determination of eligibility; or

(2) Sooner at the request of either the parent, guardian, or local school system.]

C. Continuation of [this service beyond 60 calendar days requires reverification of] service need [, in accordance with §A of this regulation].

(1) *Continuation of service need is subject to review and determination by the local school system and requires reverification of the physical or emotional condition in the manner set forth in §§A and B of this regulation.*

(2) *Except as provided in §(C)(3) of this regulation, service need shall be reverified as follows:*

(a) *60 calendar days after the initial determination of eligibility and every 60 days thereafter; or*

(b) *Sooner at the request of either the parent, guardian, or local school system.*

(3) *Service need shall be reverified annually for students who receive concurrent delivery of instructional services pursuant to Regulation .01C of this chapter.*

[.05 Implementation.

By September 1, 1994, each local school system shall certify to the State Superintendent of Schools that written procedures are in place to implement this chapter.]

LILLIAN M. LOWERY, Ed.D.
State Superintendent of Schools