

MARYLAND REGISTER

Proposed Action on Regulations

Comparison to Federal Standards Submission and Response

Name: Charlene L Necessary
Agency: Maryland State Department of Education
Address: 200 W. Baltimore Street
State: MD
Zip: 21201
Phone: 410-767-0467
Email: charlene.necessary@maryland.gov

In accordance with Executive Order 01.01.1996.03 and memo dated July 26, 1996, the attached document is submitted to the Department of Business and Economic Development for review.

The Proposed Action is not more restrictive or stringent than corresponding federal standards.

COMAR Codification: 13A.05.07.01—.05

Corresponding Federal Standard:

The proposed revisions to the regulations are aligned with Title III of Every Student Succeeds Act, 20 USC §6801.

Discussion/Justification:

These regulations are not more restrictive than the federal law. Title III establishes a grant program to assist States that submit a State Plan to establish and improve English Language Acquisition programs.

TO BE COMPLETED BY DBED

- Agree

-Disagree

Comments:

Commerce does not have the necessary subject matter expertise in this area. Commerce therefore trusts the assertion of the Maryland State Department of Education that the proposal is not more restrictive/stringent than corresponding federal standards.

Name: Jennifer Cox

Date: 6/8/2016

-Submit to Governor's Office

Governor's Office Response

Comments:

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	06/16/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/5/2016

2. COMAR Codification

Title Subtitle Chapter Regulation

13A 05 07 01—.05

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

charlene.necessary@maryland.gov

5. Name of Person to Call About this Document

Susan C. Spinnato

Telephone No.

410-767-0349

Email Address

susan.spinnato@maryland.gov

6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: May 1, 2016.

Title 13A
A STATE BOARD OF EDUCATION

Subtitle 05 SPECIAL INSTRUCTIONAL PROGRAMS

**13A.05.07 Programs for [Non-English and Limited-English Proficient Students]
English Learners**

Authority: Education Article, [§5-203.1] §§2-205(h) and 4-111, Annotated Code of
Maryland

Notice of Proposed Action

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The Maryland State Board of Education proposes to amend Regulations .01 through .05 under COMAR 13A.05.07 Programs for Non-English and Limited-English Proficient Students.

This action was considered at the May 24, 2016 meeting of the State Board of Education.

Statement of Purpose

The purpose of this action is to incorporate new standards and new federal language and program requirements.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

The proposed action has no economic impact.

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 Susan C. Spinnato, Director of Instructional Programs, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0349 TTY: 410-333-6442, or email to susan.spinnato@maryland.gov, or fax to 410-333-1146. Comments will be accepted through September 6, 2016. 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 September 27, 2016, 9 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 2017

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

Yes

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

State Aid to Education funds are available for the programs for English Learners described in the regulation.

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

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

This regulation has been revised per regulatory review. Definitions and requirements have been updated to comply with federal requirements. Maryland school systems are already in compliance with the federal mandate for programs for English Learners.

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:

.01 Scope.

These regulations pertain to all programs for [non-English and limited-English proficient (NEP/LEP) students] *English Learners (ELs)* that provide instructional assistance and services to enable [NEP/LEP students] *ELs* to acquire and improve English language skills and cultural understandings and thus be able to participate successfully in the academic and social activities of their regularly assigned schools] *attain English proficiency, develop high levels of academic language, and achieve at high levels in academic subjects so that all ELs can meet the same challenging Maryland College and Career Ready Standards that all students are expected to meet.*

.02 Definitions.

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.

[(1) "Bilingual education program" means one in which students receive instruction in their native language as well as in English.

(2) "English as a Second Language (ESL) program" or "English for Speakers of Other Languages (ESOL) program" means a program in which the students are instructed only by means of English using established methodologies for developing second language skills.]

[(3)] (1) "Home language survey" means one or more questions posed to *all* parents and students upon entering a local school system in order to determine the language or languages spoken in the home.

[(4) "Interrupted schooling" means a student comes to a Maryland public school with an interruption of 6 or more months in schooling in the student's home country.]

[(5)] (2) ["Non-English or limited-English proficient (NEP/LEP)"] "*English Learner*" means a student [who]:

(a) [Was born outside the United States or whose native language is not English] *Who communicates in a language other than English; or*

(b) [Comes from an environment where a language other than English is dominant; or] *Whose family uses a primary language other than English in the home; and*

(c) [Is an American Indian or Alaskan Native and comes from an environment where a language other than English has had a significant impact on the student's level of English language proficiency] *Whose English language proficiency falls within the range established by the State for an English language development program.*

.03 Programs for [Non-English and Limited-English Proficient Students] *English Learners*.

A. Each local school system shall establish [ESL or bilingual education] *an English language development program[s]* for those students who have been identified as [NEP/LEP] *ELs* by means of a home language survey as well as *the State-approved English language proficiency placement* [an] assessment [of English listening, speaking, reading, and writing skills that is considered reliable by the Maryland State Department of Education].

B. The [ESL or bilingual education] *English language development* programs shall contain the following components:

(1) — (4) (text unchanged)

(5) [Personnel] *Certified English for Speakers of Other Languages (ESOL) teachers;*

(6) — (7) (text unchanged)

(8) Program [organization] *delivery models;*

(9) (text unchanged)

(10) Support services; [and]

(11) *Exit criteria; and*

[(11)] (12) Program evaluation.

C. A student who has been identified as [NEP/LEP] *an EL* shall:

(1) [Receive appropriate ESL or bilingual services] *Be placed in an English language development program;* and

(2) Be evaluated each year *on the State-approved summative English language proficiency assessment* in listening, speaking, reading, and writing [English] to determine [LEP] *EL* status.

D. The English language development program shall include the following standards:

(1) *English language learners communicate for Social and Instructional purposes within the school setting.*

(2) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Language Arts.*

(3) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Mathematics.*

(4) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Science.*

(5) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Social Studies.*

[D.] E. Local school systems shall adopt policies and procedures to ensure that there is an [ESL or bilingual education] *English language development* program and that the program meets the requirements of this chapter.

.04 Funding.

A. The amount of State funding shall be determined annually on the basis of the number of [NEP/LEP students] *ELs* who are reported *on the Enrollment Survey as of October 31* [as having been in the local school system for a period of 2 years or less as of May 15 of the second preceding school year].

[B. Funds may be used for items such as:

(1) Teachers;

(2) Aides;

(3) Tutors;

(4) Materials of instruction;

(5) Translation and interpreting services;

(6) Counseling services;

(7) Teacher in-service;

- (8) Summer programs;
- (9) Curriculum development; and
- (10) Logistical support for instructional programs.

C. Local school systems are eligible to receive State funding for a period of up to 5 years for NEP/LEP students who:

- (1) Are determined to be illiterate in their native language;
- (2) Come from backgrounds of interrupted schooling; or
- (3) Are special needs students with disabilities with an Individualized Education Program (IEP).]

.05 Reporting Requirements [; Local School System Responsibilities].

[Each July 15, each local school system shall:

- A. Report to the State Department of Education an itemization of expenditures; and
- B. Complete annually the Maryland LEP Data Survey which shall include the number of years that each NEP/LEP student has been receiving ESL or bilingual education services.]

Local school systems shall annually report to the Department their goals, objectives, and strategies regarding the performance of English learners along with timelines for implementation and methods for measuring progress.

KAREN B. SALMON, Ph.D.
Acting State Superintendent of Schools