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State Superintendent of Schools

TO: Members of the State Board of Education

FROM: Karen B. Salmon, Ph.D.

DATE: March 26, 2019

SUBJECT: COMAR 13A.10.01.01 and .05
Home Instruction
PERMISSION TO PUBLISH

PURPOSE:

The purpose of this item is to request permission to publish proposed amendments to COMAR 13A.10.01.01 and .05, *Home Instruction*. (ATTACHMENT I).

REGULATION PROMULGATION PROCESS:

Under Maryland law, a state agency, such as the State Board, may propose a new or amended regulation whenever the circumstances arise to do so. After the State Board votes to propose such a regulation, the proposed regulation is sent to the Administrative, Executive, and Legislative Review (AELR) Committee for a 15-day review period. If the AELR Committee does not hold up the proposed regulation for further review, it is published in the Maryland Register for a 30-day public comment period. At the end of the comment period, Maryland State Department of Education (MSDE) staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because the suggested revision is not a substantive change; or (3) revise the regulation and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may recommend to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

BACKGROUND/HISTORICAL PERSPECTIVE:

As an alternative to enrolling in a public or private school, parents in Maryland may provide a home instruction program for their child in one of two ways: 1) under the supervision of the local school system; or 2) under the supervision of a nonpublic school or institution (that has either obtained a certificate of approval from MSDE or is operated by a bona fide church organization and is therefore exempt).

Completion of a home instruction program does not lead to a Maryland High School Diploma. If a child transfers from a home instruction program to a public school and meets all graduation requirements, then he or she may receive a Maryland High School Diploma. Another frequently used option is to obtain a Maryland High School Diploma by examination, which requires a child to successfully complete the General Educational Development (GED) test.

If a home instruction program is supervised by the local school system, the parent must maintain a portfolio of materials to demonstrate the provision of regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age. The portfolio is generally reviewed at the conclusion of each semester at such times as are mutually agreeable to the local school system and the parent. In addition to the portfolio review, the parent must agree to permit a representative of the local school system to observe instruction at a time and place that is mutually agreeable to both parties.

If a home instruction program is supervised by a nonpublic school or institution, the parent must either have pre-enrollment and periodic conferences with the school or institution, or be assigned a school-based teacher who can assist the parent in implementing the home instruction program. In addition, schools or institutions offering an educational program operated by a bona fide church organization must make annual visits to the site where the child is receiving instruction, which is usually the family home.

The proposed amendments are the result of stakeholder feedback. Local school systems do not provide funding for the level of staffing required to observe instruction, nor can they ensure staff safety in private homes. Given the increasing number of families utilizing home instruction, local school systems rely heavily on portfolio review. Nonpublic schools and institutions also find annual visits burdensome, and some have considered turning to technologies like Skype instead. Finally, several home instruction organizations have expressed concerns about supervision that includes observing instruction in the family home. Their concerns related to privacy as well as practicality (i.e., whether visiting the home to observe a single lesson leads to valid conclusions about the home instruction program).

While portfolio reviews and parent conferences would remain intact, the proposed amendments would eliminate references to observing instruction and annual home visits from the current regulations. This would bring Maryland into alignment with several other states, including Virginia, Pennsylvania, New York, and Massachusetts. Each of these states utilizes various methods to evaluate a child's progress (e.g., review of work samples, standardized assessments), but none of them requires first-hand observation of instruction or home visits.

EXECUTIVE SUMMARY:

For parents whose child's home instruction program is being supervised by the local school system, the proposed amendments would eliminate the need for the parent to agree to permit a representative of the local school system to observe instruction as part of the portfolio review process. For parents whose child's home instruction program is being supervised by a nonpublic school or institution, the proposed amendments would similarly eliminate annual visits by supervisory personnel to the site where the child is receiving instruction, which is usually the family home. The proposed amendments reflect current practice and available staffing in local school systems, as well as address the privacy concerns of home instruction organizations.

ACTION:

Request permission to publish proposed amendments to COMAR 13A.10.01.01 and .05, *Home Instruction*.

13A.10.01.01

.01 Home Instruction Program.

A. Purpose. The purpose of this regulation is to establish a procedure to be used by the superintendent of each local school system to determine if a child participating in a home instruction program is receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age.

