



Lillian M. Lowery, Ed.D.
State Superintendent of Schools

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TO: Members of the State Board of Education
FROM: Lillian M. Lowery, Ed.D. *Lillian M. Lowery*
DATE: May 20, 2014
SUBJECT: Report of Results of Regulatory Review

PURPOSE:

To share with the State Board the results of the Regulatory Review conducted by the Department of Title 13A. State Board of Education, Subtitles 13A.01-13A.06, Maryland Code of Regulations, and to request State Board authorization to submit these results in the Final Report to be prepared by the Department and submitted to the Joint Committee on Administrative, Executive, and Legislative Review and the Division of State Document on or before June 30, 2014.

BACKGROUND:

State Government Article, §§10-130—10-139, Annotated Code of Maryland requires that each State agency that adopts regulations must review those regulations every 8 years, unless exempt under §10-132.1. The purpose of the review is to determine whether the regulations are necessary for the public interest, continue to be supported by statutory authority and judicial opinion, or are appropriate for amendment or repeal.

The Maryland State Department of Education, in compliance with this article, submitted a plan in July 2013 to the Joint Committee on Administrative, Executive, and Legislative Review (AELR) to conduct such a review of the first subtitles of Title 13A, State Board of Education, Maryland Code of Regulations. The plan was approved by the AELR Committee in August 2013 and the Department proceeded to implement the review according to that plan. Notice was posted on the MSDE/State Board website and in Maryland Register notifying the public and stakeholders of the review and inviting comment. The initial review was conducted by Department staff with assigned responsibilities for the respective chapters of the subtitles. For each chapter, staff were asked to complete a review form (attached) as proscribed by the Division of State Documents.

While staff were completing their review of the regulations, invitations were sent out to a diverse group of stakeholder organizations inviting them to assist in the review and to designate representatives to serve on a Stakeholder Review Committee. All organizations and groups invited responded positively to the invitation by designating representatives (list attached). The results of the staff review of the regulations were sent out to the Stakeholder Review Committee in early February and the Committee met on March 10, 2014. All stakeholder groups with the exception of the Public School Superintendents Association of Maryland were represented at this meeting.

EXECUTIVE SUMMARY:

The purpose of the regulatory review is to determine if the regulations included under these subtitles:

- Continue to be necessary for the public interest?
- Continue to be supported by statutory authority and judicial opinion?
- Are obsolete or otherwise appropriate for amendment or repeal?
- Are effective in accomplishing their intended purpose?

The initial review of subject regulations was completed by staff, many of whom conferred with colleagues in the local school systems. A few staff convened groups of local colleagues to review and discuss the regulations. Public comment on the regulatory review was closed at end of January 2014. The only comments received were on COMAR 13A.04.13 Program in Physical Education. Four groups submitted comments on this Program advocating adoption of the National Physical Education Standards and requiring at least 150 minutes of physical education each week in our schools.

The Stakeholder Review Committee met on March 10, 2014 to discuss and share comments on the review. All organizations, with the exception of the Public School Superintendents Association of Maryland (PSSAM), had representatives at this meeting. The Maryland Association of Boards of Education (MABE) was the only stakeholder group to submit written comments. For the most part, MABE agreed with the actions proposed by staff while offering helpful editorial comments or ideas to consider. MABE, in many instances, advocated that Department staff work with representatives of small, medium, and large school systems in drafting the required amendments to the regulations. The Stakeholder Review Committee was provided time at the meeting in March to again review each of the chapters and the staff recommendations along with the MABE comments. No additional changes were suggested by the Committee. A brief summary of the meeting along with the MABE comments were sent to the PSSAM representative following the Stakeholder meeting. No comments have been received from PSSAM.

ACTION:

The State Board of Education is asked to approve all recommendations of proposed actions related to the regulations that were the subject of this Regulatory Review (Attachment 3) and to authorize the Department to incorporate these actions into the Final Report of the Regulatory Review which the Department will submit to the Joint Committee on Administrative, Executive, and Legislative Review and the Division of State Document on or before June 30, 2014.

