

President Sumpter, Vice President Halle, Superintendent Salmon and Members of the State Board of Education,

On June 24th I sent an email to the State Board of Education to share my concern about the use of restraint and seclusion. In my email, I asked what the State Board is doing to provide oversight to the Maryland State Department of Education and the local school systems to ensure restraint and seclusion are being used per state law. I asked if you, as a member of the State Board, felt that seclusion is an appropriate intervention in a non-clinical school setting. I asked you why you think that five states have been able to successfully ban the use of seclusion and Maryland has not.

I received a response from MSDE a month later. However, the response did not address any of my questions. The letter suggested that I was seeking information on the State Board's position on restraint and seclusion, which I was not. I was told that MSDE convened a Task Force as required by 2017 legislation and that the Task Force created a report that was shared with the Board of Education. This, of course, does not even answer the question suggested by MSDE. However, the greater irony here is that the Superintendent and the Board of Education did not implement the most significant recommendation of the Task Force.

I assume that each of you has seen the 2018 Restraint and Seclusion report. It is this report that made me aware that our county, had the highest rate of seclusion and the second-highest rate of restraint in the state. The data combined with my son's experience being inappropriately restrained and secluded led me to raise the issue with our local school system. In response to community concerns, our county formed a Restraint and Seclusion Committee and recently passed a new policy to reduce and eliminate restraint and seclusion. I applaud Superintendent Curry and the Calvert County Board of Education for taking appropriate action. While this is great progress what is MSDE doing to address high

rates of restraint and seclusion in other counties including Frederick, Charles, Washington, and Baltimore?

According to Maryland State law, restraint and seclusion should only be used in situations that involve the threat of imminent serious physical harm. This means these crisis management approaches should only be used in life or death situations or those that could lead to serious bodily injury. The truth is these situations should be so rare that when a district reports hundreds of them in a school year MSDE should be investigating. As I'm sure you are aware, these interventions disproportionately impact children with disabilities and minorities, which raises an important civil rights issue. This is a serious issue that demands your attention.

There are far better ways to work with children and make our schools safer for the children, teachers, and staff such as Ukeru. Ukeru is a trauma-informed crisis management alternative that values comfort over control. There are proven models like the Collaborative Proactive Solutions model that focuses on proactively solving problems and addressing challenging behaviors. We can and must do better for our children across the state. I will be providing my contact information and would appreciate it greatly if each of you could touch base with me so that we can set up a meeting.

Contact Information:

Guy Stephens

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State Board of Education
Nancy S. Grasmick State Education Building
200 West Baltimore Street
Baltimore, MD 21201

September 24, 2019 State Board of Education Public Testimony

My name is Shaun Rose. I am the President of Rock Spring Children's Center, a nonprofit child care and preschool with 50 employees serving 176 infant through preschool children. For the past 10 years, I have attempted to serve my community as a representative of child care providers, in both an elected capacity on the boards of our State and local child care associations, and in an appointed capacity on several commissions and workgroups advising our governmental entities on child care issues.

The proposed changes to the licensing regulations and the process we have gone through over the past 2 years to get our concerns addressed show a great need for more accountability and oversight of MSDE.

It is important to keep in mind that unlike other divisions of MSDE, the Division of Early Childhood (DEC) must interact with about 8000 child care programs serving over 200,000 children. In addition, DEC conducts criminal background checks and processes other necessary paperwork requirements for tens of thousands of child care workers each year.

DEC also manages child care subsidy (now called "scholarship") qualification determinations for thousands of parents and subsidy payments to providers for about 14,000 children each month totaling about \$80 million in 2017. These numbers have likely increased significantly as child care scholarship qualification levels and funding was nearly doubled for this year.

Thus, there is a significant customer service element to DEC's responsibilities that are unlike other divisions. Yet, DEC's performance on these issues is not something for which they are held accountable as they do not track important metrics necessary to do so and often deny that problems exist when providers and parents raise concerns.

