

MARYLAND REGISTER

**Proposed Action on Regulations**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	11/20/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 1/9/2015**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

13A 14 12 01—.08

**3. Name of Promulgating Authority**

Maryland State Department of Education

**4. Name of Regulations Coordinator**

Charlene L Necessary

**Telephone Number**

410-767-0467

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200 W. Baltimore Street

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Baltimore MD 21201

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cnecessary@msde.state.md.us

**5. Name of Person to Call About this Document**

Philip Koshkin-Youritzin

**Telephone No.**

410-767-7823

**Email Address**

philip.koshkin-youritzin@maryland.gov

**6. Check applicable items:**

- New Regulations
- Amendments to Existing Regulations
  - Date when existing text was downloaded from COMAR online: 11/15/2014.

**X- 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 **X- 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 State Government Article, §10-506(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 Christle Sheppard-Southall, Assistant Attorney General, (telephone #410-767-7829) on November 18, 2014. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Charlene L. Necessary

**Title**

Regulations Coordinator

**Telephone No.**

410-767-0467

**Date**

November 18, 2014

**Title 13A**  
**A STATE BOARD OF EDUCATION**

**Subtitle 14 CHILD AND FAMILY DAY CARE**

**13A.14.12 Maryland After-School Opportunity Fund Program**

Authority: Article 41, §§6-801—6-807, Annotated Code of Maryland

**Notice of Proposed Action**

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The State Superintendent of Schools proposes to repeal COMAR 13A.14.12 Maryland After-School Opportunity Fund Program because the regulations have been moved to COMAR 14.31.10 Maryland After-School and Summer Opportunity Fund Program.

**Statement of Purpose**

The purpose of this action is to support the transfer of the Maryland After-School Opportunity Fund Program from the Maryland State Department of Education to the Maryland Governor's Office for Children.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**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 Philip Koshkin-Youritzin, Chief, Research and Evaluation Section, Maryland State Department of Education, Division of Early Childhood Development, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-7823(TTY:410-333-6442), or email to [philip.koshkin-youritzin@maryland.gov](mailto:philip.koshkin-youritzin@maryland.gov), or fax to 410-333-6226. Comments will be accepted through February 9, 2015. A public hearing has not been scheduled.

**Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2015

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:

General

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:

The transfer of authority over these regulations is purely administrative and will have no substantive effect on the regulations themselves or on the operation or requirements of the Maryland After-School Opportunity Fund Program.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

The transfer of regulatory authority will not have any effect on the revenue or expenditures of any program that is subject to the regulations.

G. Small Business Worksheet:

Attached Document:

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## **[Title 13A STATE BOARD OF EDUCATION**

### **Subtitle 14 CHILD AND FAMILY DAY CARE**

#### **Chapter 12 Maryland After-School Opportunity Fund Program**

Authority: Article 41, §§6-801—6-807, Annotated Code of Maryland

##### **.01 Purpose.**

A. The purpose of the Maryland After-School Opportunity Fund Program (MASOFP) is to assist parents by providing after-school enrichment activities for school age children in the State.

B. The purpose of this chapter is to set forth:

- (1) Requirements and responsibilities for administering the MASOFP; and
- (2) Minimum standards for after-school programs that receive funds provided under the MASOFP.