B. Written Agreement.

(1) A parent or guardian who chooses to provide a home instruction program for his or her child shall initially sign a statement on a form prescribed by the State Department of Education which:

(a) Indicates consent to the requirements set forth in §§C, D, and E of this regulation; and

(b) Shall be submitted to the local superintendent at least 15 days before the beginning of a home instruction program.

(2) Annual Verification. Annually thereafter, before the beginning of the school year, a parent or guardian shall verify the continuation of home schooling for his or her child with the local school superintendent or with the supervising nonpublic school or institution described in Regulation .05 of this chapter.

(3) Change in Status. A parent or guardian shall notify the local school superintendent or the supervising nonpublic school or institution described in Regulation .05 of this chapter if a change occurs in the home school status of a child during the school year.

C. Instruction Program.

(1) The home instruction program shall:

(a) Provide regular, thorough instruction in the studies usually taught in the public schools to children of the same age;

(b) Include instruction in English, mathematics, science, social studies, art, music, health, and physical education; and

(c) Take place on a regular basis during the school year and be of sufficient duration to implement the instruction program.

(2) The home instruction program may include enrollment on a part-time or full-time basis in courses offered by accredited or unaccredited colleges.

D. Educational Materials.

(1) A parent or guardian who chooses to provide a home instruction program for his or her child shall maintain a portfolio of materials which:

(a) Demonstrates the parent or guardian is providing regular, thorough instruction during the school year in the areas specified in §C(1);

(b) Includes relevant materials, such as instructional materials, reading materials, and examples of the child's writings, worksheets, workbooks, creative materials, and tests; and

(c) Shall be reviewed by the local superintendent or the superintendent's designee at the conclusion of each semester of the local school system at such times as are mutually agreeable to the local superintendent or designee and the parent or guardian.

(2) A parent or guardian who chooses to enroll his or her child under §C(2) of this regulation may elect to provide to the local superintendent or the superintendent's designee a copy of a report card or transcript from the accredited or unaccredited college at the conclusion of each semester of the accredited or unaccredited college in lieu of a portfolio of materials for the courses in which the child is enrolled under §C(2) of this regulation.

E. A parent or guardian shall agree to permit a representative of a local school system to review the portfolio of educational materials[,] *and* discuss the instructional program, [and observe instruction] provided that all of the following requirements are met:

(1) The review is at a time and place mutually agreeable to the representative of the local school system and the parent or guardian;

(2) The purpose of the review is to ensure that the child is receiving regular, thorough instruction as set forth in §C; and

(3) There are not more than three reviews during a school year.

F. Additional Requirements. A local school system may not impose additional requirements for home instruction programs other than those in these regulations.

13A.10.01.05

.05 Home Instruction Under Supervision of Nonpublic School or Institution.

A. A parent or guardian may provide a home instruction program for his or her child without compliance with the requirements of this regulation, other than the requirements of Regulations .01B(1)(b) and .04 of this chapter, if that program offers regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age and is under the supervision of a:

(1) School or institution offering an educational program operated by a bona fide church organization, and the supervision includes at a minimum all of the following components:

(a) Preenrollment conferences with parents or guardians[.];

(b) Textbooks, lesson materials, and other instructional materials or equipment designed to be used independently by the pupil at a site other than a school[.]; *and*

[(c) Annual visits by supervisory personnel to the site where the pupil is receiving instruction, and]

(c[d]) Conferences with parents or guardians at appropriate intervals during the period of enrollment; or

(2) Nonpublic school with a certificate of approval from the State Board of Education, and the supervision includes at a minimum all of the following components:

(a) Textbooks, lesson materials, and other instructional materials or equipment designed to be used independently by the pupil at a site other than a school; and

(b) Assignment of a school-based teacher to assist the home teacher in implementing the home instruction program and to assist the pupil by issuing progress reports, marking papers, and grading tests.

B. The home instruction program may include enrollment on a part-time or full-time basis in courses offered by accredited or unaccredited colleges.

C. Annual Verification. The supervising nonpublic school or institution described in §A of this regulation annually shall:

(1) Verify with the local school superintendent the identification of home schooled students whose instruction is continuing under its supervision;

(2) Notify the local school superintendent of the identification of home schooled students whose instruction is newly added to its supervision; and

(3) Provide the local school superintendent with the identification of home schooled students whose instruction is no longer under its supervision.

D. Change in Status. The supervising nonpublic school or institution described in §A of this regulation shall notify the local school superintendent if a change occurs in the status of a home schooled student whose instruction was under its supervision during the school year.