The September 2019 Audit of DEC conducted by the Office of Legislative Audits (OLA) points out that more oversight is needed in several important aspects of DEC's work stating that DEC "did not ensure that sufficient safeguards existed to protect children in the care of regulated facilities." What is truly shocking about this is that the same issues were pointed out to MSDE three years ago as noted in the attached news article. Some of MSDE's responses to the audit, contained in the appendix to the Audit Report, are unbelievable in their refusal to comply with the auditor's recommended fixes or even to acknowledge that problems exist.

Child Care providers have been complaining for years about the time it takes DEC to process paperwork. Paperwork is often lost, requiring providers to resubmit information multiple times, including the notarized forms MSDE needs to do background checks. Paperwork such as Personnel



Qualification Evaluations (PQEs) often take weeks or months. These are necessary for providers to maintain compliance with licensing staffing regulations and for teachers to be able to get raises and credentialing bonuses. It is well known that one of the major causes of the problem is that, in addition to licensing specialists' caseload being nearly twice the national recommendations, the electronic management system purchased many years ago for millions of dollars known as CCATS, has never worked properly.

One of the fixes the Auditor recommends is logging information when it is received by DEC on new hires and other paperwork that is required to be sent to licensing specialists. Without such a log, there is no way to know how long it is taking for specialists to process background checks and PQEs. MSDE says, in its response to the Audit Report, that it is recorded when it is entered into the CCATS system. However, the time it takes between receipt of the information from a child care program and the specialist entering it into the system could be weeks, months or even years.

There was supposed to be a portal in the CCATS system for child care providers to electronically upload documents to the system which would have then recorded the date of receipt. Unfortunately, this portal has never worked correctly. No one has ever explained why, no one ever seemed to have been held accountable, and there is a real concern that the problem may be repeated.

MSDE's quality rating system, EXCELS, was launched with much better technology and did permit providers to upload documents. However, this technology is also now malfunctioning, and it does not seem that MSDE knows when, or even if, it will be fixed. MSDE has stated that it may be purchasing a new system to replace CCATS, but it seems legitimate to wonder whether the same problems will be repeated.

When MSDE responds to a DLA Audit and to requests from AELR to hold regulations, is it any wonder that the concerns of child care providers are routinely ignored in MSDE's decision-making process?

As such, I ask that the Board institute more accountability and oversight procedures on MSDE and insist that MSDE withdraw the proposed licensing regulations until they have addressed provider concerns.

I would welcome the opportunity to talk or meet with any Board member that is interested in knowing more. My email address is Shaun@RockSpringCC.com.

Attachments:

- "Audit finds flaws in Md. child care facility background checks" 7/2/16
<https://wtop.com/education/2016/07/audit-finds-flaws-md-child-care-facility-background-checks/>

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September 24, 2019

Public Testimony on Proposed Changes to the Child Care Licensing Regulations

My name is Ross Flax and I am the owner of 5 Goddard Schools, 4 in Maryland and 1 in Virginia, with over 200 employees, serving almost 1000 children from 6 weeks to 5 years old.

I am here because I'm concerned.

I'm concerned because child care is a tough business where the cost to run a quality program means that we have incredibly thin operating margins to make a business viable. I'm concerned because I know our parents can't afford to pay more, but if we (and by that, I mean MSDE AND providers together) can't figure out solutions, our parents will not have the child care they need to make their lives work.

I'm concerned because it often seems like MSDE is not sensitive to these issues. While I am in favor of the high safety and quality standards that come from our current regulations, I'm concerned when MSDE continues to add on more unnecessarily complex requirements with little sensitivity to the increased costs and little evidence of improved outcomes for children. As noted in the attached letter from Elizabeth Kameen, MSDE did not consider the impact these proposed changes to the child care licensing regulations have on child care businesses.

