



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 22, 2021

SUBJECT: COMAR 13A.04.13
Program in Physical Education
ADOPTION

PURPOSE:

The purpose of this item is to request adoption of the amendments to COMAR 13A.04.13 *Program in Physical 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 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 January 2019, the Assistant Attorney General recommended a review of the physical education regulation to strengthen language regarding mandated adapted physical education services and clarify information about participation.

In addition to the recommendations of the Assistant Attorney General, MSDE staff included requirements from other existing legislation and regulations that affect physical education, including:

- Gwendolyn Britt Physical Fitness Act §7-409
- Fitness and Athletic Equity Law for Students with Disabilities §7-4B-01
- Hands-Only CPR/AED Instruction §7-205.2
- COMAR 13A.06.08.04 Head Injuries and Concussions in Extracurricular Athletic Events
- COMAR 13A.05.01.03B(78) Student with a disability (Definition)

The recommended changes were presented to the 24 local school system physical education supervisors and the Maryland Advisory Council on Health and Physical Education who provided additional input, including information on assessments. The amendments to the regulation emphasize the mandate to include all students in a standards-based physical education program. The amended regulation also includes a section that explains the responsibility of local school systems to ensure that students with disabilities have an equal opportunity to participate in physical education as mandated in State statute. Language was added to define standards-based assessments for all students aligned to outcomes in the State Framework and the role of health-related fitness tests.

EXECUTIVE SUMMARY:

The recommended changes to Maryland's physical education instructional program regulation are the byproduct of consultation with the Office of the Attorney General, teachers, content supervisors, and non-profit physical education professional organizations. The MSDE believes that the revised regulation will better support the work of the local school systems in their development and implementation of high-quality physical education curricula.

At the February 23, 2021, State Board meeting, the State Board granted permission to publish amendments to COMAR 13A.04.13 *Program in Physical Education*. The regulations were published in the Maryland Register from April 22, 2021 to May 22, 2021. One comment was received from the Society of Health and Physical Educators (SHAPE) Maryland in support of the amendments.

ACTION:

Request adoption of the amendments to COMAR 13A.04.13 *Program in Physical Education*.

ATTACHMENT:

COMAR 13A.04.13 *Program in Physical Education*
Public Comment Submission

Title 13A STATE BOARD OF EDUCATION

Subtitle 04 SPECIFIC SUBJECTS

Chapter 13 Program in Physical Education

Authority: Education Article, §§2-205(c) and (h), 7-205.2, [and] 7-409, and 7-4B-01—7-4B-06, Annotated Code of Maryland

.01 Physical Education Instructional Programs for Grades Prekindergarten—12.

A. Each local school system shall:

(1) Provide in public schools an instructional program in physical education each year with sufficient frequency and duration to meet the requirements of the State [curriculum] *Framework* for all students in grades prekindergarten—8; and

(2) Offer in public schools a *standard-based* physical education program in grades 9—12 which *meets the requirements of the State Framework*, and enables students to meet graduation requirements and to select physical education electives.

B. Maryland Physical Education Program.

(1) The physical education comprehensive instructional program shall provide a developmentally appropriate, instructional program *for all students* that advances the student's knowledge, confidence, skills, and motivation to enjoy a lifetime of healthful physical activity.

(2) The comprehensive instructional program shall provide for the diversity of student needs, abilities, and interests at the early, middle, and high school learning years, and shall include all of the following Maryland Physical Education Content Standards *set forth in §C of this regulation* with related indicators and objectives as set forth in [§C of this regulation] *the State Framework*.

(3) The instructional program, as it applies to grades 9—12, shall provide instruction in cardiopulmonary resuscitation that includes hands-only cardiopulmonary resuscitation and the use of an automated external defibrillator if not otherwise offered in the comprehensive health education program.

C. Maryland Physical Education Content Standards. Students shall:

(1) Demonstrate competency in a variety of motor skills and movement patterns;

(2) Apply knowledge of concepts, principles, strategies, and tactics related to movement and performance;

(3) Demonstrate the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness;

(4) Exhibit responsible personal and social behavior that respects self and others; and

(5) Recognize the value of physical activity for health, enjoyment, challenge, self-expression, and social interaction.

