Maryland General Assembly
Department of Legislative Services

Reproposed Regulation
State Board of Education
(DLS Control No. 15-186)

Overview and Legal and Fiscal Impact

This regulation establishes new policies and standards for the transfer of educational records for children in state-supported foster care.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

State Board of Education:

Students: Transfer of Educational Records for Children in State-Supervised Care: COMAR 13A.08.07.06

Legal Analysis

Background

The State Board of Education advises that the goal of the regulation is to promote educational stability for children in state-supported foster care. This regulation was originally published in the Maryland Register on April 17, 2015, but is being reproposed to address concerns raised by the public regarding the appropriate entity to make transportation arrangements for affected students and collaboration between the fostering connections liaison and the designated child welfare agency concerning the best interest of affected students.

Summary of Regulation

The regulation specifies that, in accordance with § 7-101(b)(2)(ii) of the Education Article, the local school system superintendent of the school of origin for a child in foster care is required to allow a foster child to remain enrolled in the school of origin unless the child welfare agency responsible for the child provides notice to both the principal of the school of origin and to the foster connections liaison that it is not in the best interest of the child to remain enrolled in the school of origin.

The regulation also establishes requirements and responsibilities to (1) address the circumstance when the local child welfare agency determines that it is not in the best interest of the foster child to remain at the school of origin and that the child instead should be enrolled in the designated receiving school; (2) require the receiving school to enroll a child even if the child

welfare agency is not able to produce records normally required for enrollment; (3) prohibit the receiving school from requiring the person authorized to enroll a foster child to present extraneous documentation to enroll the child; (4) require the school of origin to promptly transmit the foster child's educational records to the receiving school; (5) require transportation services to be provided to the foster child to allow the foster child to either attend the school of origin or the newly designated receiving school, as determined to be appropriate; and (6) require each school system to designate an individual as the fostering connections liaison for the foster child and specify various responsibilities and duties of the liaison, including consulting with the child welfare agency about whether it is in the best interest of the child to continue the child's education at the school of origin, serving as the initial school system contact to help facilitate transportation arrangements if the child welfare agency arranges transportation for the receiving school system, and communicating the educational stability requirements of the Fostering Connections to Success and Increasing Adoption Act of 2008 to appropriate school personnel.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The State board cites §§ 2-205, 2-206, 4-122, 7-101, and 8-501 through 8-506 of the Education Article as statutory authority for the regulation. Section 2-205 grants the State board broad authority to adopt regulations to implement its powers and duties to oversee the administration of the public schools. Section 2-206 grants the board broad authority to regulate noncollegiate educational institutions in the State. Section 4-122 establishes funding for the education of children in out-of-county living arrangements. Section 7-101 provides that the local school system superintendent of the school of origin for a child in foster care is required to allow a foster child to remain enrolled in the school of origin unless the child welfare agency responsible for the child provides notice to both the principal of the school of origin and to the foster connections liaison that it is not in the best interest of the child to remain enrolled in the school of origin. Finally, §§ 8-501 through 8-506 establish requirements for the education of children in State-supervised care.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Technical Corrections and Special Notes

Section 7-101 of the Education Article inadvertently was omitted from the statement of statutory authority for the regulation. The State board will notify the Division of State Documents to include this additional statutory citation when the regulation is published.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The Maryland State Department of Education advises that the regulation has no impact on department expenditures and that costs associated with the transportation of foster children will be the responsibility of "child welfare agencies," which are defined within the proposed regulation as local departments of social services or the Department of Juvenile Services (DJS). The Department of Legislative Services concurs but notes that the regulation implements provisions of Chapters 550 and 551 of 2012 (Senate Bill 605 and House Bill 757), which set forth requirements for local departments of social services and DJS to pay for school transportation costs associated with children in their care in specified circumstances. The fiscal and policy notes for Senate Bill 605 and House Bill 757 noted that, because the bills codified current practice, State finances were not affected. The proposed regulation has no additional impact beyond what was already accounted for in the fiscal and policy notes. To the extent that local departments of social services or DJS are required to reimburse local school systems for transportation costs, Title IV-E foster care maintenance payments cover reasonable transportation costs under the federal Fostering Connections Act.

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 regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

Legal Analysis: Theodore E. King, Jr. – (410) 946/(301) 970-5350
Fiscal Analysis: Jennifer K. Botts – (410) 946/(301) 970-5510