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**TO:** Members of the State Board of Education

**FROM:** Carey M. Wright, Ed.D., Interim State Superintendent of Schools 

**DATE:** April 30, 2024

**SUBJECT:** COMAR 13A.05.09  
*Programs for Homeless Children*  
**PERMISSION TO PUBLISH**

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### **Purpose**

The purpose of this item is to request permission to publish amendments to COMAR 13A.05.09 Programs for Homeless Children to align with amendments made to the McKinney-Vento Act by the Every Student Succeeds Act.

### **Standard 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, 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.

### **Executive Summary**

The proposed amendments update and align the Code of Maryland Regulations (COMAR) with the federal McKinney-Vento Act as amended by the Every Student Succeeds Act (ESSA). The amendments include:

- Removing children awaiting foster care placement from the definition of “homeless student” since school stability for this population is now covered by ESSA and the Fostering Connections Act;
- Revising the definition of “school of origin” to include the designated receiving school at the next grade level for all feeder schools when a student completes the final grade level served by the school of origin;

- Requiring the removal of barriers to enrollment related to outstanding fees or fines, or absences;
- Updating the duties of local education agency (LEA) homeless liaisons and MSDE;
- Requiring that information be provided in a manner and form understandable to parents, guardians, and unaccompanied youth;
- Revising the process to determine a student's best interest; and
- Clarifying dispute resolution requirements.

MSDE solicited feedback regarding the proposed amendments via email from each local education agency's homeless liaison, as well as attorneys, advocates, and youth with the Homeless Person's Representation Project. The stakeholders consulted were supportive of the proposed amendments.

### **Action**

Request permission to publish amendments to COMAR 13A.05.09 *Programs for Homeless Children*.

### **Attachments**

COMAR 13A.05.09 *Programs for Homeless Children*

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 05 SPECIAL INSTRUCTIONAL PROGRAMS

### Chapter 09 Programs for Homeless Children

Authority: Education Article, §§2-205 and 7-301, Annotated Code of Maryland

#### .01 Scope.

A. This chapter establishes minimum requirements to ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth consistent with Title VII, Subtitle B of the McKinney-Vento Homeless Assistance Act as amended by the **[No Child Left Behind Act of 2001 (Public Law 107-10), Education for Homeless Children and Youth, Title X, Part C, Subtitle B]** **Every Student Succeeds Act of 2015 (Public Law 114-95), Title IX, Part A, Homeless Children and Youths.**

B. – C. (text unchanged)

#### .02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

**[(2) Child Awaiting Foster Care Placement.**

**(a) "Child awaiting foster care placement" means:**

**(i) A child placed out of the child's home pursuant to a shelter care order by the Department of Social Services or the Department of Juvenile Services;**

**(ii) A child placed out of the child's home pursuant to a voluntary placement agreement documented by the Department of Social Services; or**

**(iii) A child committed to or placed in the care and custody of the Department of Social Services or the Department of Juvenile Services, and who is placed into a temporary, short-term placement of not longer than 90 school days, such as in an emergency or shelter facility, a diagnostic center, a psychiatric respite facility, an emergency foster home, or another temporary, short-term placement not described in §B(2)(b) of this regulation.**

**(b) "Child awaiting foster care placement" does not include a child committed to or placed in the care and custody of the Department of Juvenile Services and who is placed into any of the following temporary, short-term placements:**

**(i) A detention facility;**

**(ii) A forestry camp;**

**(iii) A training school;**

**(iv) Any State owned and operated facility accommodating more than 25 youth; or**

**(v) Any other facility operated primarily for the purpose of detaining youth who are determined to be delinquent and require secure custody in a physically restrictive setting.]**

**[(3)] (2)** (text unchanged)

**[(4)] (3)** Homeless Student.

**(a)** (text unchanged)

**(b)** "Homeless student" includes:

**(i)** Children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason, are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations, are living in emergency or transitional shelters, also referred to as transitional housing, **or** are abandoned in **[hospitals, or are awaiting foster care placement;]** **hospitals;**

**(ii)** (text unchanged)

**(iii)** Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; **and**

(iv) Migratory children, as defined in §6399 of Title 20, who qualify as homeless for the purposes of the McKinney-Vento Act and this chapter because the children are living in circumstances as described in **[§B(4)(b)(i)—(iii)] §B(3)(b)(i)—(iii)** of this *regulation*. **[regulation; and**

**(v) A child awaiting foster care placement.]**

**[(5)] (4)** (text unchanged)

**[(6)] (5)** “McKinney-Vento Act” refers to the Stewart B. McKinney-Vento Homeless Assistance Act, Subtitle B, **[Amended by the No Child Left Behind Act of 2001 (P.L. 107-10), Title X, Part C, Subtitle B, Education for Homeless Children and Youth]** *as amended by the Every Student Succeeds Act of 2015 (Public Law 114-95), Title IX, Part A, Homeless Children and Youths.*

**[(7)] (6)** (text unchanged)

**[(8)] (7) School of Origin**

**(a)** “School of origin” means the school that the child or youth **[attended,]** *attended* when permanently housed or the school in which the child or youth was last **[enrolled.]** *enrolled, including a preschool.*

**(b)** “School of origin” *includes the designated receiving school at the next grade level for all feeder schools when the child or youth completes the final grade level served by the school of origin.*

**[(9)] (8)** (text unchanged)

### .03 General Responsibilities.

A. Each local school system in Maryland shall:

(1) Develop, review, and revise policies to eliminate barriers to the *identification*, enrollment, retention, and success in school of homeless **[students in a manner which addresses:]** *students, including barriers related to:*

(a) – (d) (text unchanged)

(e) Uniform or dress code requirements; **[and]**

**(f) Outstanding fees or fines;**

**(g) Issues relates to absences; and**

**[(f)] (h)** Opportunities to meet the same challenging State student academic achievement standards to which all students are held.