When it comes to kids, strong regulation is good, but I'm concerned because, there is a tipping point, and the impact to child care costs must be more prominently considered in MSDE's decision-making. We need the Maryland State Board of Education to provide strong oversight and accountability to ensure MSDE strikes the right balance.

I'm concerned because providers expressed objections to these regulatory changes from the moment we first learned of these proposals 2 years ago. We offered to meet and discuss them several times since then, but MSDE refused. Thus, when the regulations came out for public comment, stakeholders submitted comments in record numbers.

I'm also concerned because, in addition to unnecessarily adding costs to child care programs, this set of proposed regulations is a great example of regulatory over-reach, even going so far as to strip providers of due process rights by relieving the government of the burden of showing that a provider had an "intent to deceive" in a fraud case. This gives MSDE almost unlimited authority to shut down any child care program it chooses at any time. It shows how far out of balance things are with MSDE and begs for more oversight and intervention by the Board. If MSDE can get this regulatory change through, it can get through virtually anything it wishes.

Because part of the regulatory promulgation process involves review by the State Legislature's Joint Committee on Administrative, Executive, and Legislative Review ("AELR"), we appealed

to our legislators. They believed there were enough concerns that on April 1, 2019, AELR issued a request that MSDE hold the regulations and meet with stakeholders. MSDE ignored this request, refused to meet with the providers and simply moved forward with a slightly revised set of regulations which failed to address the majority of our objections. It seems likely MSDE will ignore our objections once again.

Please address my concerns by revoking the authority to publish these proposed licensing regulations until MSDE reaches more of a consensus with child care providers. If that is not feasible at this point, please reject adoption of these proposed regulations if MSDE does not use the publication and comment process to make the necessary changes we have proposed.

Thank you.

I would welcome the opportunity to talk or meet with any Board member that is interested in knowing more. My email address is RFlax@GoddardKingFarm.com.

Attachments:

- 6/4/19 Letter from Liz Kameen agreeing that MSDE should have done a more thorough fiscal analysis
- 4/1/19 AELR Letter asking MSDE to hold the regulations and meet with stakeholders to reach consensus



MADTECC

Maryland Association of
Directors of Teacher Education at
Community Colleges

**Maryland State Board of Education
September 24, 2019**

Debra Poese, Montgomery College
Public Comment

Thank you for the opportunity to provide public comment regarding the Board's consideration of publishing new regulations in the Maryland Code of Regulations (COMAR), specifically the 13A.07.06 Programs for Professionally Certificated Personnel. I am a faculty member in mathematics and teacher education at Montgomery College. I am here today representing the Maryland Association of Directors of Teacher Education at Community Colleges to support the recommendation of the Professional Standards in Teacher Education Board to delay publication of these revised regulations.

I have been teaching since I entered my first high school math class in Charles County in 1981. I strongly support the need to prepare our teachers for the classroom with research based practices and significant school experiences and am extremely proud of the excellent work already being done by Maryland's public and private teacher preparation programs. I have served on several workgroups and task forces in the state addressing continuing improvement of our schools and our teachers, all of which provided information for the work of the Kirwan Commission.

The draft regulations, while attempting to raise the bar for the preparation of teachers in Maryland, also appear to be narrowing an already dangerously small pipeline of teacher candidates in Maryland. These regulations assume students can afford prolonged periods of unemployment while completing the required clinical experiences, something which is quite simply not possible for most of the students with whom my MADTECC colleagues and I work.

In addition, the ready pool of support staff such as paraeducators who work within our local school systems would be unable to pursue the programs under the clinical requirements outlined in the proposed regulations, and the status of our Maryland Approved Alternative Preparation Programs seems to be in jeopardy.

Other components of the proposal, including the list of Maryland State Competencies, need significant additional review and revision before being published as recommendations from this body and from PSTEB.

We respectfully support the delay in publishing the regulations pending further action from the Kirwan Commission and additional revision based on stakeholder input.

