



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:** May 24-25, 2011  
**SUBJECT:** COMAR 13A.06.02.01-.05 (Amendments)  
Prekindergarten Programs  
PERMISSION TO WITHDRAWAL  
PERMISSION TO PUBLISH

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**PURPOSE:**

To seek permission to withdraw previously proposed amendments and publish new amended COMAR regulations applying to all public prekindergarten programs for 4 year-old children administered by local boards of education or qualified vendors (ATTACHMENT 1). The Prekindergarten Regulation amendments submitted to the Board on March 24, 2011 are being withdrawn to allow for revisions to the language in section .03B Student Eligibility. The previous language did not sufficiently clarify that eligibility for Prekindergarten under .03B and .03C is intended for applicants who exhibit a lack of school readiness. The proposed amendments have no economic impact.

**BACKGROUND:**

In 1978, the Maryland State Board of Education issued a resolution (No. 1978-17) to establish the Extended Elementary Education (EEEP) for four-year old children in order to provide prekindergarten to children with a "high potential for school failure." The State Board instructed the State Superintendent of Schools to place the program in the FY80 budget, which was affirmed by the Maryland General Assembly. Title1/Chapter1 schools were eligible for EEEP prekindergarten sites, and all four-year old children living in the attendance area of these schools were eligible to be enrolled in the program. The programmatic requirements for this program were established in the form of EEEP Program Assurances.

In 1999, the Maryland State Board of Education adopted COMAR regulations, which included provisions for eligibility and programmatic requirements.

In 2004, the Maryland State Board of Education adopted COMAR regulations. These revised regulations included changes in the prekindergarten program in order to meet Bridge to Excellence in Public Schools Act requirements that local schools systems ensure that publicly funded prekindergarten programs are available to all eligible students within their jurisdictions by the 2007-2008 school year.

In 2010, the Maryland State Department of Education (MSDE) convened a workgroup comprised of early childhood stakeholders to revise COMAR regulations to address the expansion of prekindergarten, and the provision of the 2007 *Task Force on Universal Prekindergarten* recommendations for Preschool for All. The workgroup included representation from MSDE, local school systems, Head Start, child care and other stakeholder groups. (ATTACHMENT 2)

In the proposed Prekindergarten regulations amendments the following changes were made:

- Allows for the inclusion of three-year-old children in public prekindergarten programs;
- Requires local school systems to provide prekindergarten programs that will accommodate the needs of all income eligible families seeking a placement for a four-year-old child;
- Refined and expanded section .02: Definitions, .03 Eligibility, and .04: Site Selection
- Clarified section .05 Requirements for Local School Systems; and
- Added to section .05 Requirements for Qualified Vendors and for Maryland State Department of Education (MSDE).

**SUMMARY:**

The Department requests permission to publish proposed regulations for COMAR 13A.06.02.01-.05. The proposed regulations address the expansion of prekindergarten to include three-year-old applicants. (Changed one word, “children” to “applicants”)

**ACTION:**

Request permission to publish using the following timeline:

Maryland Register Issue Date: July 29, 2011  
30 Day Open Comment Period Ends: August 29, 2011  
Adoption: September 27-28, 2011  
Publication of Notice of Final Action: October 21, 2011  
Effective Date of Regulations: October 31, 2011

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 06 SUPPORTING PROGRAMS

### Chapter 02 Prekindergarten Programs

Authority: Education Article §2-205 (c) and (g) and 7-101.1 (a)(3), Annotated Code of Maryland

#### .01 Scope and Purpose.

A. This chapter applies to all publicly funded prekindergarten programs for all eligible 4-year-old children, as defined at Education Article, §7-101.1(a)(3), Annotated Code of Maryland, administered by local boards of education or qualified vendors [with the overall goal of providing learning experiences to help children develop and maintain school readiness skills necessary for successful school performance].

