



Nancy S. Grasmick
State Superintendent of Schools

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TO: Members of the Maryland State Board of Education
FROM: Nancy S. Grasmick *Nancy*
DATE: April 27, 2010
SUBJECT: Code of Maryland Regulations 13A.08.06.01-02 (Revised)
Positive Behavioral Interventions and Support (PBIS)
ADOPTION

PURPOSE:

The 2008 Maryland General Assembly amended Section 7-304.1 of the Education Article, Annotated Code of Maryland, requiring the amendment of the implementing regulations contained in Code of Maryland Regulations 13A.08.06.01-.02 (Attachment 1). The purpose of this communication is to seek adoption of these amended regulations from the Maryland State Board of Education bringing them into alignment with State law.

BACKGROUND:

The 2008 Maryland General Assembly passed legislation expanding the criteria which requires that a school implement a PBIS or alternative behavioral modification program in collaboration with the Maryland State Department of Education. Previously, the law and ensuing regulations stated that any elementary school with an out-of-school suspension rate that exceeds the following standards must implement PBIS or an alternative behavioral modification program:

- 16 percent for the 2006-2007 school year;
- 14 percent for the 2007-2008 school year;
- 12 percent for the 2008-2009 school year; and
- 10 percent for the 2009-2010 school year and each year, thereafter.

(The suspension rate applied only to students in prekindergarten through grade 5 even in schools which have sixth, seventh, or eighth grades.)

The amended law expands the criteria for schools required to implement PBIS or an alternative behavioral program in the following three (3) ways:

1. An elementary school that has *already implemented* a positive behavioral intervention and support program or alternative program *shall expand* its existing program if it has a *suspension rate* that exceeds the standard for that school year.
 - 12 percent for the 2008-2009 school year; and,
 - 10 percent for the 2009-2010 school year and each year, thereafter.
2. Each county board shall require implementation of a positive behavioral interventions and support program; or an alternative behavior modification program in collaboration with the Department, in any school with a *truancy rate* that exceeds:



- **8% of its enrollment for the 2008-2009 school year;**
 - 6% of its enrollment for the 2009-2010 school year;
 - 4% of its enrollment for the 2010-2011 school year;
 - 2% of its enrollment for the 2011-2012 school year; and,
 - 1% of its enrollment for the 2012-2013 school year and each school year thereafter.
3. A school that has ***already implemented*** a positive behavioral intervention and support program or an alternative behavior modification program ***shall expand*** its program if it has a ***truancy rate*** that exceeds the standards listed above.

In addition, based on feedback from Superintendents and their staff, these amended regulations further refine the definition of schools impacted by the regulations. The revised definition excludes alternative and special schools.

EXECUTIVE SUMMARY:

The attached document contains the amended regulations which are aligned with the new law and incorporate feedback that has been provided by the local school system superintendents based on their review. During the open comment period there were no public comments received.

ACTION:

Request adoption of COMAR 13A.08.06.01-.02.

NSG:ALA:mw

Attachment

the State Board from a local board's decision on the complaint shall govern the processing of the complaint.

.07 Corrective Actions.

In response to systemic complaints filed alleging on-going violations of this chapter or at its discretion, the Department may initiate a fact-finding process and may impose corrective action on a school system.

.08 Annual Reports.

A. *First Annual Report.* Local school systems shall submit the first Annual Report on May 15, 2010. It shall:

(1) State the total number of students who participated in the Interscholastic Athletic Program and the Corollary Athletic Program along with the total number of students with disabilities as defined in Regulation .02B of this chapter who participated in the Interscholastic Athletic Program and the Corollary Athletic Program; and

(2) Provide a copy of the plans, policies and procedures developed by the local school systems under Regulation .03 of this chapter.