Public Comment for the Maryland State Board of Education

Jennifer Frank, Ph.D., Vice President for Academic Affairs

September 24, 2019

On behalf of the 11 members of the Maryland Independent College and University Association (MICUA) that offer educator preparation programs, I appreciate the opportunity to provide testimony on “Programs for Professionally Certificated Personnel” (COMAR 13A.07.06) and “Educator Licensure” (COMAR 13A.12.01.07). As MICUA shared in public comment at the June State Board meeting, we have serious concerns with these regulations as currently drafted. The proposed regulations establish stagnant rules and standards for the State’s educator preparation programs; provide little to no flexibility for innovation; inhibit the ability of campuses to respond to market demand and K-12 partner needs; and create barriers that will deter students from pursuing the teaching profession. Further, we are concerned about the lack of stakeholder involvement in the development of these regulations and the lack of consideration for the financial and human resource capacity of both K-12 and higher education to implement these new mandates. We ask that you consider and address these issues and concerns before approving any regulations for publication.

I had the opportunity to attend and observe the July, August, and September meetings of the Professional Standards and Teacher Education Board (PSTEB) as members carefully considered these draft regulations and decided on their course of action. PSTEB members solicited extensive feedback from the stakeholder groups they represent and engaged in hours of thoughtful discussion and deliberation. Their decision to vote against these regulations was not made quickly or lightly. As you will hear from PSTEB Chair Chris Lloyd, PSTEB shares the State Board’s interest in raising standards for teachers, requiring rigorous educator preparation, and increasing the teacher candidate pipeline. As practitioners in the field, members also have a keen understanding of the impact and consequences regulations have on teachers, school administrators, local school systems, teacher candidates, and educator preparation programs. PSTEB determined the proposed regulations would negatively impact stakeholders and voted against publication. I urge you to support PSTEB’s position and its recommendation to delay action on these regulations until members from both boards have had the opportunity to meet, review comments and feedback, and jointly determine a course of action.

Finally, it is important to note that the Kirwan Commission has not yet completed its work or made final recommendations. These recommendations will have broad implications for elementary and secondary students, teachers, local school systems, educator preparation programs, institutions of

higher education, and other stakeholders for decades to come. We anticipate and welcome bold and impactful recommendations aimed at improving elementary and secondary education and educator preparation in Maryland. At the same time, we realize that change of this magnitude will require significant resource commitments and a State regulatory environment that ensures accountability while providing flexibility, promoting innovation, and fostering stakeholder engagement and buy-in. Both the State Board and PSTEB are positioned to create such an environment and should play a central role in leading these change efforts. Taking the time necessary to complete the regulatory process will yield better outcomes and result in less costly, more efficient, and more innovative reforms to realize the goals and vision of the Kirwan Commission for a world-class education system in Maryland.



STEB PROFESSIONAL STANDARDS AND TEACHER EDUCATION BOARD
Maryland State Department of Education

Dear Colleagues,

We are writing to request a conference committee composed of three State Board of Education members and three PSTEB members for the purpose of seeking consensus and compromise on language contained in COMAR 13A.12 (Educator Licensure) and COMAR 13A.07.06 (Programs for Professionally Certified Personnel). We believe the formation of such a committee, prior to publication, would be beneficial and provide an opportunity to build investment among various stakeholders as we together seek to revise applicable COMAR language.

COMAR 13A.07.06 (Programs for Professionally Certified Personnel)

We share an interest that educator preparation and induction programs need to be integrated systematically and connected to the work of the Kirwan Commission. We also share an interest in a rigorous and comprehensive induction sequence, that effectively and efficiently prepares candidates for success in a Maryland classroom. We believe increasing the number of candidates enrolled in Maryland preparation programs is beneficial, as these candidates have a greater longitudinal understanding of our children than do candidates from other states.

