



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

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

**FROM:** Karen B. Salmon, Ph.D.

**DATE:** June 25, 2019

**SUBJECT:** COMAR 13A.04.05  
*Education That is Multicultural*  
**REPEAL**

COMAR 13A.01.06  
*Educational Equity* (NEW)  
**PERMISSION TO PUBLISH**

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**PURPOSE:**

The purpose of this action is to review comments received on COMAR 13A.01.06 *Educational Equity*, which was published in the Maryland Register and to request permission to republish with amendments to the regulation.

**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:**

The State Board of Education granted permission to publish amendments to COMAR 13A.04.05, *Education That is Multicultural*, in October 2016. Based upon input from Board members and public

comment, the proposed amendments were withdrawn in February 2017. Using the Council of Chief State School Officers' (CCSSO) document, *Leading for Equity: Opportunities for State Education Chiefs*, the State Superintendent collaborated with the Network for Equity and Excellence in Education (NE3) to develop new regulations focused on educational equity. There was representation and involvement from each local school system. The State Board reviewed the new regulations on September 25, 2018 and suggested changes, including annual updates to the State Board. The State Superintendent met with NE3 to facilitate the revisions.

At the December 4, 2018 State Board meeting, the State Board granted permission to publish a request to repeal COMAR 13A.04.05 *Education that is Multicultural* and to replace it with COMAR 13A.01.06 *Educational Equity*. The repealed and proposed COMAR regulations were published in the Maryland Register from March 29, 2019 to April 29, 2019. Seven comments were received. The full text of comments is attached, along with a summary of comments and MSDE's responses.

The MSDE reviewed all comments to determine if any suggested changes are legally necessary or would improve the regulations. The MSDE supports many of the recommended revisions suggested through public comments, and has incorporated them into the regulations. Counsel has determined that the revisions are substantive; therefore, the MSDE is requesting permission to publish the regulations with the amended language.

### **EXECUTIVE SUMMARY:**

The new educational equity regulations establish equity as a priority for the MSDE and all local school systems. The additional language provided from public comments enhances the regulations.

### **ACTION:**

Request permission to repeal COMAR 13A.04.05 *Education that is Multicultural* and permission to publish COMAR 13A.01.06 *Educational Equity* that includes the new language.

### **Attachments:**

COMAR 13A.01.06 *Educational Equity*  
Public Comments Regarding COMAR 13A.01.06 Educational Equity  
Comments:

- National Federation of the Blind Maryland (letter)
- Steve Wernick, Supervisor of Title I Carroll County Public Schools (email)
- Boyd Michael, Ed.D., Superintendent Washington County Public Schools (letter)
- Montgomery County Public Schools Comments
- Jeanette Ortiz, Legislative and Policy Counsel Anne Arundel County Public Schools (letter)
- Kimberly Humphrey, Legislative Counsel ACLU of Maryland (letter)
- Committee of Practitioners Title I (email)
- 2018-2010 Title I, Part A Committee of Practitioners Membership

## 13A.01.06 Educational Equity

### .01 Purpose.

The purpose of this chapter is to establish as a matter of policy and priority that:

A. Each Maryland public school will provide every student equitable access to the educational rigor, resources, and supports that are designed to maximize the student's academic success and social/emotional well-being;

B. Each local school system's procedures and practices provide for educational equity and ensure that there are no obstacles to accessing educational opportunities for any student; and

C. Achievement will improve for all Maryland students and achievement gaps will be eliminated.

### .02 Scope.

This chapter applies to all local school systems, the Maryland State Department of Education, and [public agencies] entities that provide educational services to [all] children birth—[12th grade] age 21, including licensed childcare facilities and programs.

### .03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Accountability measures" mean those Maryland accountability framework indicators in place to guarantee oversight of opportunities, resources, and educational rigor that will lead to achievement for all students.

(2) "Educational equity" means that every student has access to the opportunities, resources, and educational rigor they need throughout their educational career to maximize academic success and social/emotional well-being and to view each student's individual characteristics as valuable.

(3) "Educational opportunities" mean all students have access to rigorous, well-rounded academic programs and experiences that enrich their educational career and prepare them for academic and career success.

(4) "Equity lens" means that for any program, practice, decision, or action, the impact on all students is addressed, with strategic focus on marginalized student groups.

(5) "Individual characteristics" means the characteristics of each individual student which include but are not limited to:

(a) Ability (cognitive, social/emotional, and physical);

(b) Ethnicity;

(c) Family structure;

(d) Gender identity and expression;

(e) Language;

(f) National origin

(g) Nationality

(h) Race;

(i) Religion;

(j) Sexual orientation; and

(k) Socio-economic[s] status.

### .04 Requirements—Educational Equity in Maryland.

A. The Maryland State Department of Education shall establish systems of structure and support for school systems, students, teachers, and other stakeholders that ensure educational equity and excellence.

B. Each local school system shall develop an educational equity policy and regulations, to be reviewed every 3 years, with the goal of providing educational equity to all students.

