



Karen B. Salmon, Ph.D.
State Superintendent of Schools

TO: Members of the State Board of Education

FROM: Karen B. Salmon, Ph.D.

DATE: January 28, 2020

SUBJECT: COMAR 13A.05.01.14
*Provision of a Free Appropriate Public Education:
Procedural Safeguards – Independent Educational Evaluation*
ADOPTION

PURPOSE:

To request adoption of the amendments to COMAR 13A.05.01.14 *Procedural Safeguards – Independent Educational Evaluations*. The State Board granted permission to publish this regulation with amendments at the August 27, 2019 State Board meeting.

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, the Maryland State Department of Education (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:

The federal Individuals with Disabilities Education Act (IDEA) and Maryland law requires that a child with disabilities be provided a free appropriate public education in the least restrictive environment from birth through the end of the school year in which the student turns 21 years old. Local school systems conduct educational evaluations to obtain data and information to develop Individualized Education Programs and educational programming for students with disabilities. Existing COMAR 13A.05.01.14 entitles a parent to an independent evaluation at public expense if the parent disagrees with the educational evaluation obtained by the public agency. On May

13, 2019, Governor Larry Hogan signed Chapter 547 amending Education Article §8-405 Annotated Code of Maryland, to require the local school system to give the parent a specific written response approving or denying a parental request within a certain time and requires local school systems to file a due process request within a certain time period upon the denial. Chapter 547 also requires that regulations are amended to include these changes.

EXECUTIVE SUMMARY:

The purpose of these updated regulations is to implement amendments to COMAR as stated in Education Article §8-405 Annotated Code of Maryland which established the independent educational evaluation. The updates include:

- If a parent requests an independent educational evaluation at public expense the local school system or public agency shall provide a written response approving or denying the request within 30 days;
- if the local school system or public agency approves a request, the written response shall advise the parent of the process for arranging the evaluation at public expense; and
- if the local school system or public agency denies a request, the local school system or public agency shall file a due process complaint within 30 days of the date of denial.

COMAR 13A.05.01.14 *Provision of a Free Appropriate Public Education: Procedural Safeguards – Independent Educational Evaluation* was published in the Maryland Register from November 8, 2019 through December 9, 2019. The MSDE received no comments on this regulation.

ACTION:

Request adoption of the proposed amendments to COMAR 13A.05.01.14 *Provision of a Free Appropriate Public Education: Procedural Safeguards – Independent Educational Evaluation*.

ATTACHMENT:

COMAR 13A.05.01.14 *Provision of a Free Appropriate Public Education: Procedural Safeguards – Independent Educational Evaluation*