We have concerns that adopting regulatory language before Kirwan Commission recommendations are finalized could lead to potential conflicts and suggest it best that we not get too far in front of the Commission's work. We share concerns that until the funding formulas are finalized by the legislature and Governor, costs associated with the revised COMAR could result in several unfunded mandates on LEAs. These include, but are not limited to, the reduced teaching workload of supervising teachers and the teacher leadership track/career lattice. We also share concerns about protecting the privacy of personnel data, and our ability as a state to track alumni data in teacher preparation programs.

We know the bold and robust changes described in COMAR will require capacity building in LEAs and in higher education partners. Revisions should attend to this capacity building, as investment of all parties is preferable to compliance. Suggested changes in COMAR will be transformative to higher education calendars, processes of renewal, oversight and revocation, as well as on credit counts. Teacher preparation programs must be robust, and mindful of requirements that could be overly prescriptive in nature. In addition, the importance of research-based literacy instruction for candidates should allow for bounded flexibility within a framework. Therefore, it is important to align the work, and utilize learnings from the existing pilots created by the Teacher Preparation Collaborative Grant Program awarded this year.

We believe there are ample opportunities to "grow our own" using paraprofessionals who live and work in our communities and wish to alleviate obstacles in COMAR to build this pipeline to fully licensed professionals.

We believe the teacher competencies described in COMAR are important to the profession and have significant implications not only on teacher preparation programs, but on professional learning and development of in-service teachers. As such, we believe it is critical to further examine the competencies, some in which we express grave concerns as currently written (i.e. cultural responsiveness).

COMAR 13A.12

Currently (Certification)

Proposed (Educator Licensure)

We share an interest in ongoing effective job-embedded professional development for educators in Maryland, as a part of continued licensure, and growth. We believe raising the bar for the profession, working with our higher education partners, and developing and maintaining rigorous programs for entering into and growing in the profession are critical to our long-term efficacy.

We know that teaching is a complex profession and demands an equally complex system of professional growth and development, acknowledging the multiple ways teachers grow, how they grow, and how we acknowledge that growth in the context of licensure. Such systems are critical to building and maintaining a robust pipeline of teacher candidates for our young scholars.

We believe professional development surrounding the five areas listed in the proposed regulatory language could be more flexible, while maintaining the intent of having well-rounded educators.

We have concerns the timeline and process for approval of professional development plans may create an unintended bottleneck in the principal's office, where much work already resides. The PDP is a critical element and must be implemented with fidelity and opportunities for reflection in order to be successful.

The proposed changes in licensure structure and nomenclature creates a transitional period which should be addressed in language, such that existing certificated professionals can understand and engage in licensure processes, while continuing to educate children. We also believe there should be a limitation on the proposed initial licensure period. In addition, we recognize the value of National Board Certification within the context of the career ladder in the Kirwan Commission. We understand the Commission discussed, at length, the need to create two equally robust tracks for administration and teaching. At present, the administrative track requires a master's degree, while the teaching track does not, creating an opportunity for further discussion of parity.

In smaller schools, we have concerns that the time limitation described in teaching outside the area of licensure may prove to be problematic. We suggest examining the possibility of allowing more time to gather credits in a licensure area, as the current language may have the unintended consequence of terminating a program of study for children.

We appreciate the work of the State Board of Education and thank you for your consideration of this request prior to action on granting permission to publish. We believe dialogue between the two Boards is in the best interest of the State and the children entrusted to our care.

With regards,

PSTEB Board members



msfccca.org

September 24, 2019

Maryland State Board of Education
200 West Baltimore Street
Baltimore, MD 21201

Communication

My name is Rebecca Hancock and I am the Vice President of Public Policy for the *Maryland State Family Child Care Association (MSFCCA)*. I am grateful to the *Maryland State Board of Education* for the opportunity to speak on behalf of approximately 4500 registered family child care providers. Family child care is unique in offering small mixed-age groups allowing for children to experience a nurturing home environment filled with learning opportunities. It is important to note that according to page 27 of the *Maryland Family Network's 2018/19 Public Policy Handbook*, 50% of infants and toddlers in Maryland are in family child care settings. There are many benefits of family child care, like flexible and/or non-traditional hours and lower costs on average than other forms of child care, but continuity of care is the most significant in that it allows a child to remain with the same caregiver from infancy to well into their school years. Developing secure attachments and strong relationships in child care is optimal for early brain development and emotional regulation.