C. The policy and regulations shall:

(1) Be designed to create and maintain environments that are equitable, fair, safe, diverse, and inclusive;

(2) Be based on the goal of providing educational equity for all students;

(3) Direct the identification and utilization of resources to provide equitable access to educational opportunities and services, by among other steps, the use of disaggregated student data to analyze trends and identify gaps and equitable solutions;

(4) Identify partnerships with the Maryland State Department of Education, local government agencies, and stakeholders to support educational equity;

(5) Provide tailored and differentiated professional learning to build capacity for cultural responsiveness to address areas of inequity identified by the school system;

(6) Ensure equitable access to effective teachers for all students;

(7) Require that an equity lens be used in all staff recruiting, hiring, retention, and promotion decisions;

(8) Require that an equity lens be used in reviews of all staff, [including administrators, teacher and instructional leader candidates,] curriculum, pedagogy, professional learning, instructional materials, and assessment design;

(9) Provide the access and opportunity for all students to successfully read on level by the end of grade 2;

(10) Direct that equity be addressed in the Local Every Student Succeeds Act (ESSA) Consolidated Strategic Plan;

- (11) Identify the school system's process for analyzing data to develop goals, objectives, strategies, and timelines for the implementation of equitable and culturally competent practices in each school;
- (12) Identify the method of evaluation to measure the effect of equitable practices in the school system and schools; and
- (13) Designate an individual responsible for the facilitation, monitoring, and implementation of the system equity initiatives within the Local ESSA Consolidated Strategic Plan.

**.05 Monitoring and Reporting.**

**A. Each local school system shall:**

- (1) Address implementation of the equity policy through its Local ESSA Consolidated Strategic Plan;
- (2) Beginning September 1, 2019, include its equity initiatives as an integrated component of its Local ESSA Consolidated Strategic Plan; and
- (3) Beginning September 1, 2020, and every 3 years thereafter, in its Local ESSA Consolidated Strategic Plan, submit to the State Superintendent an analysis of the results of the accountability measures related to data collected on achieving equity goals and objectives, **that will be published and made accessible to the public.**

**B. The Maryland State Department of Education shall:**

- (1) Conduct needs assessments for the Department and local school systems;
- (2) Convene the Network for Equity and Excellence in Education with representation from each local school system **and other stakeholders** to review Statewide progress and to develop implementation and peer review guidelines for this chapter;
- (3) Develop a guide for implementation of equity initiatives at the local level which includes sample components of high-quality equity policies, guidance around how to apply an equity lens within priority **birth – age 21** focus areas **as defined by the Department**, and strategies on how to measure and evaluate the application of an equity lens; and
- (4) Review and assess progress of the Department and local school systems on implementing the requirements of this chapter.

C. Beginning December 1, 2020, and every 3 years thereafter, the State Superintendent shall report progress on the implementation of this chapter to the State Board, **publish the data, and make it easily accessible for public viewing;** and

D. Beginning in 2020 and annually thereafter, the State Board of Education and the Superintendent will recognize schools, school staff, and local school systems, which demonstrate the most significant advances in promoting equity and excellence.

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

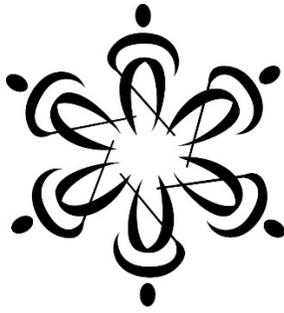
Public Comments Regarding COMAR 13A.01.06 Educational Equity

Name	Topic	Comment/Question	Response
<p>Sharon Maneki, Director of Legislation and Advocacy, National Federation of the Blind of MD</p>	<p>.03(5)</p>	<p>Blind and visually impaired students rarely receive services that demonstrate educational equity. Include specific procedure to ensure that special education students, such as those who are blind, have real access to the curriculum and real educational equity. Strengthen to spell out how these students will be included in the educational goals.</p>	<p>These regulations require MSDE to “develop a guide for implementation of equity initiatives at the local level...” which will address most of the issues raised in the comments.</p>
	<p>.04C(6)</p>	<p>Too vague: Who is responsible for finding solutions to the shortage of teachers for blind and visually impaired students?</p>	<p>Outside the scope of the regulations</p>
	<p>.04C(7)</p>	<p>Training on importance and components of accessibility  Require training for principals and other leaders  More specific references to ensure that special education students have real access to the curriculum and educational equity</p>	<p>This is included in COMAR 13A.06.05 <i>Purchase and Use of Accessible Teaching and Learning Materials</i>.  MSDE’s implementation guide  MSDE’s implementation guide</p>
<p>Steve Wernick, Supervisor of Title I School Performance, Equity, and Accountability, Carroll County Public Schools</p>		<p>Provides clear practices and beliefs that align with our districts current practices, core beliefs, and strategic pillars in the CCPS Strategic Plan.</p>	

Name	Topic	Comment/Question	Response
Dr. Boyd J. Michael, III, Superintendent , Washington County Public Schools	Funding	Provide adequate funding	Outside the scope of regulations
	Mental health	Expand mental health services	MSDE's implementation guide
	.04C(4)	Be specific about roles in implementation	MSDE's implementation guide
	.05B(2)	Include local government in <i>Network for Equity and Excellence in Education</i>	Change proposed: Include other stakeholders in <i>Network for Equity and Excellence in Education</i>
Maureen McNamara, Policy and Forms Specialist, Montgomery County Public Schools	.03B(5)	Include color, ancestry, national origin, immigration status, age, and other legally or constitutionally protected attributes or affiliations Add actual or perceived individual characteristics	Change proposed: Include <i>national origin</i> and <i>nationality</i>
	.03B(2)	Current language may constrain the individualized analysis that IDEA requires. Qualify the phrase.	COMAR regulations are interpreted consistent with Federal law. Students' IEPs will provide the individualized analysis.
	.03B(2)	Add career success.	Change is proposed.
	.01(A)	Use MCPS language	The purpose statement was developed with statewide input through the Network.
	.04C	Change review from 3 years to 5 years	Review is needed at least every 3 years to keep equity in focus.