[B. From the 2003 – 2004 school year through the 2006 – 2007 school year, enrollment shall be based upon the availability of prekindergarten sites established by the local board of education. Beginning in 2007 – 2008, local boards of education shall have completed expansion of prekindergarten programs in order to accommodate all eligible 4-year-old children seeking enrollment.]

B. The overall goal of the prekindergarten program is to provide learning experiences to help children develop and maintain school readiness skills necessary for successful school performance.

C. Local boards of education shall provide prekindergarten programs to accommodate all eligible 4-year-old children seeking enrollment in public school programs.

#### .02 Definitions

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

B. Terms Defined

(1) “Accredited” means meets standards of high quality set for the by the Department’s Early Childhood Accreditation Program Standards or by an accrediting organization recognized by the Department.

[(1)] **(2)** “Bridge to Excellence Master Plan” means the comprehensive master plan required by Education Article, §5-401, **Annotated Code of Maryland.**

**(3)** “Department” means the Maryland State Department of Education.

**(4)** “CDA” means the Child Development Associate Certificate.

[(2)] **(5)** “Economically disadvantaged background” means a family whose income would make a child eligible for free or reduced price meals based on eligibility requirements established by the United States Department of Agriculture if the child were in kindergarten.

[(3)] **(6)** “Eligibility” means students that meet the criteria for enrollment into prekindergarten as stated in COMAR 13A.06.02.03A.

[(3)] **(7)** “Head Start” means a federally sponsored preschool program for children 3 years old to 5 years old from low income families that is licensed by Child Care Administration or administered by local boards of education.

**(8)** “Homeless student” means a child or youth who lacks a fixed, regular, or adequate nighttime place of residence as defined in COMAR 13A.05.09.02.

**(9)** “Maryland Common Core State Curriculum” means measurable statements of what students should know and be able to do within a content area as defined and approved for prekindergarten by the Department in collaboration with local school systems.

**(10)** “Prekindergarten” means a publicly funded program for all eligible 4-year-olds focusing on social/emotional, physical, and cognitive development as described in the Maryland Common Core Curriculum.

[(4)] **(11)** “Qualified vendor” means a State or nationally accredited child care [center] program or [a] **an approved** nonpublic school [approved by the Maryland State Department of Education to provide prekindergarten program services.] **that:**

**(a)** Is partnering with a local school system through a memorandum of agreement;  
**and**

**(b)** Meets the requirements of Regulation .05 of this chapter.

**(12)** “School readiness” means the stage of early development that enables an individual child to engage in and benefit from early learning experiences. As a result of family nurturing and interactions with others, a young child in this stage has reached certain levels of social and emotional development, cognition and general knowledge, language development, and physical well-being and motor development. School readiness acknowledges individual approaches toward learning as well as the unique experiences and backgrounds of each child.

[(5) "State Content Standards" means measurable statements of what students should know and be able to do within a content area as defined in the Voluntary State Curriculum for Prekindergarten-Grade 8 developed by the Maryland State Department of Education in collaboration with local school systems.]

### **.03 Student Eligibility**

A. A local school system shall enroll in prekindergarten all 4-year-old applicants who are from families with economically disadvantaged backgrounds or who are homeless.

B. For vacancies remaining after compliance with §A of this regulation a local school system may enroll 4-year-old applicants who are not from families with economically disadvantaged backgrounds but who represent a student population that exhibits a lack of readiness. [in personal and social development, language and literacy, mathematical thinking, scientific thinking, social studies, the arts, or physical development and health.]

#### **C. Prekindergarten Programs for 3-Year-Old Children.**

**(1) A local school system or qualified vendor may establish a prekindergarten program enrolling 3-year-old applicants who are from economically disadvantaged or homeless families, or who represent a student population that exhibits a lack of school readiness.**

**(2) A local school system shall be in compliance with 34 CFR§300.115 (a) (b) and COMAR 13A.05.01.10 regarding children with disabilities.**

**(3) A prekindergarten program for 3-year-old children shall meet the requirements of Regulation .05 of this chapter.**

### **.04 Prekindergarten Site Selection.**

A. [Each] A local school system shall develop a facilities plan identifying appropriate sites to ensure that a publicly funded prekindergarten program is available to all eligible 4-year-old children in its jurisdiction [by 2007 – 2008].

