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**TO:** Members of the State Board of Education

**FROM:** Karen B. Salmon, Ph.D.

**DATE:** September 19, 2017

**SUBJECT:** COMAR 13A.05.01.08  
*Individualized Education Program (IEP) Team Responsibilities (AMEND)*  
**ADOPTION**

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**PURPOSE:**

To request adoption of the amended regulations that govern the responsibilities of the IEP team, specifically with regard to blind or visually impaired students (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 Committee (AELR) 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, MSDE staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board of Education 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:**

In 2015, the General Assembly amended Education Article § 8-408, Annotated Code of Maryland, to require that orientation and mobility (O&M) instruction be included in the IEP of a student who is blind or visually impaired, unless the IEP team determines through an O&M assessment that such instruction is not appropriate for the student. The term “orientation and mobility” means instruction provided to a student who is blind or visually impaired to enable the student to attain systematic orientation to and safe movement within the student’s school, home,

and community environments. At a minimum, the required O&M assessment must: 1) contain input from the student's parent or guardian; 2) contain input from the student's classroom teacher; and 3) consider the student's age, current and future needs, ability to function in familiar and unfamiliar areas, and ability to function under various lighting conditions. The General Assembly specifically instructed the State Board to adopt regulations defining who is qualified to conduct the required O&M assessment. The MSDE convened an O&M workgroup to prepare the proposed amendment, which consisted of representatives from:

- Teacher of Visually Impaired, Anne Arundel County Public Schools
- Office of the Attorney General
- Teacher of Visually Impaired, Baltimore County Public Schools
- Parents, Carroll County
- Teacher of Visually Impaired, Frederick County Public Schools
- Teacher of Visually Impaired, Howard County Public Schools
- Maryland School for the Blind
- Maryland Parents of Blind Children
- Teacher of Visually Impaired, Maryland, Mid-Shore Consortium
- Professor of Orientation and Mobility, College of Education, University of Arizona
- National Federation of the Blind

### **EXECUTIVE SUMMARY:**

The purpose of the proposed amendment to the regulations is to implement a new requirement in Education Article § 8-408, Annotated Code of Maryland. The proposed amendment informs IEP teams of the statutory requirement to include O&M instruction in the IEP of a student who is blind or visually impaired, unless the IEP team determines that such instruction is inappropriate and conducts an O&M assessment to substantiate that determination. The proposed amendment outlines the statutory elements of the O&M assessment and, as directed by the General Assembly, establishes the qualifications for an individual to conduct the assessment. To be qualified to conduct the required O&M assessment, an individual must: 1) hold a Bachelor's degree from an accredited college or university; and 2) have completed one of three credentialing options listed in the proposed amendment. To be credentialed, an individual must either hold certification from one of two nationally-recognized organizations in O&M or complete all requirements of a university-based program in O&M, including a supervised internship or externship.

At the January 24, 2017 meeting, the State Board gave approval for the proposed amendments to be published in the Maryland Register. The amendments were published in the Maryland Register from July 21, 2017 through August 21, 2017. No comments were received.

### **ACTION:**

Request adoption of the proposed amendments to COMAR 13A.05.01.08 *Individualized Education Program (IEP) Team Responsibilities*.

(2) Be issued a School Vehicle Tag Certification (Form EP-216) for tags after being acceptance inspected by the Administration for compliance with COMAR Construction Standards 11.19.02.20 Color and Identification (Lettering) in addition to all equipment necessary for Head Start Transportation in the Code of Federal Regulations, Title 45, §1310.

(3) Submit a School Vehicle Contract Certification (EP-211) written contract certification to the Administration that the vehicle used for Head Start transportation will only be transporting children to and from a Head Start program.

(4) Be issued a Head Start Vehicle registration plate that is centrally issued by the Administration pursuant to Transportation Article, §13-420, Annotated Code of Maryland, after approval from the School Vehicle Safety Section.

