

**Maryland General Assembly
Department of Legislative Services**

**Emergency Regulation
State Board of Education
(DLS Control No. 16-151)**

Overview and Legal and Fiscal Impact

The regulation amends COMAR 13A.08.0.02-3 (Early Childhood Assessment) to reflect certain changes to the administration of the Kindergarten Readiness Assessment (KRA) as required by Chapters 273 and 427 of 2016.

The regulation presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

State Board of Education:

Students: General Regulations: COMAR 13A.08.01.02-3

Legal Analysis

Background

In 2001, the State Board of Education adopted the Early Childhood Assessment regulations to implement the Maryland Model for School Readiness Kindergarten Assessment (MMSR). The MMSR was intended to measure the State's progress toward preparing all children for entry into kindergarten. The MMSR was administered from 2002 through 2014.

In 2012, the Maryland State Department of Education, in partnership with the Ohio Department of Education, began to develop a new comprehensive assessment system to assist early childhood educators in improving learning opportunities and outcomes for children. The new assessment system, known as Ready for Kindergarten (which includes the KRA), built on the MMSR and is aligned with the Maryland College and Career Ready Standards for K-12 instruction. The KRA was first administered to all kindergarteners in local school systems during the 2014-2015 school year.

Following two administrations of the KRA and despite improvements following the initial administration, feedback to the department indicated that there were a number of concerns with the KRA, including time taken away from instruction to administer the KRA, the overall value of the assessment, and the length of time required to administer the KRA. Chapters 273 and 427 of 2016 sought to address many of the concerns regarding the KRA, including:

- requiring that a statewide kindergarten assessment that measures school readiness be limited to a representative sample of kindergarten students within each local school system as determined by the department;
- authorizing a county board of education or an individual principal and teacher who are in mutual agreement to administer a statewide kindergarten assessment under certain circumstances;
- prohibiting, except in certain circumstances, a certain assessment from being administered to enrolled prekindergarten students; and
- requiring the department to adopt regulations to implement the Chapter.

Summary of Regulation

The regulation defines “representative sample” as a sample of sufficient size to produce valid and reliable assessment information on all and major subgroups of students in the local school systems as of the first day of school and as identified by the department.

The regulation requires that each local school system complete the administration of the KRA to a representative sample of kindergarten students in that local school system each year. Additionally, the regulation requires the department to provide each local school system with the appropriate representative sample percentage identified for the local school system.

The regulation also provides for a process for full-census administration of the KRA if (1) a county board of education decides to assess all kindergarten students in the local school system or (2) an individual school principal and individual teacher are in mutual agreement to assess all kindergarten students in the teacher’s class.

Finally, the regulation requires the department to publish and disseminate the aggregated assessment information to each local school system no later than November 15 of each year.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The State board cites §§ 2-205, 7-101, 7-101.1, 7-301, 7-303 through 7-305, 7-307, 7-308, and 8-404 of the Education Article as statutory authority for the regulation. Section 2-205(c) gives the State board general authority to adopt “...regulations for the administration of the public

schools.” 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.

Although not cited by the State board, Chapters 273 and 427 of 2016 requires the department to adopt regulations for the administration of “a statewide kindergarten assessment that is administered with the purpose of measuring school readiness....”

The remaining statutory authority is not relevant to this regulation.

With the addition of Chapters 273 and 427 of 2016, the relevant cited authority is correct and complete. The regulation complies with the legislative intent of the law.

Emergency Status

The State board requests emergency status beginning August 1, 2016 and expiring January 23, 2017. This emergency period is within the normal time frames approved by the Joint Committee on Administrative, Executive, and Legislative Review. Chapters 273 and 427 of 2016 went into effect July 1, 2016. The State board indicates the emergency status is necessary because Chapters 273 and 427 require the State board to adopt regulations to implement the new provisions of law in relation to the KRA before the beginning of the 2016-2017 school year.

Technical Corrections and Special Notes

In response to suggestions from the Department of Legislative Services, staff for the State board agrees to make several technical corrections to the regulation.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulation implements Chapters 273 and 427 of 2016 (House Bill 657 and Senate Bill 794). The department advises that \$850,000 in existing federal funds will be used to administer the Kindergarten Readiness Assessment (KRA) for the 2016-2017 school year (fiscal 2017). The Department of Legislative Services advises that these funds were already budgeted to administer the KRA to *all* incoming kindergarteners. DLS further advises that the fiscal and policy note for House Bill 657 and Senate Bill 794 assumed that the department can develop a sampling methodology and modify its online system using existing resources and noted that minimal annual savings may be realized from administering the KRA to a *sample* of students instead of all public kindergarteners. The fiscal and policy note also noted that local school system expenditures may increase due to increased teacher pay if teachers and principals or local boards of education decide to administer the KRA prior to the first day of kindergarten. There are no additional costs or savings beyond those accounted for in the fiscal and policy note for that legislation.

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 regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

Legal Analysis: Tiffany J. Clark – (410) 946/(301) 970-5350

Fiscal Analysis: Caroline L. Boice – (410) 946/(301) 970-5510