Name	Topic	Comment/Question	Response
	.04C(8)	Add “taking into consideration each student’s individual circumstances”	All students should have access and opportunity. Students with disabilities have IEPs.
	.04C(10) .04C(11)	Clarify difference between analyzing data and method of evaluation	MSDE’s implementation guide
Jeanette Ortiz, Esq. Legislative & Policy Counsel, Anne Arundel County Public Schools	.01 and .03	Suggested new language	Proposed language was developed with statewide input through the Network.
	.02	Does not align with birth to 21 in IDEA	Change proposed: birth to age 21
	.03	Change “individual characteristics” to “dimensions of identify”	Stylistic change that does not improve regulation.
	.04C(1)	LSS cannot ensure diversity in the student body	Not the intention. LSS can ensure diversity in the environment.
	.04C(6)	Amend to reflect realities of negotiated agreements and teacher placement	The regulations are not intended to override negotiated agreements.
Kimberly R. Humphrey, Esq. Legislative counsel – Education, ACLU of Maryland	.01 and .03	Equity must include fairness and inclusion. Add relevant Federal regulations Add nationality and national origin to individual characteristics	Changes proposed: Add <i>nationality</i> and <i>national origin</i> in .03B(5) Add <i>fair</i> in .04C(1) Add Relevant Federal regulations in Notice of Proposed Action
	.04B	Shorten the review cycle from 3 to 2 years	LSS can review more often.
	.04C	Add Require that an equity lens be used in recruiting, hiring, and retention decisions.	Change proposed.

Name	Topic	Comment/Question	Response
	.05A(3) and .05C  .05B(2)	Publish results and make accessible to the public  Require stakeholder and community input for the <i>Network for Equity and Excellence in Education</i> .	Changes proposed.  Change proposed: Include other stakeholders in <i>Network for Equity and Excellence in Education</i> .
Title I Committee of Practitioners	.04C(8)	How will it be measured? What about newly arrived ELs and children with special needs?	Will be determined in their mandated educational equity policies. The MSDE implementation guide will assist.



**NATIONAL FEDERATION  
OF THE BLIND**  
MARYLAND

*Live the life you want.*

**Subject:** Comments on 13A.01.06 Educational Equity  
**To:** Director of Instructional Programs, Improvement and Professional Learning  
**From:** Members of the National Federation of the Blind of Maryland  
**Contact:** Sharon Maneki, Director of Legislation and Advocacy  
National Federation of the Blind of Maryland  
9013 Nelson Way  
Columbia, MD 21045  
Phone: 410-715-9596  
Email: [nfbmd@earthlink.net](mailto:nfbmd@earthlink.net)

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The National Federation of the Blind of Maryland offers the following comments on 13A.01.06 Educational Equity.

We applaud Maryland State Department of Education (MSDE) for developing an educational equity policy. The goal to “provide every student equitable access to the educational rigor, resources, and supports that are designed to maximize the student’s academic success and social/emotional well-being” is an excellent step in the right direction to improving education in Maryland. The commitment to this policy is enhanced by the monitoring and reporting requirements listed in the regulation. The goals will never be achieved without these accountability procedures.

Special education students in general, and blind and visually impaired students in particular, rarely receive services that demonstrate educational equity. In .03 Definitions, (5) individual characteristics account for the difference in student abilities. However, the regulation should include more specific procedures to ensure that special education students, such as those who are blind, have real access to the curriculum and real educational equity. This regulation must be strengthened to spell out how these students will be included in the educational goals outlined above. For instance, .04 Requirements-Education Equity in Maryland, “C. The policy and regulations shall...(6) Ensure equitable access to effective teachers for all students” is much

too vague. Who is responsible for finding solutions to the shortage of teachers for blind and visually impaired students?

Many times, the needs of blind students are ignored in instructional design and in the acquisition of accessible instructional materials. These students are denied access to the curriculum. While C-7 mentions these needs, there is no requirement for the existence of a systemic professional development plan for training all key decision-makers on the importance and components of accessibility.

The regulation looks good on paper, but it needs more specifics if it is really going to achieve its goal of educational equity. The regulation should require training for principals and other educational leaders. The plan should also have more specific references to ensure that special education students, including those who are blind or visually impaired, have real access to the curriculum and educational equity.



**Susan Spinnato -MSDE-**  
<susan.spinnato@maryland.gov>

## Feedback/Comments for COMAR Policy Educational Equity (13A.01.06)

1 message

**Wernick, Steve** <spwerni@carrollk12.org> Thu, Apr 25, 2019 at 9:03 AM  
To: "susan.spinnato@maryland.gov" <susan.spinnato@maryland.gov>  
Cc: "young-chan.han (young-chan.han@maryland.gov)" <young-chan.han@maryland.gov>, "Anderson, Jason" <jaander@carrollk12.org>, "Jones, Judith" <JIJONES@carrollk12.org>, Mary Cross -MSDE- <mary.cross@maryland.gov>

Good morning Susan,

In dialogue with our Executive Director of Performance, Equity, and Accountability and the Supervisor of Equity & Community Outreach, the CCPS Title I Office is enthusiastic concerning the action to publish the proposed new regulation (Chapter 06) Educational Equity and the repeal of regulation (Chapter 05) Education That is Multicultural.

The purpose and requirements outlined in the new policy, Educational Equity, provide clear practices and beliefs that align with our district's current practices, core beliefs, and strategic pillars found in the CCPS 2018-2023 Strategic Plan. Adoption of this new policy will help to establish consistent indicators and guidelines across the school districts in Maryland, which will also support our district's continuing efforts to ensure equitable access for learning and educational opportunities are made available for all students, as well as, recruit and retain persons from underrepresented groups among personnel in staffing to reflect the diversity of our student population.