Concerns

I would like to share some concerns from the members with whom I work. Communication between MSDE and providers has definite room for improvement. There is a desire among providers to give input on redundant policies and procedures that create unnecessary tasks as well as excessive paperwork. Consistent opportunities to give feedback on existing and impending programs as well as more user-friendly platforms and a friendlier approach to helping providers, may increase participation.

Our concerns with the proposed changes for family child care are quite significant. One specific change will be an immense challenge for providers who have preschoolers and/or school-age children, in addition to infants and toddlers when the provider lives in a *multi-level home* that does *not have multiple rooms available on each level of the home*. It mandates that children under two years will need to be on the same level as the provider when resting to facilitate "safer sleep". Due to the nature of mixed-ages in family child care, it often-times requires a provider to utilize more than one level in the home for infants to allow other children to play and learn simultaneously. Infants require a quiet place to rest and sometimes more than once per day. The average infant, especially under four months requires 16 to 18 hours of sleep per day, with many in child care settings, as stated in Standard 3.1.4:5 from the [Caring for our Children: National Health and Safeties Performance Standards Publication](#) which says: "All children should have access to rest or nap areas whenever the child desires to rest."

The current regulation COMAR 13A.15.08 Child Supervision states:

D. Supervision of Resting Children.

(1) If a resting or napping child is younger than 2 years old, the provider or substitute shall:

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- (a) Remain within sight and sound of the child; and
- (b) Observe the child at least every 15 minutes to determine that the child is safe, breathing normally, and in no physical distress.

E. The provider may use a video and sound monitoring system to meet the sound and sight requirement in §D(1)(a) of this regulation.

This allows the provider to use all approved rooms in her home using a video and audio monitor to SEE and HEAR the napping child under two; as well as following the required visual checks every 15 minutes. This is the best solution *in this unique environment* to guarantee safe sleep and important play and learning opportunities for all children.

This regulation change could force family child care providers to reevaluate their options and close their program or decide to *no longer take* children under the age of two, or feel compelled to *only take* children under two, which would severely limit their income capability or drive up the cost of care. Either of these options could adversely affect many families in Maryland that already face difficulty finding spaces due to programs closing as well as at a cost they can afford.

MSFCCA thinks a better solution for children under two is to have family child care providers follow all recommendations for safe sleep, such as sleeping a child on their back, requiring a firm mattress, a clutter free crib, and a smoke free environment, in addition to the 15-minute visual checks and a video and audio monitor for SIGHT and SOUND observation. We understand the concern for the sleeping safety of children under two; but feel the regulation *as it is already written* is the best language to address this issue in family child care homes. MSDE is not taking seriously the effects of this regulation on the many providers whose homes limit their ability to comply.

Process

Lastly, I would like to address the proposed Regulations and the process with which the regulations are changed. Maryland has very strict regulations and publishes proposed changes in the Maryland Register giving the public (the provider community) 30 days for comments. With a profession that has multiple advocating organizations and thousands of programs, the system is not ideal for getting input and problems addressed within 30 days, especially when MSDE says that they cannot discuss changes at any time other than during the 30 days. We feel that working with the advocating organizations on how the changes may affect programs before publishing them would produce a better outcome quicker. As it stands now, proposed regulations were published in February and have not been finalized to date. We have submitted comments to MSDE, with no direct communication and little action on our concerns or suggestions on the proposed changes.

Thank you and we hope that MSDE understands that it is always beneficial to address needed changes with those affected.