



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

TO: Members of the State Board of Education
FROM: Karen B. Salmon, Ph.D.
DATE: October 26, 2020
SUBJECT: Partial Waiver of September 30 Child Count Regulation

PURPOSE:

Approve a partial waiver of COMAR 13A.02.06.03A *State Financial Assistance under the Foundation Program*, to remove the age appropriate immunizations requirement for the September 30 count solely for the purpose of calculating State aid under the foundation program.

BACKGROUND/HISTORICAL PERSPECTIVE:

COMAR 13A.01.01.02-1 authorizes the State Board to waive its regulations. COMAR 13A.02.06.03 requires for the purpose of calculating State aid under the foundation program, a student to be a bona fide resident of Maryland and have age appropriate immunizations. Local school system superintendents have requested a partial waiver of the regulation to avoid a financial penalty against the local school systems for foundation funding calculations because of the inability of parents to provide proof of immunization by September 30th, because of the COVID-19 pandemic.

There are numerous requirements under the regulation to count students on September 30, but the immunization is the concern because during the COVID-19 pandemic it has been difficult (or not even possible) for many parents to obtain proof of immunizations. As a result, many parents could not provide proof of immunization because they were unable to schedule “well child” appointments with qualified health care practitioners or health departments because of the COVID-19 pandemic, or appointments were cancelled.

Without a waiver, local school systems will be financially penalized if they had students who were bona fide residents and virtually present on September 30, but could not prove immunizations. Reasonable flexibility under the COVID-19 environment allows the local school systems to count students for calculating State aid who are enrolled and present in the virtual instructional environment. With the partial waiver, if students were attending school virtually on September 30, the underlying purpose of the COMAR 13A.02.06.03 to count students enrolled for funding purposes can be achieved without the immunization requirement.

Importantly, the waiver does not conflict with Maryland Department of Health regulations at COMAR 10.06.04, which prohibits a school from knowingly admitting a student into school without evidence of age-appropriate immunization. This requirement remains in effect and only applies to the September 30 count. The Department of Health regulations regarding immunizations continue to apply to students who are attending school in person in the school building.

ACTION:

Waive the age appropriate immunization requirement of COMAR 13A.02.06.03A *State Financial Assistance under the Foundation Program*, solely to allow local school systems to include students who could not prove immunizations in the September 30, 2020, enrollment count. This waiver only applies to the September 30th count requirement and does not apply to the age-appropriate immunizations and its exceptions, required by COMAR 10.06 of the Maryland Department of Health regulations.