

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Education**
(DLS Control No. 19-110)

Overview and Legal and Fiscal Impact

These regulations repeal and replace existing regulations regarding the program in Comprehensive Health Education (program) established by the State Board of Education. These regulations establish the duties of each local school system, the purpose of the program, the standards for each component of the program, provisions for alternative instruction under specified circumstances, and requirements for curriculum documents.

These regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

State Board of Education:

Specific Subjects: Program in Comprehensive Health Education:
COMAR 13A.04.18.01 and .02

Legal Analysis

Summary of Regulations

These regulations repeal and replace existing regulations regarding the program established by the State board. These regulations establish the duties of each local school system and the purpose of the program. Among other things, each local school system is required to develop guidelines and procedures for the selection and support of qualified health education teachers. Beginning in September 2020, and every five years thereafter, a local superintendent of schools must certify to the State Superintendent of Schools that the local instructional programming meets the regulatory requirements for the program established by the State board.

The Comprehensive Health Education Standards established in the program set forth skills and concepts that students must comprehend and demonstrate in specified areas related to health and safety. The standards require inclusive, age-appropriate instruction in the following areas: substance abuse prevention, family life and human sexuality, safety and violence prevention, and

disease prevention and control. The following is a list of special requirements specified in the regulations:

- Substance abuse prevention instruction must include, in specified grade bands, instruction related to heroin and opioid addiction and prevention and information relating to the lethal effects of fentanyl.
- The Family Life and Human Sexuality curriculum must:
 - represent all students regardless of ability, sexual orientation, gender identity, and gender expression;
 - begin no later than the fifth grade;
 - emphasize the effects of abstinence as a means of preventing disease and preventing pregnancy and include medically accurate information about contraception and condoms (beginning no later than seventh grade);
 - use instructional materials that have been reviewed and commented on by a joint committee of educators and community representatives established by the local school system; and
 - include instruction on the meaning of consent and personal boundaries.
- A local school system must establish policies, guidelines, and/or procedures for student opt-out regarding the family life and human sexuality instruction and appropriate alternative learning activities and/or assessments, and must permit students who opt out to receive instruction regarding menstruation.
- High school students must receive instruction in CPR and age-appropriate instruction on sexual abuse and sexual assault, including consent and personal boundaries.
- Students receiving instruction in topics related to disease prevention and control shall have instruction on oral health and oral disease prevention, dental health, and diabetes.

Legal Issues

These regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The State board cites §§ 2-205(c) and (h), 4-111.2, 7-205.2, 7-401, 7-410, 7-411, 7-411.1, 7-413, 7-439, and 7-445 of the Education Article as statutory authority for these regulations.

Section 2-205(c) requires the State board to adopt bylaws, rules, and regulations for the administration of the public schools in the State. Section 2–205(h) requires the State board, with the advice of the State Superintendent, to establish basic policy and guidelines for the program of instruction in public schools. Section 4-111.2 requires the State Department of Education to support and facilitate oral health education. Section 7-205.2 requires high school students to complete instruction in CPR as part of the health or physical education curriculum and each county board of education to provide the instruction in every public school that enrolls high school students in the county. Section 7-401 requires the department and the Maryland Department of Health to jointly develop public standards and guidelines for school health programs and offer assistance to county boards in implementation. Section 7-410 requires each public school to have a program of safety education organized and administered under the regulations of the State board. Section 7-411 requires the State board to develop and implement a program of drug addiction and prevention education in public schools in specified grade bands, including contents related to heroin and opioid addiction and prevention and information relating to the lethal effects of fentanyl. Section 7-411.1 requires the State board to encourage county boards to incorporate age-appropriate lessons on dating violence, diabetes, oral disease, and dental health into the county health education curriculum. Section 7-413 requires the State board to develop and implement a program of health education regarding the abuse of alcohol. Section 7-439 requires the State board to develop and implement a program of age–appropriate education on the awareness and prevention of sexual abuse and sexual assault. Section 7-445 requires a county board to provide age-appropriate instruction on the meaning of consent and respect for personal boundaries as part of the Family Life and Human Sexuality curriculum in each grade in which the curriculum is taught in public schools in the county.

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 department advises that the regulations have no impact on State or local governments. The Department of Legislative Services generally concurs and notes that the regulations largely reflect current practice and also implement sections of Chapters 573 and 574 of 2017; the regulations do not have an impact beyond that already 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 regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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