Carroll County Public Schools is currently revising our own Educational Equity Policy (#ABA) to create seamless alignment with the proposed COMAR regulation 13A.01.06, which enhances our efforts to place equality in the forefront of our actions and decisions for our entire student population and workforce.

The CCPS Title I Office applauds the efforts of MSDE to create a new policy that ensures equal access to learning for all students, especially our underrepresented student populations.

Sincerely,

Steve Wernick



**Wernick**

Steven  
(V)410-386-1535

Supervisor of Title I

(F)410-386-1540

School Performance, Equity, and Accountability spwerni@carrollk12.org

Carroll County Public Schools

*Together – It's Possible*

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**Boyd J. Michael, III, Ed.D.**  
*Superintendent of Schools*

April 26, 2019

Via U.S. Mail & Email ([susan.spinnato@maryland.gov](mailto:susan.spinnato@maryland.gov))

Ms. Susan C. Spinnato, Director  
Instructional Programs, Improvement and Professional Learning  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, Maryland 21201

**RE: Proposed Code of Maryland Administrative Regulation (COMAR) Subtitle 13A.01.06 – “Educational Equity”**

Dear Ms. Spinnato:

Washington County Public Schools’ (WCPS) staff has reviewed the proposed COMAR Subtitle 13A.01.06, entitled “Educational Equity,” that was published in The Maryland Register on March 29, 2019. WCPS offers the following comments.

Every student should be afforded the opportunity to be academically successful. The State Board of Education’s initiative to establish a state-wide policy on educational equity is to be commended. The Washington County Board of Education is moving forward with drafting an educational equity policy that will be modeled after the policy being proposed by the Maryland State Board of Education.<sup>1</sup>

In order to fully implement this new policy with fidelity, there is a need to provide every school system with adequate funding as identified by the Commission on Innovation and Excellence in Education (“Kirwan Commission”) and to include in the policy an explanation of the role of students, parents, guardians, the school community, teachers, administrators, and the local funding authority in supporting the local school systems’ efforts to achieve the goals of the policy. There is also a need to expand mental health services for school-aged students so that they may take full advantage of the educational opportunities that are being provided to prepare them so that they will be successful.

Educational Equity and Adequacy of Education Funding in Maryland

In January of 2017, the Maryland Department of Legislative Services (“DLS”) made a presentation to the Kirwan Commission on the adequacy of education funding in Maryland.

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<sup>1</sup> The draft COMAR provision does not specify the timeline within which a new educational equity policy must be adopted by a local board of education. It would be helpful if the State Board of Education could provide guidance on its expectations.

The report describes the term “adequacy” as follows: “Funding should be sufficient to acquire the total resources needed to reasonably expect that all students can meet academic performance standards.”

The DLS report examined educational funding during the period from Fiscal Year 2002 to Fiscal Year 2015 and summarized the status of funding for public education in Fiscal year 2015 in terms of whether such funding was adequate and concluded as follows:

- There was a statewide adequacy gap of \$1.6 billion.
- Statewide, adequacy was funded at 87.9%.
- Six counties achieved 95.0% or above funding of their adequacy targets; including four that exceeded their targets.
- Another five counties were funded at more than 90.0% of their adequacy targets.
- Three counties were funded at less than 80.0% of adequacy.<sup>2</sup>

There must be sufficient funding to acquire the resources that are needed to reasonably expect all students to meet academic standards. The Kirwan Commission has recommended that an additional \$3.8 billion per year should be provided for the next ten (10) years to meet the needs of students. The passage of The Blueprint for Maryland’s Future (“Blueprint”) provides a pathway for additional resources that will advance the education of all students.<sup>3</sup> The advocacy of the State Board of Education and State Superintendent in support of the Blueprint is greatly appreciated.

Educational Equity and the Role of Students, Parents, Guardians, the School Community, Teachers, Administrators, and the Local Funding Authority

The entire community must be fully engaged in assisting the local school system in its efforts to implement this new policy.

The policy provides for the formation of partnerships with the Maryland State Department of Education, local government agencies, and stakeholders to support educational equity. The policy should set forth in detail the specific role the local governmental agencies and the stakeholders (i.e., students, parents, guardians, the school community, teachers, administrators, and the local funding authority) play in achieving the objectives of this policy.

The policy provides for the establishment of the Network for Equity and Excellence in Education which should be expanded to include representatives from local government agencies and include the stakeholders enumerate above who should jointly evaluate their efforts to implement this policy.

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<sup>2</sup> *Adequacy of Education Funding in Maryland* presentation to the Commission on Innovation and Excellence in Education (“Kirwan Commission”), Department of Legislative Services, Office of Policy Analysis, January 9, 2017, at page 8.

<sup>3</sup> The new policy requires a local board of education to “provide the access and opportunity for all students to successfully read on level by the end of grade 2.” The research is clear that a student who cannot read on grade level by 3<sup>rd</sup> grade is four (4) times less likely to graduate by age 19 than a child who does read proficiently by that time. Notwithstanding the new funding for struggling learners, significantly more funding is required to reach this essential goal so that students may be successful.

Educational Equity and the Expansion of Mental Health Services

Across the State of Maryland, every local school system is experiencing an increase in the number of students in need of mental health services. In Washington County, there is an increasing number of young students utilizing the services of the home and hospital teaching program as a result of anxiety.