B. A head start vehicle shall be constructed with materials that enable it to meet all criteria of the school bus seat upholstery fire block test established by the National School Transportation specifications and procedures adopted at the most recent National Congress on School Transportation.

CHRISTINE NIZER  
Administrator  
Motor Vehicle Administration

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 05 SPECIAL INSTRUCTIONAL PROGRAMS

### 13A.05.01 Provision of a Free Appropriate Public Education

Authority: Education Article, §§2-205, 7-305, 8-301—8-307, 8-3A-01—8-3A-08, and 8-401—8-416; Human Services Article, §§8-401—8-409; Labor and Employment Article, §§11-801 and 11-901 et seq.; State Government Article §9-1607.1; Annotated Code of Maryland  
Federal Statutory Reference: 20 U.S.C. §§1411—1416; Federal Regulatory References: 34 CFR 99, 300, and 301

#### Notice of Proposed Action [17-191-P]

The Maryland State Board of Education proposes to amend Regulation .08 under **COMAR 13A.05.01 Provision of a Free Appropriate Public Education**. This action was considered by the State Board of Education at their meeting held on January 24, 2017.

#### Statement of Purpose

The purpose of this action is to align Regulation .08 with Education Article §8-408, Annotated Code of Maryland. The proposed amendments inform Individualized Education Program (IEP) teams of the requirement to include orientation and mobility (O&M) instruction in the IEP of a student who is blind or visually impaired, unless the IEP team determines that such instruction is inappropriate and conducts and O&M assessment to substantiate that determination.

#### Comparison to Federal Standards

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:

34 CFR 300.34 states that orientation and mobility services are “related services” under the Individuals with Disabilities Education Act (IDEA), but it does not direct the Individualized Education Program (IEP) team’s consideration of those services. COMAR 13A.05.01.08 is more stringent than federal standards because it would require an orientation and mobility assessment any time that an IEP team determines orientation and mobility services to be inappropriate, in order to substantiate the IEP team’s determination.

(2) Benefit to the public health, safety or welfare, or the environment:

The benefit of the proposed regulation is to confirm that students who are blind or visually impaired receive appropriate orientation and mobility services as part of their educational program, and that the IEP team assesses current and future needs before denying those services.

(3) Analysis of additional burden or cost on the regulated person:

The additional burden consists of conducting orientation and mobility assessments each time an IEP team determines orientation and mobility services to be inappropriate. The burden will vary depending on the number of students who are blind and visually impaired and for whom orientation and mobility services were initially determined to be inappropriate. A local school system may need to hire more staff, pay contractors, or train existing staff so that enough qualified individuals are available to conduct assessments and provide instruction.

(4) Justification for the need for more restrictive standards:

The more restrictive standards are necessary to comply with Education Article §8-408, which was amended by the General Assembly in 2015 to ensure that students who are blind and visually impaired are not under-identified for orientation and mobility services.

#### Estimate of Economic Impact

**I. Summary of Economic Impact.** To ensure that all students who are blind or visually impaired receive appropriate and adequate instruction in Orientation and Mobility, including safe and efficient travel skills, the new regulations require that all blind or visually impaired students receive either orientation and mobility instruction or, if such instruction is determined to be not appropriate, an orientation and mobility assessment to verify that initial determination. Local school systems may need to hire more staff, pay contractors, or train existing staff to administer such assessments and, as appropriate, provide orientation and mobility instruction.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	(E+)	Unknown

	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.)

C. Will vary by local school system and be driven by the Individualized Education Programs of each student eligible.

**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 an impact on individuals with disabilities as follows:

Under the new regulation, students who are blind or visually impaired will have an assumed need for Orientation and Mobility instruction. If the Individualized Education Program team determines such instruction to be inappropriate, a qualified individual is required to conduct an orientation and mobility assessment to ensure current and future needs are addressed.

