



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

TO: Members of the State Board of Education
FROM: Karen B. Salmon, Ph.D.
DATE: June 25, 2019
SUBJECT: COMAR 13A.04.07
Gifted and Talented Education
ADOPTION

PURPOSE:

The purpose of this action is to request adoption of the amendments to COMAR 13A.04.07 *Gifted and Talented Education*.

REGULATION PROMULGATION PROCESS:

Under Maryland law, a state agency, such as the State Board, may propose a new 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 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 following language was included in Maryland's Consolidated Every Student Succeeds Act (ESSA) plan: "The State intends to take steps to add 'gifted and talented students' as an additional student group by the end of the school year 2017-18." The State Board discussed the proposal to identify gifted and talented students as a student group for accountability and reporting at the June 20, 2018 State Board meeting. Based on the June 20 discussion of gifted and talented students as a student group, amendments to

COMAR 13A.04.07 were presented at the September 25, 2018 State Board meeting requesting permission to publish. Following discussion of the amendments, the State Board requested further revisions.

Gifted and talented students are those identified by local school systems according to COMAR 13A.04.07.02 (Identification of Gifted and Talented Students) and receiving services according to COMAR 13A.0.07.03 (Programs and Services). Following review of Gifted and Talented identification procedures in each local school system and discussion at the June 20, 2018 and September 25, 2018 State Board meetings, recommendations to strengthen the language were incorporated into the amended COMAR and presented to the State Board on October 23, 2018. The State Board granted permission to publish, and the regulations were published from December 21, 2018 to January 22, 2019 in the Maryland Register. Sixty-four comments were reviewed by the MSDE and one revision was presented to the State Board on February 26, 2019.

The State Board granted permission to publish the regulations a second time since the revision was substantive, and the regulation was posted in the Maryland Register from May 10, 2019 to June 10, 2019. The MSDE received 105 comments in favor of the amended regulations. Two of the correspondents had concerns about the requirement to identify at least 10% in each local school system, and two correspondents recommended several specific revisions. The MSDE is not recommending changes to the proposed regulations; however, several of the suggestions will be included in the *Maryland's Model of Gifted and Talented Education: Maryland Gifted and Talented Student Identification Requirements* document mandated in .02F(2) of the regulations.

EXECUTIVE SUMMARY:

The amendments to COMAR 13A.04.07 strengthen the regulation and include mandates and accountability with the goal of more equitable and consistent identification and programs for gifted and talented students in the State. The amendments mandate gifted and talented identification at multiple grade bands and that local school systems implement programs and services from an MSDE list of approved programs. The regulation builds in additional accountability, including peer review and annual reports to the State Board.

ACTION:

Request adoption of amended COMAR 13A.04.07 *Gifted and Talented Education*.

Attachments:

COMAR 13A.04.07 *Gifted and Talented Education*

- (e) [Upon the request of the stewards, provides proof of:
 - (i) Minimum 20/20 visual acuity, corrected or uncorrected, in one eye; and
 - (ii) Physical fitness to ride] *Passed, within the previous 12 months, a physical examination given by a licensed physician affirming fitness to participate as a jockey, including a baseline concussion test using the most current Sport Concussion Assessment Tool (SCAT) testing protocol;*
- (f) — (g) (text unchanged)
- (2) *The results of the physical examination and the baseline test shall be provided by the jockey to the stewards or their designee.*
- (3) *The stewards or their designee may require that any jockey be reexamined.*
- (4) *The stewards may refuse to allow a jockey to ride pending completion of such examination.*
- [(2)] (5) (text unchanged)
- A-1. — C. (text unchanged)

MICHAEL J. ALGEO
Chairman
Maryland Racing Commission

.08 Associations.

- A. An association holding racing or operating a training center under the jurisdiction of the Commission shall:
 - (1) — (4) (text unchanged).
 - (5) *Adopt, have posted, and implement a protocol for education, evaluation, diagnosis, and management of concussion of jockeys which shall be approved by the regulatory authority;*
 - (6) *Have available a medical professional trained in evaluating and administering the most current Sport Concussion Assessment Tool (SCAT);*
 - (7) *Establish a return-to-ride guideline in order to clear a jockey who has been concussed, or is believed to have been concussed, once the jockey is declared fit-to-ride by a medical professional authorized to do so;*
 - (8) *Require each jockey to acknowledge in writing that they have been made aware of the concussion protocols in place for the facility at which they are riding;*
- [(5)] (9) — [(9)] (13) (text unchanged)
- B. — F. (text unchanged)

MICHAEL J. ALGEO
Chairman
Maryland Racing Commission

Subtitle 10 RACING COMMISSION

09.10.04 General

Authority: Business Regulation Article, §11-210, Annotated Code of Maryland

Notice of Proposed Action
[19-082-P]

The Maryland Racing Commission proposes to amend Regulation **.08** under **COMAR 09.10.04 General**.

Statement of Purpose

The purpose of this action is to require a racing association to adopt and implement a protocol for the management of concussions suffered by jockeys. The amendment also requires a racing association to establish return to ride guidelines and require a jockey to acknowledge in writing that they have been made aware of the protocols.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

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 no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to J. Michael Hopkins, Executive Director, Maryland Racing Commission, 300 East Towsontown Blvd., Towson, MD 21286, or call 410-296-9682, or email to mike.hopkins@maryland.gov, or fax to 410-296-9687. Comments will be accepted through June 25, 2019. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland Racing Commission during a public meeting to be held on June 27, 2019, at 12:30 p.m., at Laurel Park.