##### **.02 Definitions.**

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

B. Terms Defined.

- (1) "Activity aide" means a staff member in an after-school program who is assigned to assist with a program activity.
- (2) "Activity supervisor" means a staff member in an after-school program who is assigned to be in charge of a program activity.
- (3) "Administration" means the Office of Child Care, Division of Early Childhood Development, in the State Department of Education.
- (4) "Advisory Board" means the Advisory Board of the MASOFP.
- (5) "After-school program" means an organized and supervised enrichment program of activities that takes place:
  - (a) Before the school starts each day and after school ends each day;
  - (b) On weekends;
  - (c) On holidays;
  - (d) During vacations; and
  - (e) During summer break.
- (6) "Department" means the State Department of Education.
- (7) "Executive Committee" means the Executive Committee of the Advisory Board.
- (8) Fund.
  - (a) "Fund" means the Maryland After-School Opportunity Fund in the Program.
  - (b) "Fund" does not include money provided under the Department's purchase of child care program pursuant to COMAR 13A.14.06.
- (9) "Licensed child care provider" means a:
  - (a) Family day care provider who is registered to operate a family day care home pursuant to COMAR 13A.15; or
  - (b) Child care facility that:
    - (i) Is licensed to operate pursuant to COMAR 13A.16; or
    - (ii) Operates under a letter of compliance pursuant to COMAR 13A.17.
- (10) "Local management board (LMB)" means an entity composed of local community stakeholders that has statutory responsibility for implementing the delivery of child and family services in a local Maryland jurisdiction.
- (11) "Maryland After-School Opportunity Fund Program (MASOFP) (Program)" means the Program created by the Maryland After-School Opportunity Act of 1999 to provide funding for the expansion or improvement of after-school enrichment programs in Maryland.
- (12) "Parent" means a school age child's:
  - (a) Biological or adoptive parent;
  - (b) Guardian; or
  - (c) Custodian.
- (13) "Program director" means the individual who is designated to manage, on a daily basis, the operations, activities, and personnel of an after-school program.
- (14) "Program operator" means the individual, organization, or other entity that:
  - (a) Has the legal authority and responsibility for governing and operating an after-school program; and
  - (b) Is designated by an LMB or other administrative entity as the recipient of MASOFP funds.
- (15) "Program participant" means a school age child who is enrolled in an after-school program.
- (16) "School age child" means an individual younger than 16 years old, or younger than 21 years old with a disabling condition, who attends a public or nonpublic school in kindergarten through grade 12.
- (17) "Staff member" means an individual, whether paid or unpaid, who performs a duty on a continuing basis for an after-school program.
- (18) "Technical assistance" means assistance in the identification and implementation of effective practices for after-school programs.
- (19) "Volunteer" means an individual who:
  - (a) Performs a duty in or for an after-school program but is not a compensated employee of the program;
  - (b) Is not enrolled in the after-school program; and
  - (c) Is not the parent of a program participant who accompanies the participant during a program activity.

### **.03 Roles and Responsibilities.**

A. The Executive Committee shall:

- (1) Administer the MASOFP in consultation with the Advisory Board;
- (2) Develop standards for the operation of the MASOFP in consultation with the Maryland Partnership for Children, Youth, and Families;
- (3) In consultation with the Advisory Board:
  - (a) Determine the standards of operation for after-school programs as set forth in this chapter;
  - (b) Issue a request for proposals each fiscal year soliciting bids for a grant from the Fund;
  - (c) Determine the criteria for awarding grants from the Fund; and

(d) On or before December 15 of each year, review and update a comprehensive plan for the delivery and improvement of after-school programming under the MASOFP;

(4) In consultation with the Advisory Board and with the approval of a majority of the Executive Committee, award grants, which may include planning grants, from the Fund; and

(5) By December 31 of each year, report to the Maryland General Assembly on the implementation of the MASOFP and the effectiveness of the after-school opportunity programs funded by MASOFP grants.

B. The Department shall administer the Fund under the direction of the Executive Committee.

C. The LMB or any other administrative entity that is awarded a grant from the Fund for allocation to one or more after-school programs shall:

(1) Allocate the funds in accordance with the conditions of the award;

(2) Monitor and evaluate each after-school program to which it has allocated funds to determine if:

(a) The program operator:

(i) Meets the requirements of §E of this regulation; and

(ii) Satisfies all other conditions, if any, under which funds were allocated to the program; and

(b) The program meets the standards of operation set forth in this chapter by:

(i) Arranging and, jointly with the Administration, conducting one site visit to the program to assess the program's compliance with the standards; and

(ii) Arranging and conducting other site visits to the program as may be necessary or appropriate, but at least twice each year;

(3) Receive, investigate, and take appropriate corrective action in connection with any complaint concerning the operation of, or service provided by a program to which it has allocated funds;

(4) Collect and report all information in accordance with the conditions of the award; and

(5) Have full responsibility for responding to any inquiry or request for information about a program to which it has allocated funds.