The School Safety Subcabinet of the Maryland Center for School Safety (“Subcabinet”), which was chaired by Dr. Karen Salmon, State Superintendent, was requested to evaluate the plans for delivering behavioral health and wraparound services to students exhibiting behaviors of concern and the availability of mental health services and practitioners to address the needs of school-age children in the state. The Subcabinet’s report, which was issued in December 2018, stated, in part, that:

...29.9% of high school students reported feeling sad or hopeless. It is estimated that approximately 22% of school-age children and youth in Maryland experience mental health or substance abuse challenges serious enough to require treatment.

\* \* \* \* \*

The findings in this report indicate an uneven distribution of service providers and service utilization across the State. Further, research has demonstrated that children and youth enrolled in Maryland Medical Assistance programs are disproportionately affected by behavioral health disorders and are more likely than their counterparts with private insurance to see a mental health professional or a primary care doctor for emotional and behavioral problems.

The report also stated:

...the majority of community-partnered school behavioral health programs are not providing the full continuum of comprehensive behavioral health services (i.e., behavioral health promotion, prevention, and intervention). A majority of community-partnered school behavioral health programs provide treatment services for students already identified with concerns, yet few provide behavioral health promotion or prevention services.

Clearly, this report demonstrates the need to take immediate action now to expand services to students and to increase the number of health care professionals. Maryland school systems have taken action to expand the level of these services for students but more must be done now to support students.

WCPS is requesting the State Superintendent and State Board of Education to explore how the gaps in providing care to students identified in the Subcabinet’s report may be closed. The current role of local health departments and local mental health authorities should be reviewed to determine if these governmental entities can assist in providing additional mental health and substance abuse services for students.

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In conclusion, in order to fully implement this new policy with fidelity, there is a need to provide every school system with adequate funding as identified by the Commission on Innovation and Excellence in Education ("Kirwan Commission") and to include in the policy an explanation of the role of students, parents, guardians, the school community, teachers, administrators, and the local funding authority in supporting the local school systems' efforts to achieve the goals of the policy. There is also a need to expand the mental health services for school-aged students so that they may take full advantage of the educational opportunities that are being provided to prepare them so that they will be successful.

Sincerely,



Boyd J. Michael, III, Ed.D.  
Superintendent of Schools

Copy: Mrs. Melissa Williams, Board of Education President  
Mr. Stanley Stouffer, Board of Education Vice President  
Mr. Pieter Bickford, Board of Education Member  
Mrs. Jacqueline Fischer, Board of Education Member  
Mr. Michael Guessford, Board of Education Member  
Mrs. Linda Murray, Board of Education Member  
Mr. Wayne Ridenour, Board of Education Member  
Dr. April Bishop, Deputy Superintendent  
Dr. Peggy Pugh, Associate Superintendent for Curriculum and Instruction  
Mr. Jeffrey Proulx, Chief Operating Officer  
Mr. Anthony Trotta, Chief Legal Counsel  
Mrs. Ardath Cade, Legislative Representative for Washington County Board of Education  
Senator George Edwards  
Senator Andrew Serafini  
Delegate Paul Corderman  
Delegate Michael McKay  
Delegate Neil Parrott  
Delegate William Wivell  
Mr. C. Tolbert Rowe, Board of Directors President, Maryland Association of Boards of Education  
Ms. Frances Hughes Glendening, Executive Director, Maryland Association of Boards of Education  
John Woolums, Esquire, Director of Governmental Relations, Maryland Association of Boards of Education  
Stephen Bounds, Esquire, Director of Legal and Policy Services, Maryland Association of Boards of Education  
Dr. Karen Salmon, State Superintendent of Schools  
Dr. Justin Hartings, President, Maryland State Board of Education  
Ms. Stephanie Iszard, Vice President, Maryland State Board of Education  
Dr. Chester Finn, Jr., Member, Maryland State Board of Education  
Dr. Vermelle Greene, Member, Maryland State Board of Education

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**Ms. Jean Halle, Member, Maryland State Board of Education**

**Dr. Rose Maria Li, Member, Maryland State Board of Education**

**Dr. Joan Mele-McCarthy, Member, Maryland State Board of Education**

**Mr. Michael Phillips, Member, Maryland State Board of Education**

**Dr. David Steiner, Member, Maryland State Board of Education**

**Brigadier General Warner Sumpter, Member, Maryland State Board of Education**

**Ms. Rachel Hise, Department of Legislative Services**

**COMAR 13A.01.06 *Educational Equity***  
**Proposed New Chapter, Regulations .01—.05**  
**and**  
**Proposed Repeal of Regulations .01—.08 under COMAR 13A.04.05,**  
***Education that is Multicultural***

Montgomery County Public Schools Comments

**Maryland State Board of Education Statement of Purpose**

The purpose of this action is to establish educational equity as a priority for the Maryland State Department of Education and all local school systems.

**Montgomery County Public Schools (MCPS) Comments**

MCPS is very pleased that the Maryland State Department of Education is placing focus on the need for increased equitable opportunities and using a cultural proficiency approach to educational opportunities for all students. MCPS notes much alignment with the proposed new COMAR chapter 13A.01.06, *Educational Equity*, and the Montgomery County Board of Education's [Policy ACA, Nondiscrimination, Equity, and Cultural Proficiency](#).

MCPS would like to request that Regulation .03(B)(5) *Definitions*, under the new chapter be revised to include the following individual characteristics: color, ancestry, national origin, immigration status, age, and other legally or constitutionally protected attributes or affiliations. These additional characteristics are referenced in Montgomery County Board Policy ACA, and including them here is consistent with the scope of our equity and accountability initiatives and in recognition that not all protected categories under federal or state law are fully represented in this listing. In addition, MCPS proposes that the definition reference “actual or perceived individual characteristics” to ensure consistency with anti-discrimination law.