**Opportunity for Public Comment**

Comments may be sent to Carmen A. Brown, LCSW-C, Brach Chief, Interagency Collaboration, Division of Special Education/Early Intervention Services, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-7197 (TTY 410-333-6442), or email to carmen.brown1@maryland.gov, or fax to 410-333-1571. Comments will be accepted through August 21, 2017. A public hearing has not been scheduled.

**Open Meeting**

Final action on the proposal will be considered by State Board of Education during a public meeting to be held on September 19, 2017, 9:00 a.m., at 200 West Baltimore Street, Baltimore, Maryland 21201.

**.08 Individualized Education Program (IEP) Team Responsibilities.**

A. IEP Development.

(1)—(5) (text unchanged)

(6) *Blind or Visually Impaired Students.*

(a) If a student is blind or visually impaired, the IEP team shall provide for instruction in:

(i) [braille] *Braille* and the use of braille, including textbooks in braille, unless the IEP team determines that instruction in braille is not appropriate for the student in accordance with 34 CFR §300.324(a)(2)(iii), Education Article, §8-408, Annotated Code of Maryland, and COMAR 13A.06.05.01[. ]; and

(ii) *Orientation and mobility, unless the IEP team determines that instruction in orientation and mobility is not appropriate for the student in accordance with Education Article, §8-408, Annotated Code of Maryland, and §A(6)(b)—(d) of this regulation.*

(b) *If the IEP team determines that instruction in orientation and mobility is not appropriate for the student, the IEP team shall order an orientation and mobility assessment, consistent with guidelines established by the Department, that:*

(i) *Includes input from the student’s parent or guardian;*

and (ii) *Includes input from the student’s classroom teacher;*

(iii) *Takes into consideration the student’s age, current and future needs, ability to function in familiar and unfamiliar areas, and ability to function under various lighting conditions.*

(c) *To be qualified to conduct an orientation and mobility assessment under §A(6)(b) of this regulation or provide orientation and mobility instruction, an individual shall:*

(i) *Hold a Bachelor’s degree from an accredited college or university; and*

(ii) *Have completed any one of the credentialing options listed in §A(6)(d) of this regulation.*

(d) *Credentialing Options. To meet the credentialing requirement under §A(6)(c) of this regulation, an individual may:*

(i) *Hold a certificate as a Certified Orientation and Mobility Specialist (COMS) from the Academy for Certification of Vision Rehabilitation and Education Professionals (ACVREP);*

(ii) *Hold National Orientation and Mobility Certification (NOMC) from the National Blindness Professional Certification Board (NBPCB); or*

(iii) *Complete all requirements of a university-based program in orientation and mobility, including a supervised internship or externship in orientation and mobility.*

(7)—(11) (text unchanged)

B. (text unchanged)

KAREN B. SALMON, Ph.D.  
State Superintendent of Schools

**Title 14  
INDEPENDENT AGENCIES  
Subtitle 28 CANAL PLACE  
PRESERVATION AND  
DEVELOPMENT AUTHORITY**

**14.28.08 Procurement**

Authority: Financial Institutions Article, §13-1008(4), Annotated Code of Maryland

**Notice of Proposed Action**

[17-184-P]

The Canal Place Preservation and Development Authority proposes to amend Regulations .02—.14 under **COMAR 14.28.08 Procurement.**

**Statement of Purpose**

The purpose of this action is to revise, update, and clarify the procurement regulations for the Canal Place Preservation and Development Authority (CPPDA).

With limited exceptions, the CPPDA is exempt from the regulations that govern procurement for most State agencies. (See Financial Institutions Article, §13-1027, Annotated Code of Maryland.) Instead, the CPPDA is required to have “written policies and procedures” governing procurement which cover issues including methods of procurement, advertising requirements, procurement goals, and approval processes. To this end, the CPPDA first adopted procurement regulations in 1995, which were last updated, in part, in 2009. A wholesale revision of the regulations has never occurred, and as the result the existing regulations are out-of-date, lack clarity in many respects, and are in some ways inconsistent with current best practices in procurement. Also, dollar thresholds for certain levels of