D. The Administration shall:

(1) Jointly with the LMB or other administrative entity, conduct one site visit to the program to assess the program's compliance with the standards of operation set forth in this chapter;

(2) Provide consultation and technical assistance on achieving and maintaining compliance with the standards to the LMB or other administrative entity and, upon request by the LMB, to the program;

(3) Upon request by the LMB, or other administrative entity, following a change in the program's facilities or operations, participate in an additional site visit to the program to assess the effect of the change on the program's compliance with the standards; and

(4) Maintain records of:

(a) Each site visit to the program, and the findings of that visit, in which the Administration participates; and

(b) Consultative and technical assistance activities the Administration conducts pursuant to this regulation.

E. The operator of an after-school program subject to the requirements of this chapter shall ensure that the program meets the standards of operation set forth in this chapter.

#### **.04 Standards of Operation for After-School Programs — Scope.**

The standards of operation set forth in this chapter:

A. Apply only to after-school programs that receive funds provided under the MASOFP; and

B. Do not apply to an after-school program that receives funds provided under the MASOFP if the program is operated:

(1) By a licensed child care provider; or

(2) As a youth camp subject to the requirements of COMAR 10.16.06.

#### **.05 Standards of Operation — Program Administration.**

The after-school program shall:

A. Develop and maintain a written statement of program goals;

B. Develop and maintain written program policies that:

(1) Are freely available to staff members and parents;

(2) Include a statement of unrestricted parental access to the program at all times during program operating hours;

and

(3) Include procedures for:

(a) Ensuring the health, safety and security of program participants;

(b) Disciplining program participants;

(c) Keeping an enrollment log and a record of daily attendance; and

(d) Ensuring that the whereabouts and status of each program participant are known whenever the participant is present at the program site or involved in a program activity;

C. Provide structured and unstructured program activities according to a written schedule that:

(1) Are consistent with the stated goals of the program;

(2) Meet the developmental and social needs of program participants;

- (3) Are conducive to positive and constructive interactions among program staff and participants; and
- (4) Are conducted as scheduled;
- D. Ensure that each staff member:
  - (1) Before beginning work with program participants, receives:
    - (a) Orientation to the program;
    - (b) Training in the prevention, detection, and reporting of child abuse and neglect; and
    - (c) Other training appropriate to the staff member's program responsibilities;
  - (2) After beginning work with program participants, receives continued training as needed to meet the healthy development of program participants and the goals of the program;
  - (3) Uses positive techniques to guide the behavior of program participants; and
  - (4) Relates to program participants individually and in groups in a manner that is appropriate to the participants' individual and group needs; and
- E. Upon request, make available for review and copying by a representative of the Administration, LMB, or other administrative entity that provides MASOFP funds to the program any record, written policy, written procedure, or other document required by this chapter.

**.06 Standards of Operation — Program Safety, Health, and Nutrition.**

The after-school program shall:

