



**Mohammed Choudhury**  
State Superintendent of Schools

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**TO:** Members of the State Board of Education  
**FROM:** Mohammed Choudhury, State Superintendent of Schools  
**DATE:** May 18, 2023  
**SUBJECT:** COMAR 13A.02.06.01, .02, .05-.07 (AMEND)  
*General Financial Aid to Local School Systems*  
**Permission to Publish**

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### **Purpose**

The purpose of this action is to request permission to publish proposed amendments to COMAR 13A.02.06.01, .02, and .05-.07, General Financial Aid to Local School Systems.

### **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 be recommended 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**

Funding for student transportation has been established through Maryland law to enable each Local Education Agency (LEA) to provide transportation services for public school students and students with disabilities who may require placement in a nonpublic school to implement their Individualized Education Program (IEP). More specifically, each LEA receives a base grant for student transportation that is calculated according to a formula outlined in § 5–218 of the Education Article, Annotated Code of Maryland. While the State provides some funding for student transportation, there is also a local contribution that is expected.

In addition to the base grant provided by the State, a “disabled student transportation grant” is distributed to each county board, which is equal to \$1,000 per “disabled student” who requires special transportation services and is

transported by the county board. Section 5-218(e) of the Education Article directs the State Board to “develop a procedure and adopt regulations for determining the number of disabled students transported in each jurisdiction in the previous fiscal year.” The State Board did so by adopting COMAR 13A.02.06.07. That provision currently states that a “disabled student” may be counted as eligible for State aid under the “disabled student transportation grant” if:

1. The student is between age 3 and age 21;
2. The student is enrolled in a public school in a local school system;
3. Special transportation services are identified as a related service for a free appropriate public education in the *student’s individualized education program*; and
4. The student is receiving services as of the last Friday in October of the prior fiscal year.

COMAR 13A.02.06.07A (emphasis added). As a result of the language in italics, the regulation limits the students who may be counted for this additional grant aid to only those who have an IEP with transportation as a related service.

However, there are other students with disabilities who might not have an IEP under the Individuals with Disabilities Education Act (IDEA) but nonetheless require transportation services and have a Section 504 plan under the Rehabilitation Act of 1973. The inclusion of students with a Section 504 plan will more accurately reflect the additional costs borne by an LEA when providing transportation services as a related service and ensure that the LEA receives additional funding for all students who meet the need to receive a free appropriate public education (FAPE).

In addition to making this substantive change, MSDE is simultaneously updating the title of the grant from the “Disabled Student Transportation Grant” to the “Transportation Services Grant” based on a preference for person-first language. One other minor change for clarification purposes is that the regulation will refer to students enrolled in “a public school, a school maintained by a State agency, or a nonpublic school,” to capture those students who require such placements to implement their IEP. This language is borrowed from COMAR 13A.06.07.03, which sets forth the transportation program that must be provided by local education agencies and public residential education programs.

Finally, since the change to person-first language impacted both the scope and definition regulations within this chapter of COMAR, similar changes have been made for consistency throughout the chapter as it relates to “Limited English proficient students” and “special education students.” More specifically, those definitions have been removed and their corresponding regulations amended slightly to capture the same information regarding how English language acquisition services and special education services are defined in federal law. These are non-substantive changes.

## Executive Summary

Recommended modifications to the regulations include:

- Adding students that have transportation identified as a related service in their Section 504 plan to be eligible for the \$1,000 per student transportation services grant so that grant funds may be used to support all students who require such services, not just those with an IEP; and

- Removing the terms “disabled student,” “Limited English proficient student,” and “special education student” throughout the regulations in favor of person-first language and retitling the grants as the “Transportation Services Grant” and “English Learner Education Grant.”

### **Action**

The MSDE requests permission to publish proposed amendments to COMAR 13A.02.06.01, .02, and .05-.07, *General Financial Aid to Local School Systems*.