MCPS also requests that consideration be made to ensuring that the language of the proposed state regulations are consistent with existing federal and state laws related to students with disabilities and other student groups. For example, we request that the definition of educational equity in Regulation .03(B)(2), which includes the phrase “to maximize academic success and social-emotional well-being,” should be qualified to adhere to the intent of the Individuals with Disabilities Education Act (IDEA), which is to provide individualized academic programming based upon the student’s specific needs. Furthermore, the U.S. Supreme Court’s 2017 decision in *Endrew F. v. Douglas County School District* interpreted the IDEA as requiring Individualized Education Program (IEP) teams to develop IEPs that are “*reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.*” The current proposed language may inadvertently be interpreted to constrain the individualized analysis that the IDEA requires, in light of students’ circumstances, to measure their academic success. In addition, MCPS believes it would be helpful to pair academic success with career success, consistent with the state’s emphasis on college and career readiness. As an alternative that addresses these concerns, MCPS requests consideration of the definition of equity in Montgomery County Board Policy

ACA, which states: “Equity is the commitment to ensure that every student and staff member, without regard to their actual or perceived personal characteristics, is given the individual challenges, support, and opportunities to exceed a rigorous common standard in order to be prepared for academic and career success.” If the State Board does not wish to adopt this alternative language in its entirety, it could consider addressing the concerns cited above by altering the phrase “to maximize academic success and social-emotional well-being” in the proposed regulation so it reads: “to prepare students for academic and career success, as well as social-emotional well-being, . . .”

MCPS has similar concerns with the proposed language in the purpose section set forth in Regulation .01(A). Therefore, MCPS proposes modifying this provision. One option would be to adapt language from Montgomery County Board Policy ACA, so that the provision reads: “Each Maryland public school will provide every student equitable access to the educational rigor, resources, and supports that are designed to ensure that educational outcomes should never be predictable by any student’s actual or perceived individual characteristics.”

Additionally, Section .04 (*Requirements—Educational Equity in Maryland*) of the proposed regulations provides that local school systems are required to review their policies and procedures of educational equity on a three-year basis. MCPS request that a five-year time frame be established as this would permit more meaningful data collection and would enable student progress data to be tracked consistent with four-year and five-year graduation cohorts.

Section 04.C. (08) requires each local school system to provide the access and opportunity for all students to successfully to read on grade level by the end of Grade 2. Although this language identifies the need for access and opportunity, it implies that all students have equal means to achieve this outcome and as noted above, may be interpreted to constrain the individualized analysis required by the IDEA, as recently emphasized by the Supreme Court in *Endrew F.* Therefore, MCPS request the addition of the phrase “*taking into consideration each student's individual circumstances.*”

Finally, MCPS is requesting clarification of the difference between the wording in Section .04 C (10), “...school system’s process for analyzing data...,”and Section .04 C (11), “...method of evaluation...”

Thank you for your consideration.



April 29, 2019

Susan C. Spinnato  
Director of Instructional Programs  
Maryland State Department of Education  
200 W. Baltimore Street  
Baltimore, MD 21201

Dear Ms. Spinnato:

On behalf of Anne Arundel County Public Schools (AACPS), I am submitting this public comment on the proposed establishment of COMAR 13A.01.06 Educational Equity.

The purpose of the proposed changes is to repeal COMAR 13A.04.05 Education That Is Multicultural and replace with COMAR 13A.01.06 Educational Equity. The new educational equity regulations would establish equity as a priority for the Maryland State Department of Education (MSDE) and all local school systems.

AACPS has been a leader in the area of educational equity. For the second consecutive year, AACPS has been recognized with a national award for its efforts to increase equity in the quest to elevate all students and eliminate all gaps. The school system is one of five across the nation with student populations of 20,000 or more to earn a first place Magna Award from the National School Boards Association and its flagship magazine, *American School Board Journal*. The awards recognize innovative programs that “are working to remove barriers to achievement for underserved and vulnerable students,” according to the NSBA. The award specifically highlights the Office of Equity and Accelerated Student Achievement’s creation of the Equity Lead Program, which designates a faculty member in every school who is committed to the work of equitable practices and eliminating achievement and opportunity gaps. Equity Leads analyze data by student groups to support school improvement efforts and equitable practices, provide leadership in establishing schoolwide professional development goals and initiatives, and are responsible for planning and organizing at least two parent involvement opportunities that educate and empower parents in how they can support equitable practices.

As illustrated above, we are committed to providing all AACPS students and employees with access to safe, equitable, and engaging environments to learn and work. While AACPS appreciates the intent of the proposed new regulations regarding educational equity, we have a few comments and concerns.

First, AACPS recommends that the language in regulation .01 be amended to align with language in regulation .04, which identifies the goals of public schools and local school systems. Accordingly, AACPS recommends the following language to regulation .01:

- A. It is the goal of each Maryland public school to provide every student equitable access to the educational rigor, resources, and supports that are designed to maximize the student’s academic success and social/emotional well-being;

- B. It is the goal of each local school system to implement procedures and practices that provide for educational equity and ensure that there are no obstacles to accessing educational opportunities for any student; and
- C. It is the goal of the State of Maryland that achievement will improve for all Maryland students and achievement gaps will be eliminated.