- A. Comply with all:
  - (1) Applicable State and local building, fire, health, and zoning codes;
  - (2) State child abuse and neglect laws; and
  - (3) Other applicable State laws;
- B. Have sufficient indoor space to successfully conduct all planned individual and group activities;
- C. Provide handwashing, toilet, and drinking water facilities that are operable and appropriate to the ages, number, and genders of all program participants;
- D. Provide clean facilities and indoor and outdoor space that:
  - (1) Are free from health hazards, including lead hazards and asbestos hazards; and
  - (2) Have:
    - (a) Adequate sanitary supplies and equipment;
    - (b) Proper trash and refuse removal; and
    - (c) Comfortable levels of heat, ventilation, noise, and light;
- E. Provide activity materials and equipment that are:
  - (1) Safe and in good condition; and
  - (2) Sufficient in quantity and type to support successful achievement of program goals;
- F. Provide furniture and storage areas for use by program participants that are safe, age-appropriate and adequate for the number of participants;
- G. Prohibit from the program premises the:
  - (1) Use of alcohol, tobacco, and illicit drugs during the program's hours of operation; and
  - (2) Presence of any weapon;
- H. Provide a telephone or similar means for communicating outside of the program area that is:
  - (1) Operable;
  - (2) Reliable; and
  - (3) Freely available to all program staff;
- I. Ensure that there is at least one staff member present at all times during the program's hours of operation who holds a current certificate indicating successful completion of:
  - (1) Basic first aid training through the American Red Cross, or a program with equivalent standards; and
  - (2) Cardiopulmonary resuscitation (CPR) training through the American Heart Association, or a program with equivalent standards, that is appropriate to the ages of all program participants;
- J. Maintain first aid supplies on the program premises that are:
  - (1) In good usable condition;
  - (2) Immediately accessible to staff members for use in an emergency; and
  - (3) Sufficient in quantity and type for emergency situations that may reasonably be expected to occur at the program;
- K. If the program provides transportation of program participants by motor vehicle, ensure that:
  - (1) Each vehicle used is safely operable;
  - (2) If required by Maryland law, each occupant of the vehicle is secured in a seat belt or child safety seat that is appropriate for the occupant's age and weight, as specified by Maryland law; and
  - (3) The program complies with all applicable local, State, and federal transportation requirements;
- L. Establish and follow written policies and procedures for:
  - (1) Reporting suspected child abuse or neglect as required by State law;
  - (2) Ensuring release of a program participant only to the participant's parent or other authorized adult;
  - (3) Creating and maintaining a record of each:

- (a) Injury or accident occurring to a program participant during program hours;
- (b) Serious incident involving a program participant during program hours; and
- (c) Administration to a program participant by a staff member of a prescription or non-prescription medication;
- (4) Informing the parent of a program participant about any injury or accident occurring to, or serious incident involving the participant on the same day that it occurs;
- (5) Excluding a staff member or a program participant from the program premises for an:
  - (a) Acute illness; or
  - (b) Infectious or communicable disease for which the State or local health department recommends exclusion;
- (6) Ensuring that each staff member and program participant washes his or her hands thoroughly:
  - (a) After using the sanitary facilities;
  - (b) Before food handling and eating;
  - (c) After an outdoor activity; and
  - (d) At other times when necessary to prevent the spread of disease; and
- (7) Ensuring prompt and safe evacuation of the program premises by all program staff and participants in the event of a fire or other emergency;
- M. For each program participant, ensure that current written information is maintained on the program premises that is immediately accessible to staff members and includes, but is not limited to:
  - (1) Emergency contact information;
  - (2) Medications, if any, being used by the participant;
  - (3) Information about any condition, including allergies, that the participant has that may require medical or other special attention; and
  - (4) Documentation of immunization history, if the participant is not enrolled in a Maryland school;
- N. Ensure that all areas used for food storage, handling, preparation, service, and consumption are clean, safe, in good repair, and free from infestation; and
- O. Ensure that nutritious snacks are available to all program participants.

**.07 Standards of Operation — Program Staff.**

- A. To serve as:
  - (1) A program director, an individual shall be 21 years old or older;
  - (2) An activity supervisor, an individual shall be 18 years old or older; or
  - (3) An activity aide, an individual shall be 14 years old or older.
- B. Each staff member shall have education, training, or experience, or any combination thereof, appropriate to the staff member's level of program responsibility.
- C. Criminal Background Checks.
  - (1) Each staff member shall apply for a criminal background check before beginning program duties.
  - (2) The program operator shall ensure that there is a fingerprint-supported criminal background check result for each individual required to apply for a criminal background check.

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Lillian M. Lowery, Ed.D.  
State Superintendent of Schools