

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Education**
(DLS Control No. 19-088)

Overview and Legal and Fiscal Impact

The regulations repeal the current regulation on textbooks and instructional materials and add regulations that require local boards of education to prepare and provide notice of, and training on, policies and procedures relating to instructional materials that meet certain accessibility standards.

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:

Supporting Programs: School Supplies and Equipment:
COMAR 13A.06.05.01 through .06

Legal Analysis

Background

Given the state of technology today, opportunities are growing for using electronic and digital devices and materials in the classroom. In addition, the Individuals with Disabilities Education Improvement Act of 2004 provides aid to state and local education agencies for programs and services for children with disabilities. The Act includes provisions that require a local education agency to provide instructional materials following specified guidelines or that provide equivalent access in a timely manner to blind persons or persons with print disabilities. The Act also requires each state to adopt the National Instructional Materials Accessibility Standard for providing instructional materials to blind persons or other persons with print disabilities in a timely manner.

In this action, the State Board of Education is withdrawing proposed regulations that were published in the *Maryland Register* on March 29, 2019 (see DLS Control No. 19-010), and proposing these similar regulations that incorporate a few changes made in response to public comments on the earlier proposal. The State board considered this action at its May 21, 2019 meeting.

Summary of Regulations

The regulations repeal and replace the current regulation related to the provision of textbooks and other instructional materials. Specifically, the regulations:

- repeal the regulation related to the distribution of books in schools, the accessibility of instructional materials, and dispute resolution procedures related to the distribution and accessibility of books and instructional materials;
- provide that the purpose of the regulations is to develop policies and procedures for the purchase and acquisition of accessible textbooks and supplemental curricular resources;
- incorporate the Web Content Accessibility Guidelines (WCAG) 2.1 Level AA (June 5, 2018) by reference;
- define several terms;
- require each local board of education to prepare, and notify all students' parents or guardians of, policies and procedures on (1) digital formats of textbooks, digital devices, and digital learning resources; (2) Accessible Educational Materials; and (3) the privacy and acceptable use of digital devices and resources;
- require each local board of education to annually train special education directors, principals, and other purchase specialists on the policies and procedures for purchasing and using accessible teaching and learning materials;
- require each local board of education and certain public agencies that provide educational services to students with disabilities to purchase instructional materials that meet certain standards for students with disabilities; and
- require each local board of education and certain public agencies to comply with WCAG 2.1 Level AA when purchasing or selecting digital learning resources.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The State board cites §§ 2-205, 7-910, and 8-408 of the Education Article as statutory authority for the regulations. Section 2-205 requires the State board to determine and carry out the elementary and secondary education policies of the State and to adopt bylaws, rules, and regulations for the administration of public schools. Section 7-910 requires the State and each local

school system to select technology-based instructional products that meet the needs of the school system and provide equivalent access for students with disabilities, if such a product is available. Section 8-408 relates to individualized education programs for blind or visually impaired children. Specifically, § 8-408(b)(3) requires the Maryland State Department of Education to develop procedures on the statewide availability of textbooks and supplementary instructional materials that may be accessed using the National Instructional Materials Accessibility Standard.

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

Technical Corrections and Special Notes

In response to a suggestion from the Department of Legislative Services, staff for the State board agrees to change the language in Regulation .05A from “. . . each local board of education and public agency shall coordinate. . .” to “. . . each local board of education and public agency may coordinate. . .” so that it is consistent with the language in Regulation .05C.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations have no fiscal impact. The Department of Legislative Services concurs. As noted in the economic impact statement accompanying the regulations, local school systems will use existing textbook funds to purchase educational materials that are accessible to individuals with disabilities. Thus, under the regulations, no additional local expenditures are required; however, local school systems may need to redirect their future purchases to materials that meet the requirements of the regulations from non-accessible materials. Likewise, any additional professional development required can be covered with existing funds.

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.

Contact Information

Legal Analysis: Emily M.E. Wezik – (410) 946/(301) 970-5350

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