

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Education**
(DLS Control No. 21-020)

Overview and Legal and Fiscal Impact

The regulations implement the statutory requirements for (1) the screening of certain public elementary school students who are at risk for reading difficulties and (2) the provision of supplemental reading instruction to those students who are identified as being at risk.

The regulations present no legal issues of concern.

Local school system expenditures may increase due to the regulations' requirement to screen additional students for reading difficulties beyond the requirements of Chapter 512 of 2019; however, these costs are likely absorbable by most systems. There is no fiscal impact on State agencies.

Regulations of COMAR Affected

State Board of Education:

General Instruction Programs: Students at Risk for Reading Difficulties:
COMAR 13A.03.08.01 through .08

Legal Analysis

Background

Chapter 512 of 2019 established a framework for requiring, beginning with the 2020–2021 school year, that each county board of education in the State ensure that specified students are screened to identify whether the student is at risk for reading difficulties. If the screening results indicate that the student is at risk of reading difficulties, the county board must provide supplemental reading instruction, as appropriate. Chapter 512 is codified in § 4-136 of the Education Article and specifies other requirements related to the screenings and supplemental reading instruction. The State Department of Education is required to adopt regulations to implement the requirements of § 4-136.

Summary of Regulations

The regulations implement the requirements of the screening process and supplemental reading instruction that each county board must administer for the purpose of identifying and aiding certain students who are at risk for reading difficulties. The regulations are largely

consistent with requirements contained in § 4-136 of the Education Article, but also depart from statute to (1) expand which students are subject to the screenings and (2) specify in more detail other procedures related to the screening process and supplemental reading instruction.

Screenings

The regulations require certain students to be screened for reading difficulties if the student does not already have an individualized education program or family service plan with reading goals. These students include all those who are enrolled in public kindergarten, or who are in first, second, or third grade and: (1) were not previously screened; (2) demonstrated difficulty in mastering grade-level reading in the previous grade; or (3) entered or transferred to a public elementary school, unless the county board can demonstrate that the student who entered or transferred to the school has already been screened or demonstrates a mastery of grade-level reading. The screening schedule is established by the county board with an initial screening to take place within the first 2 months of the beginning of the school year.

Reading Intervention Instruction and Progress Monitoring

If a student is identified as at risk for reading difficulties, within 30 days of the screening the county board must notify the parent or guardian of the student of the screening results and a description of the supplemental reading instruction that will be provided to the student. In addition, the county board must develop a supplemental reading instructional plan that: (1) addresses the student's identified area of need; (2) takes place during the school day; and (3) is data- and evidence-based according to the student's specific need. The supplemental instruction may be revised based on the student's progress.

Each county board must set an individualized review schedule of the student's supplemental instruction at intervals of not more than 30 days. The student's parent or guardian must receive progress reports quarterly or on revisions to the supplemental instruction. Finally, the regulations authorize the county boards to determine that a student's supplemental instruction is completed if the student has achieved grade level reading standards based on age-appropriate re-screening.

Miscellaneous

The regulations also require county boards to annually evaluate the effectiveness of screeners and reading interventions. Additionally, the department will assist county boards in developing effective evaluation procedures.

Lastly, consistent with the statutory requirements of § 4-136 of the Education Article, the regulations also provide for:

- specified documentation to be provided to the parent or guardian of the student on registration of a student or identification of a student at risk for reading difficulties;
- the school personnel who may conduct a screening;

- the appropriate screening instruments that may be used to conduct a screening;
- professional learning opportunities related to screening and supplemental reading instruction that local boards must provide to school personnel;
- certain information related to screenings and supplemental reading instruction that the department and local boards must make available on their websites;
- an annual report that county boards must submit to the department; and
- the definitions of specified terms.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites § 4-136(i) of the Education Article as statutory authority for the regulations. Additional authority may be found in § 2-205 of the Education Article. Section 4-136(i) requires the department to adopt regulations to implement § 4-136, regarding screening students for reading difficulties. Section 2-205 requires the State Board of Education to set policies and guidelines for the program of instruction for the public schools.

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

Technical Corrections and Special Notes

Under § 4-136 of the Education Article, the students who are to be screened would generally be enrolled in kindergarten or first grade, with screenings potentially for older students who enter or transfer to a public elementary school from another elementary school. More specifically, a student in first grade is to be screened if the student was not screened in kindergarten or demonstrated difficulty mastering grade-level reading in kindergarten. The regulations expand these screening conditions for first graders to also apply to students in second or third grade. Similarly, the screening condition for students who enter or transfer schools is limited to students in third grade or below.

According to the department, this departure from statute is for several reasons. First, in third grade and above, students should no longer be learning how to read, but instead be using reading as a skill to learn. Second, the regulations aim to identify students who are new to a school and are at risk for reading difficulties. Finally, the department cites research that shows being on grade level for reading is particularly important with respect to a student's future success, and that

third grade reading proficiency is used in the research as an indicator of the student's future success.

Fiscal Analysis

Local school system expenditures may increase due to the regulations' requirement to screen additional students for reading difficulties beyond the requirements of Chapter 512 of 2019; however, these costs are likely absorbable by most systems. There is no fiscal impact on State agencies.

Agency Estimate of Projected Fiscal Impact

The regulations implement Chapter 512 of 2019 (Senate Bill 734), which requires kindergarteners, first grade students, and other specified students to be screened for reading difficulties. The regulations go beyond the requirements of Chapter 512, by requiring additional specified second and third grade students to be screened for reading difficulties. The department advises that expanding the screening requirements to specified second and third graders may increase local school system expenditures if (1) the screeners chosen are not free or are not part of the suite of screening instruments chosen for kindergarten and first grade under Chapter 512; (2) there is a need to purchase additional supplemental instructional materials for grades two and three; or (3) the capacity of the current school staff conducting screening in kindergarten and first grade prohibits them from conducting the screening for second and third grades.

The Department of Legislative Services concurs that local school system expenditures may increase beyond those required by Chapter 512. However, it is assumed that, while there may be additional costs for some local school systems, the costs will be largely absorbable for most local school systems as these changes are associated with larger systemic changes that are being implemented as part of Chapter 512 and the Blueprint for Maryland's Future (Chapter 771 of 2019 and Chapters 36 and 55 of 2021). Further, it is assumed that local school systems consider overall costs when implementing the reading screening requirements.

The Department of Legislative Services advises that Chapter 512 stated that it was the intent of the General Assembly that money appropriated in accordance with the Blueprint for Maryland's Future be used to offset the cost of implementing Chapter 512. Thus, most costs of Chapter 512 will be offset by new State aid. This impact was accounted for in the fiscal and policy note for Senate Bill 734. In addition, the inclusion of more than \$155 million in COVID-19 federal funds in the fiscal 2022 State budget for supplemental instruction plus more than \$3 billion in federal COVID-19 relief allocated directly to local education agencies is available to offset any additional costs in fiscal 2022 through 2025.

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

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