D. Curriculum Documents Consistent with Education Article, §§2-205(h) and 7-409, Annotated Code of Maryland, each local school system shall provide comprehensive physical education curriculum documents for the elementary and secondary schools under its jurisdiction that:

(1) Include the content standards set forth in §C of this regulation; [and]

(2) Align with the State [Curriculum] *Framework*, as developed by the Maryland State Department of Education in collaboration with the local school systems[.]; *and*

(3) *Include standards-based instructional assessments that:*

(a) *Periodically evaluate progress toward achievement of the content standards in §C of this regulation;*

(b) *Align to outcomes in the State Framework;*

(c) *Monitor a student's cognitive, affective, and psychomotor progress;*

(d) *Include all students;*

(e) *Do not evaluate student dress or attendance; and*

(f) *Are not based on the results of a health-related fitness test.*

E. *A local school system may conduct a health-related fitness test as part of an annual Wellness Policy Implementation and Monitoring Plan in addition to the standards-based assessments required in §D(3) of this regulation.*

[E.] F. The local school system shall develop guidelines and procedures for the support of qualified teachers[.] *as follows:*

(1) Each local school system shall establish planned and continuous programs as required to adequately train its teachers, administrators, supervisors, and personnel in order to update knowledge, instructional materials, and methodology in physical education[.]; *and*

(2) *Each local school system shall require all physical education teachers to submit a current certificate of completion of concussion education training as set out in COMAR 13A.06.08.04.*

[F.] G. *Student Participation in Standards-Based Physical Education Program.*

(1) Each student, *including a student with a disability as defined in COMAR 13A.05.01.03B*, shall have the opportunity to participate in the comprehensive *standards-based* physical education program required by this chapter.

(2) *The local school system may not:*

(a) Authorize a student to substitute other activities for a standards-based physical education program for graduation credits, such as but not limited to interscholastic sports, community-based sports, physical therapy, Junior Reserve Officer Training Corps (JROTC), or marching band;

(b) Waive the standards-based physical education requirement needed to meet graduation requirements;

(c) Excuse students from the standards-based physical education program to participate in content area classes or to complete classwork assignments in other content areas; or

(d) Withhold students from the standards-based physical education program as a punishment, unless the student is also removed from the regular classroom setting as part of an in-school suspension or similar disciplinary intervention.

(3) The local school system shall ensure that:

(a) Students with disabilities have an equal opportunity to participate in a standards-based physical education program to meet the requirements of the State Framework;

(b) Reasonable accommodations are provided to ensure students with disabilities have equal opportunity to participate to the fullest extent possible in a standards-based physical education program;

(c) Adapted, allied, or unified physical education, as defined in Education Article, §7-4B-01, Annotated Code of Maryland, is available that meets the standards-based physical education program outcomes; and

(d) An individualized action plan is developed for students who are temporarily unable to participate in the standards-based physical education program.

(4) The individualized action plan developed under §G(3)(d) shall provide appropriate learning experiences aligned with the State Framework.

----- Forwarded message -----

From: **Brian Griffith** <shapemdexec@gmail.com>

Date: Fri, May 21, 2021 at 7:32 AM

Subject: Support for PE COMAR

To: <susan.spinnato@maryland.gov>

Dear Maryland State Board of Education:

On behalf of the one thousand and eighty members of the Society of Health and Physical Educators (SHAPE) Maryland, I am writing to you today in support of the proposed amendments to COMAR 13A.04.13 Program in Physical Education.

Programs in physical education develop physically literate students. The physically literate individual demonstrates competency in a variety of motor skills and movement patterns; applies knowledge of concepts, principles, strategies, and tactics related to movement and performance; demonstrates the knowledge and skills to achieve and maintain a health-enhancing level of physical activity and fitness; exhibits responsible personal and social behavior that respects self and others; and recognizes the value of physical activity for health, enjoyment, challenge, self-expression and/or social interaction (SHAPE America, 2014).

The three inappropriate practices — substitutions, waivers, and excuses — are policies that eliminate the opportunity for each student to experience a full offering of high-quality, standards-based physical education. While SHAPE Maryland recognizes the importance and value of programs such as interscholastic sports, community-based sports, physical therapy, Junior Reserve Officer Training Corps (JROTC), and Marching Band, the participation in physical activity alone does not provide students with the essential learning they need to establish the foundations for a physically active lifestyle.

Assessing students on dress and attendance are outdated grading policies that do not measure a student's knowledge, skills, or confidence towards becoming physically literate. Grading in modern physical education programs include assessments that are directly aligned with the State standards and grade-level outcomes that are ongoing and assess all three domains (cognitive, affective, and psychomotor) so teachers can accurately measure what students know and are able to do in order to participate in lifelong physical activity.

Therefore, SHAPE Maryland supports the adoption of the amendments to COMAR 13A.04.13 Program in Physical Education.

If you have any further questions please do not hesitate to contact us.

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Brian Griffith

Executive Director

SHAPE Maryland

<https://www.shapemd.org/#/>