

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Education**
(DLS Control No. 19-040)

Overview and Legal and Fiscal Impact

The regulations remove existing requirements for observation of home instruction programs supervised by a local school system and annual visits to instruction sites for home instruction programs supervised by a certain nonpublic school or institution.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

State Board of Education:

Home Instruction: General Regulations: COMAR 13A.10.01.01 and .05

Legal Analysis

Background

Under current regulations, a parent or guardian may instruct a child at home under the supervision of the local school system or a certain nonpublic school or institution. The general requirements for home instruction programs under the supervision of a local school system or a nonpublic school or institution are set forth in COMAR 13A.10.01.01 and 13A.10.01.05, respectively.

For a home instruction program supervised by a local school system, the parent or guardian is required to maintain a portfolio of materials to demonstrate regular, thorough instruction and to permit review of the portfolio and observation of instruction by a representative of the local school system. For a home instruction program supervised by a nonpublic school or institution, the parent or guardian is required to have pre-enrollment and periodic conferences with the school or institution or to be assigned a school-based teacher who assists with the implementation of the program. An additional mandate requires a school or institution offering an educational program operated by a bona fide church organization to make annual visits to sites where students receive instruction.

The State Department of Education advises that these regulations are a result of stakeholder feedback that raised concerns about privacy, practicality, and the burdensome effect of requiring observation of instruction or an annual visit. According to the department, local school systems do not provide a proper level of funding for the staffing required to observe instruction nor can they ensure safety of their staff in private homes. The department also points out that the portfolio review process and parent conference requirements would remain intact. Further, the elimination of the observation and annual visit requirements would bring Maryland into alignment with several other states, including Virginia, Pennsylvania, New York, and Massachusetts.

Summary of Regulations

The regulations repeal existing provisions that require the observation of instruction or annual site visits for specified home instruction programs. Accordingly, home instruction programs supervised by a local school system no longer require observation of instruction as part of the portfolio review process. Supervision of a program by a school or institution offering an educational program operated by a bona fide church organization is no longer required to include annual visits by supervisory personnel.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 2-205 and 7-301 of the Education Article as statutory authority for the regulations. Section 2-205(c) requires the State Board of Education to adopt bylaws, rules, and regulations for the administration of public schools. Section 7-301 requires, with specified exceptions, all children who are 5 years old or older and under 17 to attend a public school regularly during the entire school year. Home instruction programs are exempted under § 7-301(a)(3), which provides that the compulsory attendance requirement does not apply to a student who is receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age. When read together, §§ 2-205(c) and 7-301(a)(3) authorize the State board to adopt regulations for home instruction programs.

This authority is correct and complete. The 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 regulations eliminate observing instruction as part of the review process for home instructions programs. The department advises that the regulations have no impact on State or local

governments. The Department of Legislative Services concurs that there is no fiscal impact; however, the regulations decrease administrative work by local school systems.

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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