Language in regulation .02, which establishes the scope, states that the regulations apply to all public agencies that provide an education to children birth to grade 12. However, the Individuals with Disabilities Education Act (IDEA) requires public agencies to provide educational services to children birth to 21 years of age. Accordingly, AACPS recommends that this language be revised to be consistent with the federal requirements under IDEA.

In addition, AACPS recommends that references to “individual characteristics” in regulation .03 be replaced with “dimensions of identity.”

Finally, AACPS has concerns with some language in regulation .04, which enumerates the information to be included in a school system’s educational equity and regulations. Specifically, under section .C (1), it is important to note that a local school system cannot necessarily ensure diversity in the student body of any school, particularly when some of the communities in which students live lack diversity. Accordingly, the language in section .C (1) should be amended to recognize this limitation. Additionally, the language in Section .C (6) should also be amended to reflect the realities of negotiated agreements and how they impact the placement of teachers.

For all of the aforementioned reasons and issues raised, AACPS respectfully requests that MSDE make the requested amendments to the proposed regulations.

Thank you for your time and consideration of our comments.

Sincerely,



Jeanette Ortiz  
Legislative & Policy Counsel

cc: Karen B. Salmon, Ph.D., State Superintendent  
Justin M. Hartings, Ph.D., President  
George Arlotto, Ed.D., Superintendent  
Monique Jackson, NBCT, Deputy Superintendent  
Maisha Gillins, Ph.D., Executive Director



**Susan Spinnato -MSDE-**  
<susan.spinnato@maryland.gov>

## Question from a member of TI Committee of Practitioner

1 message

**Young-Chan Han -MSDE-** <young-chan.han@maryland.gov>

Tue, Apr 30, 2019 at 10:19 AM

To: Susan Spinnato -MSDE- <susan.spinnato@maryland.gov>

Please confirm receipt of this email.

Thank you!

Young-chan

On Mon, Apr 29, 2019 at 10:30 PM Young-Chan Han -MSDE- <young-chan.han@maryland.gov> wrote:

Below is a question that was sent via email from a member of the Title I Committee of Practitioner's during the TI COP meeting this morning.

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Thank you for sharing the Educational Equity COMAR. I have a question regarding Title13A.01.06 Educational Equity Proposed Regulation Educational Equity in Maryland requirement #8 . The requirement states:

(8) Provide the access and opportunity for all students to successfully read on level by the end of grade 2;

Question: How will the opportunity for all students to successfully read on grade level by end of grade 2 be measured? What about the newly arrived English Learners and the children with special needs?

This question is sent on behalf of the Title I, Part A Committee of Practitioners.

Attached is a list of the Committee members.

Let me know if you have any questions.

Thank you!  
Young-chan  
Title I, Committee of Practitioner's Point of Contact

--



Young-chan Han  
Family Involvement/Title I  
Specialist  
Division of Curriculum,  
Instructional Improvement  
& Professional Learning  
Maryland State Department  
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Connect with the Maryland State  
Department of Education on  
Facebook and  
@MdPublicSchools on Twitter

Click here to complete a  
three question customer  
experience survey.

2018-2019 Title I, Part A Committee of Practitioners  
Membership Directory (December, 2018)

NAME	TITLE	ORG/DISTRICT	REPRESENTATION
Barbara Baker	Superintendent	Garrett County Public Schools	Local Educational Agency
Barbara Scherr	Title I/Family Involvement Specialist	Maryland State Dept. of Education	Ombudsman
Beth Sheller	Family Engagement	Wicomico Public Schools	Parent/ Local Educational Agency
Carol Beck	Director, Office of School Innovation	Maryland State Dept. of Education	Charter School - Administrator
Caroline Walker	Director of Curricular Programs	Howard County Public Schools	Local Educational Agency
Cyndi La Marca Lessn	Branch Chief	Maryland State Dept. of Education	Div. of Early Childhood Dev.
Cheryl Franklin	Principal	Prince George's County Public Schools	Principals
Deann Collins	Director, Title I	Montgomery County Public Schools	Local Educational Agency
Duane Arbogast	Chief Innovation Officer	Children's Guild	Charter School Leader
	President	Maryland PTA	Parent
Ilhye Yoon	Title III Specialist	Maryland State Dept. of Education	Title III/ ESOL
John Maxwell	Principal	St. Paul Lutheran School	Private School Children
John McGinnis	Pupil Personnel/School Social Worker	Maryland State Dept. of Education	Fostser Care Point of Contact
Katrina Kickbush	Teacher	Baltimore City	Charter School Teacher
Michele Hampton	Migrant Coordinator	Maryland State Dept. of Education	Title I, Part C
Michele Stansbury	Title I Coordinator	Baltimore County Public Schools	Local Educational Agency
Nicole Harris-Crest	Executive Director	Maryland Alliance of Public Charter Schools	Charter School Leader
Paula M. Harris	Director, Program Improvement &	Maryland State Dept. of Education	Title I
Quanya Williams	Teacher	Baltimore City	Teacher
Robin Daubach	Title I Supervisor	Caroline County Schools System	Local Educational Agency
Robert Wells	Board Member	Wicomico Public Schools	Local School Board Member
Scott Nichols	Technology Education Supervisor	Maryland State Dept. of Education	Career and Technology
Steven Wernick	Title I Coordinator	Carroll County Public School System	Local Educational Agency
Susan Shaffer	President	Mid-Atlantic Equity Consortium, Inc.	Community Partners
Susan Walbert	Supervisor	Queen Anne's County Public Schools	Title I, Part C - Migrant
Tawnya Mckee	Parent	Montgomery County Public Schools	Parent
Tracey Adesegun	Director, ESSA and Title I Dept.	Prince George's County Public Schools	Local Educational Agency
Valerie Ashton-Thoma	Coordinator	Maryland State Dept. of Education	Title I, Part D & Homeless Education
Veronica Simmons	Section Chief	Maryland State Dept. of Education	Title I/ Migrant
Young-chan Han	Title I/Family Involvement Specialist	Maryland State Dept. of Education	COP Point of Contact

