

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Education**
(DLS Control No. 16-200)

Overview and Legal and Fiscal Impact

The State Board of Education is amending regulations regarding the provision of a free appropriate public education relating to special instructional programs to (1) update terminology in specified defined terms; (2) add and correct regulatory and statutory cross references; and (3) make a regulation regarding the transition from the Maryland Infants and Toddlers Program to a preschool Individualized Education Program (IEP) consistent with federal regulations.

These 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:

Special Instructional Programs: Provision of a Free Appropriate Public Education:
COMAR 13A.05.01.03, 05, .06, .07, and .08

Legal Analysis

Summary of Regulations

The State board is amending regulations regarding the provision of a free appropriate public education relating to special instructional programs to:

- update terminology in the definition of “specific learning disability”;
- correct and clarify regulatory cross-references;
- require that a report of assessment procedures administered to a student with suspected disabilities be made available to the parents of the child as required by statute; and
- update the IEP team responsibilities regarding the development of an IEP for a child transitioning from a local infants and toddlers program to (1) require the IEP team to meet in a timely manner to determine whether a child is eligible for special education and related

services before the child's third birthday, as required by federal regulations; and (2) ensure parental consent for special education services.

Legal Issues

These regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The State board cites §§ 2-205, 7-305, 8-301 through 8-307, 8-3A-01 through 8-3A-08, and 8-401 through 8-416 of the Education Article, §§ 8-401 through 8-409 of the Human Services Article, §§ 11-801 through 11-808 and 11-901 through 11-907 of the Labor and Employment Article, and § 9-1607 of the State Government Article as statutory authority for these regulations. The State board also cites 20 U.S.C. §§ 1411 through 1416 and 34 C.F.R. 300, 301, and 99 .

More specifically, §§ 8-404 and 8-405 of the Education Article is sufficient statutory authority for these regulations. Section 8-404 requires the State board to adopt, as regulations, standards for the identification, evaluation, educational placement, and provision of free appropriate public education of each child in the State who is under the age of 21 years and is found to need special education and related services, whether or not the child is receiving nonduplicative services from another governmental agency. Section 8-405 requires an IEP team to provide the parents of a child with a disability with an accessible copy of specific documents related to the child's IEP at least 5 business days before a scheduled IEP meeting, subject to specified exceptions.

The remaining cited authority is not relevant to these regulations.

The relevant cited authority is correct and complete. These regulations comply with the legislative intent of the law.

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 regulations have no impact on State or local governments. The regulations update certain defined terms and cross references to be consistent with the current regulatory and statutory context regarding the provision of a free appropriate public education for students with disabilities. The regulations also, consistent with current law, clarify what relevant public agencies must do to ensure that an eligible child transitioning from a local infants and toddlers program receives preschool special education services through a timely developed IEP, if the child's family chooses to receive these services.

The Department of Legislative Services concurs that there is no fiscal impact on State or local governments.

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

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