B. The facilities plan may include local school system Memorandums of Agreement with qualified vendors and Head Start to provide prekindergarten program services that meet the local school system responsibilities in accordance with Regulation.05 of this chapter.

### **.05 Local School System, Qualified Vendor and Department Responsibilities**

A. A local school system shall:

[A.](1) Develop and maintain a policy for determining the eligibility and selection of prekindergarten sites as well as **the eligibility of 4-year-old** students for prekindergarten programs consistent with the requirements of this chapter;

**(2) Develop criteria in reference to Regulation .03B and C of this chapter that establishes procedures to include children in the prekindergarten program who are not eligible under Regulation .03A of this chapter;**

[B.](3) Operate the prekindergarten educational program 5 days per week for a minimum of 2.5 hours per day consistent with the school calendar approved by the local board;

[C.](4) Analyze the Department-approved kindergarten assessment system information described in COMAR 13A.08.01.02-3 to evaluate the effectiveness of the prekindergarten program[;], **and make necessary adjustments to the prekindergarten instructional program;**

[D.](5) Provide data in the Bridge to Excellence Master Plan needs assessment to indicate progress on prekindergarten program goals;

[E.](6) Provide staffing for each [classroom] **session of prekindergarten** to include [an early childhood] **a** teacher who possesses a [valid] **current** State **professional** certificate in early childhood education and a para-professional **with a minimum of a high school diploma, or its equivalent, or a CDA.** [assigned full-time for the half day program];

[F.](7) Align each prekindergarten program with the [State Content Standards for prekindergarten] **Maryland Common Core State Curriculum;**

[G.] (8) Based on the September 30 enrollment count, maintain an average staff to student ratio of 1:10 with an average of 20 students per classroom[.]; **and**

**(9) Provide responses to Department requests for information and data related to the operation of the prekindergarten program.**

**B. A qualified vendor shall:**

**(1) Maintain State or national early childhood program accreditation;**

**(2) Have the capacity to meet the responsibilities identified in this regulation;**

**(3) Be licensed to operate a child care center pursuant to COMAR 13A.16; and**

**(4) Provide responses to Department requests for information and data related to the operation of the prekindergarten program.**

**C. The Department shall:**

**(1) Approve and monitor local school systems for compliance with Regulations .03—  
.05 of this chapter; and**

**(2) Collect and monitor local school system responses to Department requests for  
information and data regarding compliance with §§A and B of this regulation.**

DRAFT

**Prekindergarten Regulations Workgroup  
September 2010  
Attachment 2**

**Chair:** Ms. Janet Wilson  
Assistant Superintendent of Instruction  
Allegheny County Public Schools

**Co-Chair:** Ms. Valerie Kaufmann  
Chief, Early Learning Branch  
Division of Early Childhood  
Development

Dr. Kevin Maxwell  
Superintendent  
Anne Arundel Co. Public Schools

Ms. Kathleen Wick (representing Dr.  
Maxwell)  
Coordinator  
Early Childhood Programs  
Anne Arundel Co. Public Schools

Ms. Valerie Ashton-Thomas,  
Coordinator  
Even Start Family Literacy & HIPPIY  
Coordinator  
MSDE

Ms. Diane Bonanni  
Coordinating Supervisor-Early  
Childhood Programs  
Prince George's Co. Public Schools

Ms. Stacy Burch, President  
Maryland Consortium of Early  
Childhood Faculty and Administrators  
Anne Arundel Community College

Ms. Nadine Owens-Burton  
Acting Executive Director  
Maryland Head Start Association

