

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Education**
(DLS Control No. 19-021)

Overview and Legal and Fiscal Impact

These regulations alter provisions relating to the identification of, and the development and implementation of programs and services for, gifted and talented students.

The regulations present no legal issues of concern.

There is no material impact on State or local agencies. Local school system expenditures may increase minimally and be reallocated as described below.

Regulations of COMAR Affected

State Board of Education:

Specific Subjects: Gifted and Talented Education:
COMAR 13A.04.07.01 through .04, and .06

Legal Analysis

Summary of Regulations

In this action, the State Board of Education is withdrawing proposed regulations relating to gifted and talented students that were published in the *Maryland Register* on December 21, 2018 (see AELR Control No. 18-313) and substituting similar regulations.

These regulations make several substantive and technical changes to the State board's current gifted and talented student regulations. Descriptions of significant changes follow.

Regulation .02 is altered to specify that each local school system must establish an equitable process for identifying gifted and talented students. The identification process must use universal screening and multiple indicators of potential, ability, and achievement from a list of assessments and checklists that is annually reviewed and approved by the State Department of Education. The universal screening process must be used to identify a significant number of students in every school and at least 10% of students in each local school system as early as possible, but no later than grade 3, with additional identification at grade bands 3-5 and 6-9. Additionally, each local school system must provide ongoing professional learning for certain school personnel related to gifted and talented students. Regulation .02 also requires the

department to review and approve each local school system's identification process and to provide a model document that includes available State-mandated achievement assessments for gifted and talented screening for adoption by local school systems that do not have an approved identification process.

Regulation .03 requires the additional services provided beyond the regular school program to come from an annually-reviewed, department-approved list of programs and services for gifted and talented students. Regulation .03 also requires school systems to implement, rather than consider implementing, certain programs and services for gifted and talented students.

Regulation .06 allows local school system superintendents to exempt specific schools from the requirement to identify a significant number of gifted and talent students. The regulation also requires school systems, beginning on September 1, 2019, to report in their consolidated local Every Student Succeeds Act (ESSA) plans, rather than in their Bridge to Excellence Master Plans, their process for identifying gifted and talented students, the number of gifted and talented students identified in each school, the percentage of gifted and talented students identified in the local school system, the schools that have been exempted from identification of a significant number of gifted and talented students and the rationale, the continuum of programs and services, and data-informed goals, targets, strategies, and timelines. Additionally, Regulation .06 requires the department to facilitate a peer-review of local school systems' gifted and talented identification, programs, and services every three years and to submit an annual report to the State board on the status and progress of gifted and talented students in the State.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-205, 5-401(d), and 8-201 through 8-204 of the Education Article as statutory authority for the regulations. Section 2-205 grants the State board broad authority to determine the elementary and secondary educational policies of the State and to adopt regulations for the administration of public schools. The remaining cited authority generally relates to the identification of, and goals and programs for, gifted and talented students.

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

Technical Corrections and Special Notes

The department staff has agreed to add § 2-205 of the Education Article to the citation of statutory authority for these regulations.

Fiscal Analysis

There is no material impact on State or local agencies. Local school system expenditures may increase minimally and be reallocated as described below.

Agency Estimate of Projected Fiscal Impact

The regulations require local school systems to use a department-approved universal screening process to identify at least 10% of students as gifted and talented as early as possible, but no later than grade 3. Further, additional identification must occur at the 3-5 and 6-9 grade bands. Students identified as gifted and talented must receive programs and services from a department-approved list.

In November 2017, the department received a five-year federal Jacob K. Javits Gifted and Talented (GT) Students Education Program grant of \$1.6 million to create the “Gateway to GT Education,” a set of online tools to help educators, families, and researchers better identify and serve students historically underrepresented in gifted education classes. The department advises that the federal Javits funding will also enable the department to assist five selected local school systems in the implementation of the new identification process.

The department advises that local school system expenditures on gifted and talented services and programs may increase due to more students being identified as gifted and talented. The Department of Legislative Services generally concurs but notes that most local school systems can likely reallocate some spending on those students from currently provided education programs to gifted and talented programming. Thus, additional expenditures by most local school systems are anticipated to be minimal.

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.

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