

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Education**
(DLS Control No. 19-191)

Overview and Legal and Fiscal Impact

The regulations (1) replace references to the Maryland High School Assessments (MHSAs) with references to the Maryland Comprehensive Assessments; (2) alter certain assessment requirements for high school graduation for students graduating in the 2019–2020 school year; and (3) establish a policy regarding the effect of a student’s unlawful absences on the award of credit for a high school course.

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:

General Instruction Programs:

Graduation Requirements for Public High Schools in Maryland:

COMAR 13A.03.02.02, .03, .06 through .10, and .12

Legal Analysis

Background

The federal Every Student Succeeds Act requires certain assessments of students in grades 3 through 12. Maryland is in the process of transitioning from the Partnership for Assessment of Readiness for College and Careers (PARCC) assessment to the Maryland Comprehensive Assessment Program (MCAP) to meet the requirements. During this transition period, the Maryland State Department of Education has already begun to refer to Maryland’s assessment program, which includes high school assessments, as MCAP.

Under existing regulations, to be awarded a Maryland high school diploma, a student must be enrolled in a Maryland public school system, have earned a minimum of 21 credits in specified subjects, and meet specified graduation assessment requirements in one of the following ways:

- by taking and passing the MHSAs in English 10, Algebra I, science, and government;

- by taking and passing approved alternative assessments for the MHSA's;
- by successfully completing the Bridge Plan for Academic Validation; or
- through a waiver of the MHSA graduation requirement in certain circumstances.

The options available to a student and the cut scores required depend on when the student first entered grade 9 and which year the student first took the assessment.

Chapter 548 of 2019 established a restriction on assessment requirements for high school graduation. Specifically, Chapter 548 prohibits the State Board of Education from requiring a passing score on a standardized assessment to evaluate a student for graduation from high school until the assessment has been field-tested and piloted for at least one year.

Summary of Regulations

The regulations make several changes relating to high school graduation requirements, including repealing obsolete provisions, updating references, and implementing, in part, provisions of Chapter 548. More specifically, the regulations:

- replace references to the Maryland High School Assessments with references to the Maryland Comprehensive Assessments;
- repeal the definitions of the terms “HSA,” “minimum score,” and “PARCC Assessment”;
- establish that a student graduating in the 2019–2020 school year who has passed the Algebra I or English 10 course, but failed the Maryland Comprehensive Assessment aligned with the course, is exempt from having to complete a Bridge Project for that subject and will have met the assessment requirement by passing the course and taking the assessment;
- encourage schools to provide appropriate assistance to strengthen areas of weakness for students who do not receive a passing score on the Algebra I or English 10 assessment;
- require each local school system’s written policy on grading and reporting to include an explanation of how attendance is factored into a student’s grade at the elementary, middle, and high school levels; and
- require each local school system’s policy on grading and reporting to include, at the high school level, a policy that students with unlawful absences constituting at least 5% of school days in a semester or yearlong course shall be denied credit unless (1) the student presents compelling mitigating circumstances; and (2) the school principal obtains approval from the local superintendent of schools or the superintendent’s designee to award credit under the circumstances.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The State board cites §§ 2-205, 7-203, 7-205, and 7-205.1 of the Education Article as statutory authority for the regulations. Section 2-205 requires the State board to determine the elementary and secondary educational policies of the State and to adopt bylaws, rules, and regulations for the administration of the public schools. Section 7-203 requires the State board, State Superintendent of Schools, each county board, and each public school to implement a program of education accountability for the operation and management of the public schools, including measuring educational goals and objectives through school quality indicators and student assessments. Section 7-205 requires the promotion of students in a public school and graduation from a public high school to be in accordance with policies established by the county board and the rules and regulations of the State board. Section 7-205.1 requires the State board to establish high school curriculum and graduation requirements for all public schools in accordance with specified criteria. Section 7-205.1(f) prohibits the State board from requiring a passing score on a standardized assessment to evaluate a student for graduation from high school until the assessment has been field-tested and piloted for at least one year.

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

Technical Corrections and Special Notes

In response to suggestions from the Department of Legislative Services, staff for the department made clarifying and technical changes to the regulations. This analysis reflects those changes.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations waive the requirement for certain students to pass State assessments and define the impact unlawful absences have on earning credit in a course for high school. The department advises that the regulations have no fiscal impact on State or local governments. The Department of Legislative Services concurs.

The Department of Legislative Services notes that the regulations, in part, implement provisions of Chapter 548 of 2019 (House Bill 1019), which prohibits the State Board of Education from requiring a passing score on a standardized graduation assessment until it has been

field-tested and piloted for at least one year. The fiscal and policy note for House Bill 1019 assumed that the bill could be implemented using existing resources. It is assumed that the unlawful absences provision of the regulations will have no material impact on the number of students enrolled due to failing to earn credit for a course during a previous semester; thus, it is assumed that provision has no fiscal impact.

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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