Title 13A
STATE BOARD OF
EDUCATION

Subtitle 04 SPECIFIC SUBJECTS

13A.04.07 Gifted and Talented Education

Authority: Education Article, §§2-205, 5-401(d), and 8-201—[8-203] 8-204, Annotated Code of Maryland

Notice of Proposed Action
[19-086-P]

The Maryland State Board of Education proposes to amend Regulations **.01—,04** and **.06** under **COMAR 13A.04.07 Gifted and Talented Education**.

Also, at this time, the Maryland State Board of Education is withdrawing the proposal to amend Regulations **.01—,04** and **.06** under **COMAR 13A.04.07 Gifted and Talented Education** that was published in 45:26 Md. R. 1269—1270 (December 21, 2018).

This action was considered by the State Board of Education at its February 26, 2019, meeting.

Statement of Purpose

The purpose of this action is to provide local school systems with direction for identifying students and developing and implementing the gifted and talented education programs and services needed to develop these students' full potential. These regulations establish the minimum standards for student identification, programs and services, professional learning, and reporting requirements.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Local school systems may identify more gifted and talented students, thereby requiring more funding to provide programs and services.

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. All local school systems identify gifted and talented students. The proposed action may have a cost impact to provide programs and services to additional students.

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:

Because local school systems will be using universal screening to identify gifted and talented students, additional students with disabilities may be included in gifted and talented programs.

Opportunity for Public Comment

Comments may be sent to Susan C. Spinnato, Director of Instructional Programs, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0349 (TTY 410-333-6442), or email to susan.spinnato@maryland.gov. Comments will be accepted through June 10, 2019. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on June 25, 2019, 9 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

.01 Purpose.

Gifted and talented students are found in all Maryland schools and in all cultural, ethnic, and economic groups. The intent of this chapter is to provide local school systems with direction for identifying students and developing and implementing the gifted and talented education programs and services needed to develop these students' full potential. These regulations establish the minimum standards for student identification, programs and services, professional [development] *learning*, and reporting requirements.

.02 Identification of Gifted and Talented Students.

A. Each local school system shall establish [a] *an equitable* process for identifying gifted and talented students as they are defined in Education Article, §8-201, Annotated Code of Maryland.

B. (text unchanged)

C. The identification process shall use *universal screening* and multiple indicators of potential, [aptitude] *ability*, and achievement from an annually reviewed Maryland State Department of Education approved list of assessments and checklists.

D. [The identification process shall be used to identify students for participation in the programs and services described in Regulation .03 of this chapter.] *A universal screening process shall be used to identify a significant number of students in every school and at least 10 percent in each local school system, as early as possible, but no later than Grade 3. Additional identification shall occur at the 3—5 and 6—9 grade bands for participation in the programs and services described in Regulation .03 of this chapter.*

[E. Each school system shall review the effectiveness of its identification process.]

[F.] E. Each school system shall [consider implementing an identification process that]:

(1) [Documents] *Document* early evidence of advanced learning behaviors, PreK—2;

(2) [Includes procedures] *Develop equitable policies* for identification and a process for appeals that are clearly stated in writing, made public, and consistently implemented systemwide; [and]

(3) *Review the effectiveness of its identification process; and* [(3)] (4) [Provides] *Provide* ongoing professional [development] *learning* for [school staff] *teachers, administrators, and other personnel* in the *identification procedures*, characteristics, *academic*, and *social-emotional* needs of gifted and talented students.

F. *The Department shall:*

(1) *Review and approve each school system's identification process to ensure compliance with this regulation; and*

(2) *Provide a Maryland's Model of Gifted and Talented Education: Maryland Gifted and Talented Student Identification Requirements document that includes available State-mandated achievement assessments for gifted and talented screening for adoption by school systems without an approved identification process.*

.03 Programs and Services.

A. Each school system shall provide different services beyond those normally provided by the regular school program from an annually reviewed Maryland State Department of Education approved list of programs and services in order to develop the gifted and talented student's potential. Appropriately differentiated, *evidenced-based* programs and services shall accelerate, extend, or enrich instructional content, strategies, and products to demonstrate and apply learning.

B. (text unchanged)

C. Each school system shall [consider implementing] *implement* programs and services for gifted and talented students that:

(1) Provide a continuum of appropriately differentiated *curriculum and evidence-based* academic programs and services in grades PreK—12 during the regular school day for identified gifted and talented students.

(2)—(3) (text unchanged)

.04 Professional [Development] Learning.

A. Teachers and other personnel assigned specifically to work with students who have been identified as gifted and talented shall engage in professional [development] *learning* aligned with the competencies specified by the Gifted and Talented Education Specialist certification in COMAR 13A.12.03.12.

B. (text unchanged)

.06 Monitoring and Reporting Requirements.

[Local school systems shall in accordance with Education Article, §5-401(c), Annotated Code of Maryland, report in their Bridge to Excellence Master Plans their goals, objectives, and strategies regarding the performance of gifted and talented students along with timelines for implementation and methods for measuring progress.]

A. Local school system superintendents may exempt specific schools from the requirement to identify a significant number of gifted and talented students.

B. Beginning September 1, 2019, local school systems shall report in their consolidated local Every Student Succeeds Act (ESSA) plan:

- (1) The process for identifying gifted and talented students;*
- (2) The number of gifted and talented students identified in each school;*
- (3) The percentage of gifted and talented students identified in the local school system;*
- (4) The schools that have been exempted from identification of a significant number of gifted and talented students and the rationale;*
- (5) The continuum of programs and services; and*
- (6) Data-informed goals, targets, strategies, and timelines.*

C. Beginning September 1, 2019, the Maryland State Department of Education shall:

- (1) Facilitate a peer-review of local school systems' gifted and talented identification, programs, and services every 3 years; and*
- (2) Submit an annual report on the status and progress of gifted and talented students in Maryland to the State Board of Education.*

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