Ms. Lisa Davis  
Coordinator-Early Childhood Programs  
Howard Co. Public Schools

Ms. Clara Floyd  
President  
Maryland State Teachers Association

Dr. Patricia Gordon  
Member- Maryland Association of  
Boards of Education (MABE)

Ms. Charlene Iannone-Campbell  
Coordinator, Early Learning Office  
Baltimore City Public Schools

Ms. Gwen Nkwanyuo  
Associate Head of Little School  
Bryn Mawr School,  
Baltimore, MD

Ms. Jennifer Nizer  
President  
MD State Child Care Association  
Johns Hopkins Bayview Child Day  
Care

Mr. Steve Rohde  
Deputy Director of Resource and  
Referral  
Maryland Family Network

Ms. Kim Seidel  
Principal  
Greenbelt Elementary School  
Prince Georges Co. Public Schools

Ms. Sara Spross  
Chief, Non-Public Schools Approval  
Branch  
Division of Certification and  
Accreditation  
MSDE

Ms. JoAnn Ericson  
Chief, Certification Branch  
Division of Certification and  
Accreditation  
MSDE

Ms. Bebe Verdery  
Director  
Education Reform Project  
ACLU-MD



**Prekindergarten Regulations Workgroup  
September 2010  
Attachment 2**

**Mr. Michael Cockey  
Education Specialist  
Early Learning Branch  
Division of Early Childhood  
MSDE**

**Ms. Nancy Vorobey  
Section Chief  
Preschool Services Branch  
Division of Special Education  
MSDE**

**Ms. Annette Wood  
Principal  
George Washington Carver ES  
St. Mary's Co. Public Schools**

**Ms. Cheryl Yates  
Early Childhood Supervisor  
Calvert Co. Public Schools**

## IMPACT STATEMENTS

*Part A*  
(check one option)

### Estimate of Economic Impact

The proposed action has no economic impact.

or

The proposed action has an economic impact. Complete the following form in its entirety.

#### I. Summary of Economic Impact.

#### II. Types of Economic Impacts.

Revenue (R+/R-)  
Expenditure (E+/E-) Magnitude

A. On issuing agency:

B. On other State agencies:

C. On local governments:

Benefit (+)  
Cost (-) Magnitude

D. On regulated industries or trade groups:

E. On other industries or trade groups:

F. Direct and indirect effects on public:

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

**Part B**  
(check one option)

**Economic Impact on Small Businesses**

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

or

The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows.

**Impact on Individuals with Disabilities**  
(Check one option)

The proposed action has no impact on individuals with disabilities.

or

The proposed action has an impact on individuals with disabilities as follows:

The amended regulations allow LEA's to enroll three-year-old children into prekindergarten which provides for a smoother transition from Part C, Special Education programs into the Prekindergarten Program.

**Part C**

**(For legislative use only; not for publication.)**

- A. Fiscal Year in which regulations will become effective: **FY12**
- B. Does the budget for fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

No

- C. If yes, state whether general, special (exact name), or federal funds will be used:

- D. If no, identify the source(s) of funds necessary for implementation of these regulations:  
State Education funds

- E. If these regulations have no economic impact under Part A, indicate reason briefly:

Prekindergarten Programs are required to be provided by all LEA's for income eligible and homeless children. The amended regulations allow LEA's to provide programs for eligible three-year-olds, and bring the regulations into alignment with the Task Force on Universal Preschool recommendations for Preschool for All.

**Comparison to Federal Standards**

(Check one option)

There is no corresponding federal standard to this proposed regulation.

or

There is a corresponding federal standard to this proposed regulation. Please give corresponding federal standard and if the regulation is not more restrictive or stringent give justification.

or

In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

- (1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:
- (2) Benefit to the public health, safety or welfare, or the environment:
- (3) Analysis of additional burden or cost on the regulated person:
- (4) Justification for the need for more restrictive standards: