

MARYLAND REGISTER

Proposed Action on Regulations

Comparison to Federal Standards Submission and Response

Name: Charlene L Necessary
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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.05.01.03, 05, .06, .07, and .08

Corresponding Federal Standard:

Part C (34 CFR 303) and Part B (34 CFR 300) of the Individuals with Disabilities Education Act (IDEA)

Discussion/Justification:

The regulations align with Part C (34 CFR 303) and Part B (34 CFR 300) of the Individuals with Disabilities Education Act (IDEA). The federal regulations in 34 CFR 303 give States the option to provide early intervention services beyond age 3 for eligibility children. The COMAR regulations for the Maryland Infants and Toddlers Program have already been adopted with this option (COMAR 13A.13). The proposed regulation changes ensure consistency with previously published COMAR regulations and update terminology.

TO BE COMPLETED BY DBED

Agree

Disagree

Comments:

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

Name: Jennifer Cox

Date: 8/9/2016

Submit to Governor's Office

Governor's Office Response

X- Approve
_Disapprove

Comments:

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

1. Desired date of publication in Maryland Register: 9/30/2016

2. COMAR Codification

Title Subtitle Chapter Regulation

13A 05 01 03, 05, .06, .07, and .08

3. Name of Promulgating Authority

Maryland State Department of Education

4. Name of Regulations Coordinator

Charlene L Necessary

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5. Name of Person to Call About this Document

Carmen Brown

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6. Check applicable items:

New Regulations

Amendments to Existing Regulations

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

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Alan Dunklow, Assistant Attorney General, (telephone #410-576-6465) on August 5, 2016. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Karen B. Salmon, Ph.D.

Title

State Superintendent of Schools

Telephone No.

410-767-0467

Date

August 5, 2016

Title 13A

A STATE BOARD OF EDUCATION

Subtitle 05 SPECIAL INSTRUCTIONAL PROGRAMS

13A.05.01 Provision of a Free Appropriate Public Education

Authority: Education Article, §§2-205, 7-305, 8-301—8-307, 8-3a-01—8-3a-08, and 8-401—8-416; Human Services Article, §§8-401—8-409; Labor and Employment Article, §§11-801 and 11-901 et seq.; State Government Article §9-1607.1; Annotated Code of Maryland Federal Statutory Reference: 20 U.S.C. §§[637 and] 1411—1416; Federal Regulatory References: 34 CFR 300, 301, and 99

Notice of Proposed Action

□

The Maryland State Board of Education proposes to amend Regulations .03, .05, .06, .07, and .08 under COMAR 13A.05.01 Provision of a Free Appropriate Public Education.

This action was considered by the State Board of Education at their meeting on July 26, 2016.

Statement of Purpose

The purpose of this action is to provide updates to: (1) terminology; (2) statutory or regulatory citations; and (3) cross references to the regulations that govern Maryland Infants and Toddlers Programs.

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 an impact on individuals with disabilities as follows: The proposed action ensures consistency with the education regulations that govern services for children birth through four (COMAR 13A.13) and for children three

through twenty-one (COMAR 13A.05.01 and 13A.05.02). The previously adopted COMAR regulations (13A.13) allow for families of eligible children to continue to receive services through the Maryland Infants and Toddlers Program until the beginning of the school year following the child's fourth birthday. The proposed regulations reference and ensure consistency with those regulations and update current terminology.

Opportunity for Public Comment

Comments may be sent to Carmen A. Brown, LCSW-C, Branch Chief, Interagency Collaboration, Division of Special Education/Early Intervention Services, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-7197 TTY: 410-333-6442, or email to carmen.brown1@maryland.gov, or fax to 410-333-1571. Comments will be accepted through October 31, 2016. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on December 5, 2016, 9:00 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?

No

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

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

No new funds are required to implement these regulations. These regulation changes ensure consistency with previously published COMAR regulations.

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

These regulation changes are being made to ensure consistency with other, already established regulations. There are no new requirements for local school systems.

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:

Title 13A STATE BOARD OF EDUCATION

Subtitle 05 SPECIAL INSTRUCTIONAL PROGRAMS

Chapter 01 Provision of a Free Appropriate Public Education

Authority: Education Article, §§2-205, 7-305, 8-301—8-307, 8-3a-01—8-3a-08, and 8-401—8-416; Human Services Article, §§8-401—8-409; Labor and Employment Article, §§11-801 and 11-901 et seq.; State Government Article §9-1607.1; Annotated Code of Maryland Federal Statutory Reference: 20 U.S.C. §§[637 and] 1411—1416; Federal Regulatory References: 34 CFR 300, 301, and 99

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1)—(72) (text unchanged)

(73) Specific Learning Disability (SLD).

(a) —(b) (text unchanged)

(c) "SLD" does not include students who have learning problems which are primarily the result of visual, hearing, or motor impairments, intellectual disability, emotional [disturbance] *disability*, or environmental, cultural, or economic disadvantage.

(74)—(76) (text unchanged)

(77) "Student with a developmental delay" means a student within the age range of 3 years old through 7 years old assessed and evaluated in accordance with Regulations .05 and .06 of this chapter as having:

(a) (text unchanged)

(b) Atypical development or behavior as defined in COMAR [13A.13.01.02B(21)(b)] *13A.13.01.03B(12)(b)*;

or

(c) A diagnosed physical or mental condition as defined in COMAR [13A.13.01.02B(21)(c)]

13A.13.01.03B(12)(c).

(78)—(85) (text unchanged)

.05 Assessment.

A.—C. (text unchanged)

D. Report of Assessments.

(1) A report of assessment procedures administered to a student in each area of suspected disability, as determined in accordance with Regulation .04 of this chapter, shall be available to *the parents, consistent with Education Article §8-405, and to the IEP team at the time of the evaluation.*

(2)—(3) (text unchanged)

.06 Evaluation, Reevaluation, and Eligibility.

A. (text unchanged)

B. A public agency shall convene an IEP team meeting to determine if a child in transition from a local infants and toddlers program has a disability or developmental delay that requires the provision of special education and related services, *in accordance with COMAR 13A.13.01.09B(10).*

C.—E. (text unchanged)

.07 Individualized Education Program (IEP) Team.

A. IEP Team Members.

(1)—(7) (text unchanged)

(8) For the initial IEP team meeting of a child who was previously served by a local infants and toddlers program, the IEP team shall, at the request of the child's parent, invite the local infants and toddlers program service coordinator or other representatives of the local infants and toddlers program to assist with the smooth transition of services, *in accordance with COMAR 13A.13.01.09F.*

B.—D. (text unchanged)

.08 Individualized Education Program (IEP) Team Responsibilities.

A. IEP Development.

(1) (text unchanged)

(2) Transition from a Local Infants and Toddlers Program.

(a) If a child transitioning from a local infants and toddlers program is determined to be a student with a disability or developmental delay in accordance with Regulation .06B of this chapter, the public agency shall:

(i) Ensure that an IEP team meets [to develop an IEP for the student] *in a timely manner to determine a child's eligibility for special education and related services before the child's third birthday;*

(ii) Invite the [student's] *child's* local infants and toddlers service coordinator or other representatives of the local infants and toddlers program to assist with a smooth transition of services, consistent with Regulation .07A(8) of this chapter; and

(iii) Ensure that the student's IEP is in effect on the student's third birthday in accordance with Regulation .09 of this chapter *if a child's family chooses to receive preschool special education services.*

(b) (text unchanged)

(3)—(11) (text unchanged)

B. (text unchanged)

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