### **Attachments**

COMAR 13A.02.06.01, .02, .05-.07

*General Financial Aid to Local School Systems*

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 02 Local School Administration

### Chapter 06 General Financial Aid to Local School Systems

Authority: Education Article, §§2-205, 5-202, 5-205—5-209, 5-212, 5-218, 5-222, 5-224, 5-225, 7-101, 7-101.1, 8-101—8-105, 8-403, and 8-404, Annotated Code of Maryland

#### .01 Scope.

This chapter applies to enrollment collection requirements for the calculation of State financial assistance for the 24 public school systems in Maryland through the foundation program and the compensatory education, [limited English proficient] English learner education, special education, and [disabled student] transportation services grants.

#### .02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) – (7) (text unchanged)

[(8) “Disabled student” means a student requiring special education services, as defined by the federal Individuals with Disabilities Education Act.]

[(9)] (8) “Documented retention and dropout prevention interventions” means documented actions taken by the local school system to keep the student in school.

[(10)] (9) “Eligible for free and reduced price meals” means qualified for free or reduced price meals based on eligibility requirements established by the United States Department of Agriculture.

[(11)] (10) “Foundation program” means the product of the annual per pupil foundation amount and a local school system's full time equivalent enrollment as specified in Education Article, § 5-202, Annotated Code of Maryland.

[(12)] (11) “Full-time equivalent student” means a student eligible for inclusion in the enrollment count of a local school system for calculation of State financial assistance through the foundation program.

[(13) “Limited English proficient student” means a student requiring English language acquisition services, as defined under Title III of the federal Elementary and Secondary Education Act.]

[(14)] (12) “Local school system” means the public school system of a county and includes the Baltimore City Public School System.

[(15)] (13) “Regular day program” means both the general education and special education programs operated by a local school system.

[(16) “Special education student” means a student requiring special education services, as defined in the federal Individuals with Disabilities Education Act.]

#### .05 State Financial Assistance under the [Limited English Proficiency] English Learner Education Grant.

A. A [limited English proficient] student may be counted as eligible for State aid under the [limited English proficiency] English learner education grant if the student:

(1) Is between age 3 and age 21;

(2) Is enrolled in a public school in a local school system; and

(3) Is receiving English language acquisition services, as defined under Title III of the federal Elementary and Secondary Education Act, through a local school system on October 31 of the prior fiscal year.

B. (text unchanged)

C. (text unchanged)

#### .06 State Financial Assistance under the Special Education Grant.

A. A [special education] student may be counted as eligible for State aid under the special education grant if the student is:

(1) Between age 3 and age 21;

(2) Enrolled in a public school in a local school system unless the student is enrolled in or attending:

(a) The Maryland School for the Blind;

(b) The Maryland School for the Deaf; or

(c) An educational program operated by the State; and  
(3) Receiving special education services, *as defined in the federal Individuals with Disabilities Education Act*, on October 1 of the prior fiscal year.

B. (text unchanged)

C. (text unchanged)

**.07 State Financial Assistance Under the [Disabled Student] Transportation Services Grant.**

A. A [disabled] student may be counted as eligible for State aid under the [disabled student] transportation services grant if:

- (1) The student is between age 3 and age 21;
- (2) The student is enrolled in a public school, *a school maintained by a State agency, or a nonpublic school* [in a local school system];
- (3) [Special transportation] Transportation services are identified as a related service for a free appropriate public education in the student's individualized education program *or in the student's Section 504 plan*; and
- (4) The student is receiving services as of the last Friday in October of the prior fiscal year.

B. The service providing local school system may include a student enrolled as the result of an out-of-county living arrangement under Education Article, §4-122, Annotated Code of Maryland, in its count for the purpose of calculating State aid under the [disabled student] transportation services grant if the student meets all other eligibility requirements.

C. If a local school system provides services to a nonlocal resident student under Education Article, §4-121, Annotated Code of Maryland, the local school system may include the nonlocal resident student in its enrollment count for the purpose of calculating State aid under the [disabled student] transportation services grant if the student meets all other eligibility requirements.