Attachments (3)

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification:

Chapter Name:

Authority:

Date Originally Adopted or Last Amended:

Purpose:

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i) – (viii), Annotated Code of Maryland)

(1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

(2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the Maryland Register;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulations review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

- (6) Provide a summary of any relevant scientific data gathered.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

- (8) Provide a summary of any other relevant information gathered.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? ___ Yes ___ No

Has the agency promulgated all regulations required by recent legislation? ___ Yes ___ No

Provide explanations of the above responses, as needed:

D. Actions Needed. (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

- no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

Person performing review: _____

Title: _____

Stakeholder Review Committee

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Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
<p>Subtitle 01 STATE SCHOOL ADMINISTRATION</p> <p>13A.01.01 <u>State Board of Education</u></p>	<p>.01 To describe duties of the treasurer of the State Board</p> <p>.02-1 To establish authority of State Board to waive its regulations under certain circumstances.</p>	<p>No action.</p>
<p>13A.01.02 <u>State Superintendent of Schools</u></p>	<p>Define Duties of State Superintendent including those related to school construction and facilities.</p> <p>.03 Approval of Construction Plans-State Superintendent's approval of locally funded major construction projects</p> <p>.04 Facilities Assessment Survey – to report condition and adequacy of public school bldgs.</p> <p>.05 Facilities Required in Public Schools – to require school health suites and gymnasiums.</p>	<p>Amend to delete out of date statutory citations and monetary thresholds.</p>
<p>13A.01.03 <u>State Department of Education</u></p>	<p>To designate one of the Deputy State Superintendents to serve as Acting State Superintendent in State Superintendent's absence. MSDE work location and personnel policies relating to Outside and Secondary Employment as well as one-year leave of absence for educational reasons; only to be approved by the State Superintendent of Schools.</p>	<p>No action.</p>

Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
13A.01.04 <u>Public School Standards</u>	Establishes standards for school performance and school safety.	No action. Although this chapter could be revised to reflect the waiver Maryland has received, the waiver is time limited. If it is not renewed, these regulations reflecting all the NCLB requirements will control. No change at this time.
13A.01.05 <u>Appeals to the State Board of Education</u>	Establishes rules governing appeals to the State Board.	Amend to improve efficiency and effectiveness of the appeals process.
Subtitle 02 LOCAL SCHOOL ADMINISTRATION 13A.02.01 <u>Local Boards of Education</u>	Provides for rules for meetings of boards, records and reports, specific responsibilities including comprehensive liability insurance, and the length of the school year.	Amend to reference the Open Meetings Act and to make editorial changes.
13A.02.03 <u>Local Administrative and Supervisory Staff</u>	To provide for the accommodations, duties, and annual leave of Local Administrative and Supervisory Staff. Includes recommended staffing ratios.	No action.
13A.02.04 <u>Tobacco-Free School Environment</u>	To prohibit the sale or use of tobacco in any form in school buildings at all times and on school grounds during the official school day.	Amend to meet Center for Disease Control's definition of a comprehensive tobacco-free schools policy.

Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
13A.02.05 <u>Maintenance of Effort</u>	To establish process for utilizing the nonrecurring cost exclusion of MOE, and the process for obtaining a waiver.	Amend to reflect statutory changes.
13A.02.06 <u>General Financial Aid to Local School Systems</u>	This regulation provides guidance over the collection of enrollment eligibility for usage in the calculations for Bridge to Excellence program funding.	State Board of Education granted "Permission to Publish" amendments to this regulation in April 2014. The proposed amendments will allow FTE State Aid Payment to Local Education Agencies for students registered in a public school system and also enrolled full-time in a state-approved Institution of Higher Education when the student is receiving both high school and college credit for college courses completed.
13A.02.07 <u>Annual Audits of Financial Statements and Federal Awards</u>	Provides for an annual audit of local education agency's financial statements. The regulations also implement the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996 and the Office of Management and Budget Circular A-133.	No action.
13A.02.08 <u>Recognition of Employee Organizations</u>	Describes how union elections are to be conducted.	Repeal. Authority transferred to Public School Labor Relations Board.
13A.02.09 <u>Closing of Schools</u>	Establishes procedures for closing schools.	No action.

Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
<p>Subtitle 03 GENERAL INSTRUCTIONAL PROGRAMS</p> <p>13A.03.01 <u>Standards for Kindergarten Programs</u></p>	<p>This chapter sets forth the instructional program requirements applicable to public school kindergarten programs.</p>	<p>Amend to change the regulatory reference at Regulation .01B(1) to reflect the current chapter name of 13A.04.06 Program of Instruction in Personal Financial Literacy.</p>
<p>13A.03.02 <u>Graduation Requirements for Public High Schools in Maryland</u></p>	<p>This chapter sets out the enrollment, credit, student service, and State assessment requirements for graduation from a public high school in Maryland.</p>	<p>The State Board of Education granted “Permission to Publish” amendments to this regulation in April 2014 to make changes in terminology and to make substantive changes in response to:</p> <p>(1) the transition from the current Maryland High School Assessments to the new Maryland High School Assessments developed by PARCC; (2) the passage of the Maryland College and Career Readiness and College Completion Act of 2013; (3) the implementation of the Maryland College- and Career-Ready Standards; and (4) changes in Special Education transition planning.</p>
<p>13A.03.04 <u>Test Administration and Data-Reporting Policies and Procedures</u></p>	<p>Regulations related to test administration, data reporting and test security.</p>	<p>Amend to remove the High School Equivalency Program Test (GED) which was transferred to the Department of Labor, Licensing, and Regulation and to add the PARCC Assessments.</p>

Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
<p>13A.03.05 <u>Administration of Home and Hospital Teaching for Students</u></p>	<p>These regulations, which establish a minimum requirements, apply to the provision of instructional services to public school students who are unable to participate in their school of enrollment due to a physical or emotional condition.</p>	<p>Amend to update requirements.</p>
<p>Subtitle 04 SPECIFIC SUBJECTS</p> <p>13A.04.01 <u>Programs in Technology Education</u></p>	<p>Each local school system shall offer a technology education program in grades 9—12 which shall enable students to:</p> <p>(1) Meet graduation requirements; and (2) Select advanced technology education electives. The comprehensive instructional program shall: (1) Provide for the diversity of student needs, abilities, and interests in the high school learning years; and (2) Include the Maryland Technology Education Content Standards in §§C-G of this regulation.</p>	<p>No action.</p>
<p>13A.04.02 <u>Secondary School Career and Technology Education</u></p>	<p>The purpose of this regulation is to provide guidance on the enrollment criteria, and the application for and use of state funds and federal funds for career and technology education programs.</p>	<p>Repeal and Propose New Regulations</p> <p>Due to extensive revisions to the existing regulations, deleting the information on State Funds as these no longer exist after enactment of the Bridge to Excellence in Public Education Act, and adding Program Standards as well as defining a CTE student, it is much cleaner to repeal the existing regulations and adopt new ones.</p>

Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
13A.04.03 <u>Driver Education Programs</u>	To allow, but not require, local school systems to offer a Driver's Education Program.	Repeal. Participation in an approved driver education program is now required by the Maryland Department of Motor Vehicles. DMV offers a list of approved programs in the State. There are no school systems operating such programs.
13A.04.04 <u>Religious Education</u>	To establish that religious education is not a province of public schools.	No action required.
13A.04.05 <u>Education That is Multicultural</u>	The intent of this chapter is to provide for local school systems' guidelines and goals for education that is multicultural, that will enable the school systems to provide curricula, instruction, staff development, and instructional resources that are multicultural while recognizing our common ground as a nation. These will enable students to demonstrate knowledge, understanding, and appreciation of cultural groups in the State, nation, and world.	Amend. The Education That is Multicultural Network has been reviewing the regulation for approximately a year. A subcommittee is drafting amendments for review by LEAs and Assistant Superintendents for Instruction.
13A.04.08 <u>Program in Social Studies</u>	The purpose of the Social Studies COMAR is to provide regulations for a developmentally appropriate, instructional program each year for all students in the grades PreK – 8 th that advances students' understanding of political	Amend. Amendments to this chapter will be required to update the regulations and to incorporate the College, Career, and Civic Life Framework for Social Studies State Standards which were developed by Maryland

Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
	<p>science, peoples of the nation and the world, geography, economics, history, and social studies processes and skills. In Grades 9–12, a social studies program will enable students to meet graduation requirements (Government, U.S. History, Modern World History) along with appropriate electives.</p>	<p>educators in collaboration with educators from 22 other states.</p>
<p>13A.04.09 <u>Program in Science</u></p>	<p>Provide in public schools an instructional program in science each year for all students in grades prekindergarten—8; and offer in public schools a science program in grades 9—12 which enables students to meet graduation requirements and to select science electives.</p>	<p>Amend.</p> <p>Chapter needs to be amended to reflect the recently adopted Next Generation Science Standards.</p>
<p>13A.04.10 <u>Program of Instruction in the World of Work Competencies</u></p>	<p>Provide in the public schools a systematic instructional program in career development and decision making in accordance with the Maryland Career Clusters and Maryland Career Development Framework Grades Pre-K—Postsecondary /Adult which are incorporated by reference for all students in grades prekindergarten—12; and</p> <p>Ensure that before grade 9 each student shall develop an individual academic and career plan and update it in subsequent years.</p>	<p>Amend.</p> <p>Needs to be updated to include reference to the most recent version of the Career Development Framework.</p>

Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
13A.04.12 <u>Program in Mathematics</u>	Mathematics Instructional Programs for Grades Prekindergarten-12	The State Board of Education granted "Permission to Publish" proposed amendments to this chapter in April 2014. These proposed amendments were required to align the subject regulations in mathematics to the Maryland College and Career Ready standards and to incorporate the requirements of the College and Career Readiness and Completion Act of 2013.
13A.04.13 <u>Program in Physical Education</u>	Physical Education Instructional Programs for Grades Prekindergarten -12	Amend to include the National Standards for Physical Education in the regulations.
13A.04.14 <u>Program in English Language Arts</u>	Each local school system will provide in public schools an instructional program in English Language Arts/Literacy in grades Prekindergarten-12.	The State Board of Education granted "Permission to Publish" amendments to this chapter in April 2014. These amendments were proposed to align these regulations with the Maryland College and Career-Ready Standards for English Language Arts/Literacy.
13A.04.16 <u>Programs in Fine Arts</u>	Requirements for Fine Arts (Art, Dance, Music, Theatre) Instructional Programs for Grades K-12.	Amend to reflect new national standards.

Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
13A.04.19 <u>Program in Cosmetology</u>	Program approval in cosmetology.	Amend. Some regulations under this chapter are being proposed for amendment and some for repeal in alignment to regulations promulgated by the State Board of Cosmetology.
13A.04.20 <u>Program for Barbers</u>	Program approval and program completers for Barbers.	Amend. Some regulations under this chapter are being proposed for amendment and some for repeal in alignment to regulations promulgated by the State Board of Barbering.
<p>Subtitle 05 SPECIAL INSTRUCTIONAL PROGRAMS</p> <p>13A.05.01 <u>Provision of a Free Appropriate Public Education</u></p>	The purpose of this chapter is to implement Part B of the Individuals with Disabilities Education Act (IDEA), 34 CFR 300, and Education Article, Title 8, Subtitles 3 and 4, Annotated Code of Maryland, which assure a free appropriate public education (FAPE) for all students with disabilities, birth through the end of the school year in which the student turns 21 years old, in accordance with the student's Individualized Education Program (IEP).	Amend to reflect changes in terminology and to align with Maryland Infants and Toddlers regulations (COMAR 13A.05.01.03, .06, .07, .08, and .09).

Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
<p>13A.05.02 <u>Administration of Services for Students with Disabilities</u></p>	<p>To implement administrative procedures related to Part B of the Individuals with Disabilities Education Act (IDEA) 34 CFR 300, and Education Article, Title 8, Subtitles 3 and 4, Annotated Code of Maryland, which assure a free appropriate public education (FAPE) for students with disabilities, birth through the end of the school year in which the student turns 21 years old, in accordance with the student's Individualized Education Program (IEP).</p>	<p>Amend various regulations to align with revised references.</p>
<p>13A.05.03 <u>Programs of Adult Education</u></p>	<p>Provides for programs and funding for adult education.</p>	<p>Repeal. Adult Education was transferred to the Department of Labor, Licensing and Regulation.</p>

Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
<p><u>13A.05.04 Programs for Library Media Services</u></p>	<p>The purpose is to ensure that each local school system establishes and adequately maintains a quality school library media program, with appropriate staffing, in each school.</p> <p>Establishes standards and guidelines for the staffing, operations and financial management of Maryland public libraries.</p> <p>Provides guidelines for the County Library Capital Project Grants Program</p>	<p>Amend.</p> <p>Regulation .01 Changes are required to make the regulation more current and reflective of today's educational environment.</p> <p>Regulation .02 Changes required in response to changes in the General Requirements for Professional Certificates (COMAR 13A.12.01.05 B) which now require that all non-U.S. degrees be evaluated as foreign degrees for the purposes of MSDE certification.</p> <p>Regulation.08 Amend: Incorporate the wealth based match formula approved by the General Assembly in the 2013 session (23-510)</p>
<p><u>13A.05.05 Programs of Pupil Services</u></p>	<p>Each local school system shall provide a coordinated program of pupil services for all students which shall include but not be limited to: 1) School counseling; 2) Pupil personnel; 3) School psychology; and 4) Health services.</p>	<p>No action.</p>
<p><u>13A.05.07 Programs for Non-English and Limited-English Proficient Students</u></p>	<p>To provide instructional assistance and services to English language learners to acquire and improve English language skills and cultural understanding to become successful in the academic and</p>	<p>Amend.</p> <p>The current COMAR will be amended to reflect more recent guidelines and requirements of Federal Title III (Public Law 107-110),</p>

Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
	social settings.	Language Instruction for Limited English Proficiency and immigrant Students
13A.05.08 <u>Approved Paid Work-Based Learning Programs</u>	This chapter establishes a tax credit for businesses that employ work-based learning program students.	Repeal. The law has sunset therefore the regulations should be repealed.
13A.05.09 <u>Programs for Homeless Children</u>	This chapter establishes minimum requirements to ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth consistent with Title VII, Subtitle B of the McKinney-Vento Homeless Assistance Act as amended by the No Child Left Behind Act of 2001 (Public Law 107-10) Education for Homeless Children and Youth	No action. Regulatory amendments were adopted as recently as 2012.
13A.05.10 <u>Automated External Defibrillator Program in High Schools</u>	This chapter establishes the requirements of the Automated External Defibrillator Program mandated by Education Article, §7-425, Annotated Code of Maryland, for implementation by each county board for each high school in the county	Amend and reorganize. The State School Health Team will collaborate with MIEMSS to review and recommend amendments to COMAR 13A.05.10.01-.03 Automated External Defibrillator Program in High Schools to be consistent with the recent substantive changes to COMAR 30.06.01-.05 Public Access Automated External Defibrillator Program.

Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
<p>Subtitle 06 SUPPORTING PROGRAMS</p> <p>13A.06.01 <u>Programs for Food and Nutrition</u></p>	<p>The Department shall administer the following food and nutrition programs according to the following federal laws and the implementing regulations, which are incorporated by reference: 1) National School Lunch Program, 42 U.S.C. §1751, 1760, 1769a, and 1779, and 7 CFR Part 210;. 2) Special Milk Program, 42 U.S.C. §1772 and 1779, and 7 CFR Part 215; 3) School Breakfast Program, 42 U.S.C. §1773 and 1779, and 7 CFR Part 220.</p>	<p>Amend to provide consistency with federal implementation regulations.</p>
<p>13A.06.02 <u>Prekindergarten Programs</u></p>	<p>This chapter sets forth requirements for all publicly funded prekindergarten programs for all eligible 4-year-old children that are administered by local boards of education or qualified vendors.</p>	<p>No action.</p> <p>This chapter was extensively amended in 2011.</p>
<p>13A.06.05 <u>School Supplies and Equipment</u></p>	<p>The purpose of this regulation is to ensure that local school systems and public agencies purchase textbooks and instructional materials from publishers that agree to provide textbooks and materials in alternative formats in order to enable students with visual impairments, including blindness and other print disabilities, to access instructional materials.</p>	<p>Amend to address the accessibility of all textbook formats for students, including students with disabilities. This regulation was created and approved prior to the availability of digitally formatted textbooks.</p>

Summary of Amendments to COMAR 13A.01 through 13A.06

Subtitle/Chapter	Purpose	Proposed Action
13A.06.06 <u>Safety Equipment</u>	These regulations govern the use and care of protective eye devices in the public schools of Maryland for Career and Technology Education or Technology Education Laboratories, or Visual Arts Classrooms and Studios.	No action.
13A.06.07 <u>Student Transportation</u>	This chapter applies to the local school systems that provide transportation services for public school students and students with disabilities for whom transportation is provided under Education Article, §8-410, Annotated Code of Maryland, in a public school, a school maintained by a State agency, and a nonpublic school.	<p>Repeal and publish new regulations.</p> <p>As the result of extensive engagement with the 24 Directors of Transportation for local school systems, extensive changes were identified as necessary and appropriate.</p>

Last revised: 05/06/14