B. *Subsequent Reports.* Local school systems shall:

(1) Submit Annual Reports on May 15;

(2) Describe modifications of policies and procedures by the local school system to engage students with disabilities in the Interscholastic Athletic Program and the Corollary Athletic Program; and

(3) State the total number of students who participated in the Interscholastic Athletic Program and the Corollary Athletic Program along with the total number of students with disabilities as defined in Regulation .02B of this chapter who participated in the Interscholastic Athletic Program and the Corollary Athletic Program.

NANCY S. GRASMICK
State Superintendent of Schools

Subtitle 08 STUDENTS

13A.08.06 Positive Behavioral Interventions and Support Program

Authority: Education Article, §§2-205 and 7-304.1,
Annotated Code of Maryland

Notice of Proposed Action

[10-050-P]

The Maryland State Board of Education proposes to amend Regulations .01 and .02 and adopt new Regulation .03 under COMAR 13A.08.06 **Positive Behavioral Interventions and Support Programs**. This action was considered at the Maryland State Board of Education meeting on December 10, 2009.

Statement of Purpose

The purpose of this action is to bring the regulations into alignment with Education Article, §7-304.1, Annotated Code of Maryland, as amended by the General Assembly in 2008. Legislation was passed expanding the criteria which requires that a school implement a Positive Behavioral Intervention Support or alternative behavioral modification program in collaboration with the Maryland State Department of Education.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Since Positive Behavioral Support and Interventions is a comprehensive prevention strategy, it is assumed that the cost to implement will be offset by the corresponding cost savings which will accrue due to the reduced discipline problems within our schools. Though not measurable at this time, there is a cost benefit that can be measured in two areas: student time in classroom and administrator time freed up.

Since PBIS is a framework through which research based practices can be implemented, it is possible to integrate secondary practices to target this population of students making up the Habitual Truancy rate. Most PBIS implementation across the nation has been provided to schools on a voluntary basis. There is no data to demonstrate how effective implementation is when a school is mandated to be trained in the PBIS model therefore, it is assumed that such training will be valuable.

Non quantifiable benefits: There is no way to estimate a dollar figure that will ultimately accrue to communities as an indirect result of creating safe and drug free learning environments. As children become more successful in our schools, thus producing more competent adolescents the ultimate effect will be better educated secondary schools graduates who will ultimately become productive citizens contributing to the overall good of the community, paying taxes and generating income instead of becoming the recipient of direct service agencies.

II. Types of Economic Impact.

	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)		Unknown
B. On other State agencies:	NONE		
C. On local governments:	(E+)		\$8,000 per school
	Benefit (+)	Cost (-)	Magnitude
D. On regulated industries or trade groups:		NONE	
E. On other industries or trade groups:		NONE	
F. Direct and indirect effects on public:		NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. As the number of implementing schools increases (currently at approximately 750, the cost of supporting those schools also increases). Issuing agency currently absorbs costs for PBIS school-wide (universal) implementation, training and support into its existing budget. No line item budget for this initiative has been allocated in the 10 years the initiative has been operating, to date. This regulation identifies schools which are required to implement PBIS, which will increase annually the number of schools to be trained. There are ongoing state level costs associated with providing training for new teams identified through this regulation in addition to the current PBIS efforts to provide ongoing technical assistance, training and support to PBIS schools.

Based specifically on the habitual truant data that the local school systems provide to the Department, 62 schools would require training in PBIS. Thirty-eight schools would require new team training and 24 would require expansion according to the statute. Some of these schools have already been trained in PBIS but have not remained active in implementation or did not maintain fidelity in their implementation. In order to train these schools, it is estimated that it would cost \$800 per school. This entails providing the training and materials for school teams and coaches, but does not account for the annual operating budget necessary to provide follow-up meetings to ensure implementation is on track with fidelity, and ongoing technical assistance from the Department, Sheppard Pratt, and Johns Hopkins. Moreover, the targeted audience of truants would benefit most from secondary interventions of tier two which have never been funded.

C. The cost for each school to send an administrator and three additional team members (minimum requirement) to a to a two day training and to maintain the program throughout the year is approximately \$8,000 per school. In addition, local school systems allocate staff time for behavioral support coaches and for a local PBIS coordinator or "facilitator" to bring local teams together throughout the year. These costs have, to date, been absorbed locally.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Andrea Alexander, Behavioral Specialist, Division of Student, Family, and School Support, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD, or call 410-767-0318, or email to aalexander@msde.state.md.us, or fax to 410-333-8148. Comments will be accepted through March 2, 2010. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on March 23 — 24, 2010, at 200 West Baltimore Street, Baltimore, MD 21201.

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Alternative [behavioral] behavior modification program" means a research-based, positive and effective school-wide program that includes the following:

(a) — (b) (text unchanged)

(2) "Elementary school" means any comprehensive public school, [including] excluding alternative settings or special schools, in which the school population includes any combination of students in prekindergarten through grade 5.

(3) "Habitually truant" means a student that meets all of the following criteria:

(a) The student was age 5 through 20 during the school year;

(b) The student was in membership in a school for 91 or more days; and

(c) The student was unlawfully absent from school for more than 20 percent of the days in membership.

[(3)] (4) (text unchanged)

[(4)] (5) "Positive behavioral interventions and support program (PBIS)" means [the application of a behaviorally-based systems approach to enhance the capacity of schools to design effective environments that improve the link between research-validated practices and the environments in which teaching and learning occur.] the research-based, systems approach method adopted by the State Board to:

(a) Build capacity among school staff to adopt and sustain the use of positive, effective practices to create learning environments where teachers can teach and students can learn; and

(b) Improve the link between research-validated practices and the environments in which teaching and learning occur.

(6) "School" means any comprehensive public school in which the school population includes any combination of students in prekindergarten through grade 12, excluding alternative settings or special schools, in which the school population includes any combination of students in prekindergarten through grade 12.

[(5)] (7) (text unchanged)

(8) "Truancy rate" means the unduplicated count of students who are "habitually truant" from school during a school year divided by the September 30 enrollment count.

.02 Administrative Procedures — Suspension Rates.

A. — B. (text unchanged)

C. The school principal or the principal's designee and appropriate staff members shall:

(1) [develop] Develop a plan for implementing a program as set forth in §A of this regulation[.];

(2) Attend PBIS or alternative behavior modification training program approved by the Department; and

(3) Follow implementation guidelines and practices for PBIS or the alternative behavior modification training program.

D. — E. (text unchanged)

F. An elementary school shall expand its existing PBIS or alternative behavior modification program by providing more intensive interventions to targeted students in need of such interventions if:

(1) The elementary school has already implemented a PBIS or an alternative behavior modification program; and

(2) The elementary school has a suspension rate that exceeds the standard specified in §B of this regulation.

.03 Administrative Procedures — Truancy Rates.

A. Upon receipt of notification from the Department that a school's habitual truancy rate exceeds the standard specified in §B of this regulation, the local school superintendent or the superintendent's designee shall direct the principal of the school to implement:

(1) A PBIS; or

(2) An alternative behavior modification program developed in collaboration with the Department.

B. A school is subject to this regulation if it has a truancy rate that exceeds:

(1) 8 percent of its enrollment for the 2008 — 2009 school year;

(2) 6 percent of its enrollment for the 2009 — 2010 school year;

(3) 4 percent of its enrollment for the 2010 — 2011 school year;

(4) 2 percent of its enrollment for the 2011 — 2012 school year; and

(5) 1 percent of its enrollment for the 2012 — 2013 school year and each school year thereafter.

C. The school principal or the principal's designee and appropriate staff members shall:

(1) Develop a plan for implementing a program as set forth in §A of this regulation;

(2) Attend PBIS or alternative behavior modification training program approved by the Department; and

(3) Follow implementation guidelines and practices for PBIS or the alternative behavior modification training program.

D. A school shall expand its existing PBIS or alternative behavior modification program by providing more intensive interventions to targeted students in need of such interventions if:

(1) *The school has already implemented a PBIS or an alternative behavior modification program; and*

(2) *The school has a truancy rate that exceeds the standard specified in §B of this regulation.*

E. *Nothing in this regulation precludes a school system from implementing PBIS or an alternative behavioral modification program either in specific schools or system-wide.*

NANCY S. GRASMICK
State Superintendent of Schools

Subtitle 12 CERTIFICATION

13A.12.01 General Provisions

Authority: Education Article, §§2-205, 2-303(g), and 6-701 — 6-705,
Annotated Code of Maryland

Notice of Proposed Action

[10-049-P]

The Maryland State Board of Education proposes to amend Regulations .01 — .04, .06, .08, .09, and .11 under COMAR 13A.12.01 General Provisions.

This action was considered at the Maryland State Board of Education meeting on December 10, 2009.

Statement of Purpose

The purpose of this action is to correct inaccurate citations, update grade bands, eliminate text which is no longer appropriate, align definitions with other sections of the regulation, and update terminology.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jean E. Satterfield, Assistant State Superintendent, Certification and Accreditation, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0385, or email to jsatterfield@msde.state.md.us, or fax to 410-333-8963. Comments will be accepted through March 2, 2010. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on March 23 — 24, 2010, at 200 West Baltimore Street, Baltimore, MD 21201.

.01 Purpose of Licensure in Maryland.

[Licensure] *Certification* of professional education personnel by the State is established to offer assurance to the citizens of this State that:

A. — C. (text unchanged)

D. [Licensed] *Certificated* education personnel maintain competent practice through career long-engagement with their content area, research, best practice, and expert opinion. Top of Form

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Acceptable credit" means content or professional education course work earned *or taught* after the conferral of the bachelor's or higher degree as provided in Regulation .05C of this chapter.

(2) — (4) (text unchanged)

(5) "Appropriate certificate" for:

(a) — (b) (text unchanged)

(c) An administrator or supervisor means a professional certificate, [an alternative] *a resident* principal certificate, *a resident assistant principal certificate*, or a conditional certificate if the applicant is within 6 semester hours of the professional certificate.

(6) — (21) (text unchanged)

(22) "National Council for the Accreditation of Teacher Education (NCATE)" means a council providing accreditation of professional education units in United States colleges that prepare professional educators to staff [K] *PreK — 12* schools for children.

(23) — (33) (text unchanged)

(34) "Specific certification area" means a:

(a) (text unchanged)

(b) Grade level such as early childhood, elementary, middle, secondary, or [N] *PreK — 12*; or

(c) (text unchanged)

(35) — (38) (text unchanged)

.03 Personnel.

A. The regulations in this subtitle are established as [licensure] *certification* standards for personnel educating students. A local school system may establish additional requirements as a condition of employment.

B. Personnel Subject to Certification.

(1) Public Schools.

(a) A teacher employed in an early childhood, elementary, *PreK-12* or secondary school program in the public school systems of Maryland shall hold an appropriate certificate under COMAR 13A.12.02.

(b) A specialist employed in an early childhood, elementary, *PreK-12*, or secondary school program in the public school systems of Maryland shall hold an appropriate certificate under COMAR 13A.12.03 or a license in certain areas as otherwise provided in State law.

(c) An administrator, supervisor, and assistant in administration and supervision employed in an early childhood, elementary, *PreK-12*, or secondary school program in the public school systems of Maryland shall hold an appropriate certificate under COMAR 13A.12.04.

(2) — (3) (text unchanged)

C. — D. (text unchanged)

.04 Options for Obtaining Initial Maryland Certification.

A. — D. (text unchanged)

E. Approved Professional Experience.

(1) The applicant shall:

(a) — (b) (text unchanged)

(2) The applicant shall:

(a) — (c) (text unchanged)