

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Education
(DLS Control No. 16-121)**

Overview and Legal and Fiscal Impact

The regulations (1) align COMAR 13A.05.07 with federal requirements for programs for English Learners and (2) incorporate new standards and requirements for programs for English Learners into COMAR 13A.05.07.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

State Board of Education:

Special Instructional Programs: Programs for Non-English and Limited-English Proficient Students: COMAR 13A.05.07.01 through .05

Legal Analysis

Background

The World Class Instructional Design and Assessment (WIDA) consortium that provides content standards and assessments for English Learners. Maryland is a WIDA member, and each local school system in the State currently uses the WIDA standards. However, during a routine regulatory review, the Maryland State Department of Education discovered that COMAR 13A.05.07 was not aligned with current federal requirements for identification and assessment of English Learners.

Summary of Regulations

The regulations align COMAR 13A.05.07 with federal requirements for programs for English Learners and incorporate new standards and requirements for programs for English Learners into COMAR 13A.05.07. Among other things, the regulations:

- altering the name for “Non-English or Limited English Proficient” students to “English Learners”;
- altering the definition of English Learners;

- specifying what standards certain English language development programs must include; and
- altering how funding is determined for programs for English Learners.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The State Board of Education cites §§ 2-205(h) and 4-111 of the Education Article as statutory authority for the regulations. Section 2-205(h)(1) requires the State board, with the advice of the State Superintendent, to establish basic policy and guidelines for the program of instruction for the public schools. Section 4-111 requires each county board, subject to guidelines established by the State board, to establish curriculum guides and courses of study for the schools under its jurisdiction.

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.

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

Technical Corrections and Special Notes

The Department of Legislative Services contacted the State board regarding adding § 2-205(c) of the Education Article to the list of statutory authority.

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 regulations incorporate new standards and requirements for programs for English Learners and comply with federal requirements. State funding for English Learners is not affected as the regulations codify longstanding practice.

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.

Additional Comments

Although it has no fiscal impact, the Department of Legislative Services notes that the term “Limited-English Proficient” (LEP) rather than the new term of “English Learners” (EL) is defined and used elsewhere in the Code of Maryland Regulations (*i.e.*, in 13A.01.04.02, 13A.05.01.03, and 13A.12.02.19). That term is not being revised in the regulations, which could lead to confusion in the future.

Contact Information

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