(2) – (4) (text unchanged)

(5) Designate a homeless education coordinator responsible for:

(a) – (c) (text unchanged)

(d) Identifying homeless children, youth, and families in the **[community;]** *community through outreach and coordination activities with other entities and agencies;*

(e) (text unchanged)

(f) Monitoring programs and projects to ensure their compliance with applicable statutory and regulatory requirements, if the local school system receives funds under the **[McKinney] McKinney-Vento** Act;

(g) (text unchanged)

(h) Disseminating public notice of the educational rights of homeless children and youth in the schools, community agencies, family shelters, soup kitchens, and organizations where children and youth receive services *in a manner and form understandable to parents and guardians of homeless children and youth and unaccompanied youth;*

(i) – (n) (text unchanged)

**(o) Ensuring homeless families and homeless children and youths have access to and receive educational services for which such families, children, and youths are eligible, including services through Head Start programs (including Early Head Start programs) under the Head Start Act (42 U.S.C. §9831 et seq.), early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. §1431 et seq.), and other preschool programs administered by the local school system.**

B. The Department shall:

(1) **[Collect and provide local school systems with monthly information on the number of homeless students reported by shelters, to validate the accuracy of information reported to the Department and correlate information collected by local school systems]** *Respond to inquiries from parents and guardians of homeless children and youths, and from unaccompanied youth, to ensure that each child or youth who is the subject of such an inquiry receives the full protections and services provided by law;*

(2) – (4) (text unchanged)

(5) Prepare and submit reports to the federal government in accordance with the requirements of the McKinney-Vento Act; **[and]**

(6) Provide **[the coordinators]** technical assistance *to and conduct monitoring of [and other support necessary to assist] local school systems in coordination with local school system coordinators to ensure local school system [compliance.] compliance; and*

*(7) Provide professional development opportunities for local school system personnel and coordinators to assist such personnel and coordinators in identifying and meeting the needs of homeless children and youth.*

#### **.04 School Placement.**

A. The **[local educational agency]** *local school system* serving each child or youth shall, according to the child's or youth's best interest, establish a procedure to:

(1) – (2) (text unchanged)

B. In determining the best interest of the child or youth under §A of this regulation, the local school system shall:

(1) **[To the extent feasible, keep a homeless child or youth in the school of origin, unless contrary to the wishes of the child's or youth's parent or guardian]** *Presume that keeping the child or youth in the school of origin is in the child's or youth's best interest, except when doing so is contrary to the request of the parent, guardian, or unaccompanied youth;*

*(2) Give priority to the request of the parent, guardian, or unaccompanied youth;*

**[(2)] (3) [In determining best interest consider]** *Consider* the following *student-centered* factors:

(a) – (1) (text unchanged)

**[(3)] (4)** Provide a written explanation to the **[homeless child's or youth's parent or guardian,]** *parent, guardian, or unaccompanied youth, in a manner and form understandable to the parent, guardian, or unaccompanied youth,* including a statement regarding the right to appeal pursuant to Regulation .07 of this chapter if the local school system sends the child or youth to a school other than the school of origin or a school requested by the **[parent or guardian]** *parent, guardian, or unaccompanied youth;* and

**[(4)] (5)** In the case of an unaccompanied youth, ensure that the local school system homeless coordinator:

(a) (text unchanged)

(b) **[Considers]** *Gives priority to* the views of the unaccompanied youth; and

(c) (text unchanged)

C. – D. (text unchanged)

#### **.07 Dispute Resolution.**

A. Each local school system shall establish an expedited dispute resolution process to address disputes arising regarding services to homeless children under this chapter, including the following:

(1) (text unchanged)

(2) Parents, guardians, or an unaccompanied homeless youth shall be provided with a written explanation of the school's decision of the dispute, including the right to **[appeal]** *appeal, in a manner and form understandable to the parents, guardians, or unaccompanied youth;*

(3) – (4) (text unchanged)

(5) If the local superintendent does not issue a decision within 10 days, or if the **[parent]** *parent, guardian, or unaccompanied youth* is dissatisfied with the decision, the **[parent]** *parent, guardian, or unaccompanied youth* may appeal the decision to the local board, in writing, within 30 days, pursuant to Education Article, §4-205(c), Annotated Code of Maryland;

(6) (text unchanged)

(7) If the parent, guardian, or unaccompanied homeless youth is dissatisfied with the decision of the local board, the **[parent]** *parent, guardian, or unaccompanied youth* may appeal the decision to the State board, in writing, within 30 days, pursuant to COMAR **[13A.01.01.03]** *13A.01.05.*

B. During the dispute resolution process, including any appeals, the student shall remain enrolled in the school **[system.]** *in which enrollment is sought.*

C. If a dispute arises over school selection or enrollment:

(1) The child or youth immediately shall be:

(a) **[Admitted to]** *Enrolled in* the school in which enrollment is sought, pending resolution of the dispute;

and

(b) Provided transportation to the **[parent-selected]** school *in which enrollment is sought* for the duration of the dispute resolution process;

(2) The parent, guardian, or unaccompanied homeless youth shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or

*unaccompanied* youth to appeal the [decision;] *decision, in a manner and form understandable to the parent, guardian, or unaccompanied youth;*

(3) The child, youth, parent, or guardian shall be referred to the local school system coordinator, who shall assist with carrying out the dispute resolution process under §A of this regulation, as expeditiously as possible after receiving notice of the dispute; and

(4) In the case of an unaccompanied homeless youth, the homeless liaison shall ensure that the youth is immediately enrolled in *the* school *in which the youth is seeking enrollment* pending resolution of the dispute.