

**Maryland General Assembly  
Department of Legislative Services**

**Reproposed Regulations  
State Board of Education**  
(DLS Control No. 16-021)

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**Overview and Legal and Fiscal Impact**

These reproposed regulations (1) provide parents and guardians of home schooled children more flexibility in how they provide education to their children and (2) expressly authorize a home schooled child to be dually enrolled in college courses.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

**State Board of Education:**

Home Instruction: General Regulations: COMAR 13A.10.01.01, .03, and .05

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**Legal Analysis**

**Background**

Under current regulations, a parent or guardian may instruct a child at home under the supervision of the local school system or through correspondence courses under the supervision of a certain nonpublic school or institution. A home instruction program must offer “regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age”.

The State Board of Education advises that the purpose of these regulations is to provide more flexibility regarding the instructor and location of instruction for home schooled children. Similar regulations were previously published in the *Maryland Register* on November 13, 2015, but were not adopted. According to the State board, these reproposed regulations address concerns that were raised during the public comment period by (1) authorizing, rather than requiring, the submission of a transcript or report card for a home schooled child who is enrolled in a college course and (2) deleting a requirement that a student under the supervision of a nonpublic school or institution obtain a certain approval before enrolling in a college course.

## **Summary of Regulations**

The regulations repeal existing provisions that authorize a parent or guardian to teach or provide instruction for a child “at home” and substitute provisions that authorize a parent or guardian to “provide a home instruction program”. The regulations also expressly authorize a home instruction program to include enrollment on a part-time or full-time basis in courses offered by certain colleges. If a child participating in a home instruction program enrolls in college classes, the parent or guardian may elect to submit a copy of the transcript or report card of the college to the local superintendent in lieu of a portfolio of materials for the courses in which the child is enrolled.

In addition, regarding instruction supervised by a nonpublic school or institution, the regulations repeal the correspondence course requirement and substitute the general requirement that the home instruction program offer regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age. Finally, the regulations clarify that a certain notice of noncompliance must be a written notification.

## **Legal Issues**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The State board cites § 7-301 of the Education Article as statutory authority for the regulations. Section 7-301 requires, with specified exceptions, all children who are 5 years old or older and under 17 to attend a public school regularly during the entire school year. Home instruction programs are exempted under § 7-301(a)(3), which provides that the compulsory attendance requirement does not apply to a student who is receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age.

Although not cited by the State board, § 2-205(c) of the Education Article requires the State board to adopt regulations “for the administration of the public schools.” When read together, § 7-301(a)(3) and § 2-205(c) authorize the State board to adopt regulations for home instruction programs.

With the addition of § 2-205(c), this authority is correct and complete. The regulations comply with the legislative intent of the law.

## **Technical Corrections and Special Notes**

Please note that the Department of Legislative Services has notified the State board regarding the addition of § 2-205(c) of the Education Article as statutory authority for the regulations.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

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

The department advises that the regulations have no impact on State or local governments. 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:** Caroline L. Boice – (410) 946/(301) 970-5510