2018-2019 Title I, Part A Committee of Practitioners  
Membership Directory (December, 2018)



NAME	TITLE	ORG/DISTRICT	REPRESENTATION	
Barbara Baker	Superintendent	Garrett County Public Schools	Local Educational Agency	
Barbara Scherr	Title I/Family Involvement Special	Maryland State Dept. of Education	Ombudsman	
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Young-chan Han	Title I/Family Involvement Specialist	Maryland State Dept. of Education	COP Point of Contact	



VIA EMAIL

April 29, 2019

Susan C. Spinnato  
Director of Instructional Programs,  
Improvement and Professional Learning  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, Maryland 21201

**Re: 13A.01.06, Educational Equity Regulation - Published March 29, 2019**

Dear Ms. Spinnato:

The ACLU of Maryland (“ACLU”) is deeply committed to equity, especially race equity, related to funding resources and ensuring access to high-quality programs that prepare all students to meet state standards. We are acutely aware of the negative impact of structural bias and the implications of these realities on a range of our public institutions, including education. We recognize that adequately servicing student needs requires intentional action to identify practices that might perpetuate inequitable outcomes, educate school system leaders about implicit bias, and engage in multiple layers of training on implementation and oversight of best practices for creating equitable school environments. We appreciate your review of the comments enclosed to ensure that the *13A.01.06, Educational Equity* regulation (“Equity Regulation”), fulfills the desired purpose with clarity and intentionality.

In order to meet the stated purpose “to establish educational equity as a priority” for Maryland, the Equity Regulation should emphasize a commitment to access *and* a shift to practices that focus on cultural inclusivity, from instruction to administration. We commend the Maryland State Department of Education (“MSDE”) for creating the Equity Regulation. It represents a critical step in affirming the critical need of equity in education. While we are encouraged by MSDE’s efforts to set the expectations of Local Educational Agencies (“LEA”), the Equity Regulation falls short of the contemporary needs related to equity in education. Equity must include two distinct but interrelated values: fairness and inclusion. Unfortunately, these terms were left out. We strongly believe that it is a disservice to students and staff to replace COMAR 13A.04.05, *Education That is Multicultural* regulation without an alternative that explicitly highlights these core values. We would encourage the incorporation of language from the *Education That is Multicultural* regulation to fulfil this goal, and that addition is included below.

Additionally, the proposed language should ensure that each provision, especially those related to accountability, will aid LEAs in an effective review of their educational equity implementation plans. Reviews of district-level activity should occur with enough regularity to inform and impact students and staff in a reasonable timeframe. We find that a three-year review cycle would be an ineffective schedule for informing or changing equity plans in a way that would provide the greatest benefit to students.

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PRESIDENT

DANA VICKERS SHELLEY  
EXECUTIVE DIRECTOR

ANDREW FREEMAN  
GENERAL COUNSEL

To be most effective and responsive to the charge of prioritizing equity, we urge MSDE to:

- (1) incorporate specific language on inclusion and anti-bias;
- (2) include a definition of equity and equitable access;
- (3) shorten the review cycle for implementation plans from three to two years; and
- (4) require stakeholder and community input for the *Network for Equity and Excellence in Education* convenings.

**We suggest the following specific additions and/or revisions to address our concerns (\*our additions are in bold):**

### **Notice of Proposed Action**

#### **ADD: Relevant Federal Regulations**

**Federal law prohibits discrimination on the basis of race, color or national origin (Title VI of the Civil Rights Act of 1964); sex (Title IX of the Education Amendments of 1972 and the Carl D. Perkins Vocational and Applied Technology Education Act of 1990); or disability (Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990) in educational programs or activities receiving federal financial assistance. Pursuant to this, the following information is provided for use by Maryland public school systems, parents, students, and other interested parties.**

### **Comments to COMAR 13A.01.06**

#### **.01 Purpose**

***A. School systems to provide curricula, instruction, staff development, and instructional resources that are multicultural while recognizing our common ground as a nation, which will enable all students to demonstrate knowledge, understanding, and appreciation for equity.<sup>1</sup>***

***A.B. Each local school system's procedures and practices provide for educational equity and **inclusive learning**, and ensure that **obstacles to accessing education opportunities are identified and eradicated for all students.*****

#### **.03 Definitions**

***ADD: "Equity" means the commitment to ensure that every student and staff member, without regard to their actual or perceived personal characteristics, is given the individual challenges, support, and opportunities to exceed a rigorous common standard in order to be prepared for academic and career success.<sup>2</sup>***

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<sup>1</sup> Relevant language from the COMAR13A.04.05 regulation.

<sup>2</sup> Board of Education of Montgomery County - ACA Policy – Nondiscrimination, Equity, and Cultural Proficiency, <https://www.montgomeryschoolsmd.org/departments/policy/pdf/aca.pdf>.

**ADD: “Equitable Access” means ways in which educational institutions and policies ensure—or at least strive to ensure—that students have equal and equitable opportunities to take full advantage of their education.<sup>3</sup>**

**ADD to section (5): “Individual characteristics” means ....**

- (a) Ability (cognitive, social/emotional, and physical);
- (b) Ethnicity;
- (c) Nationality;**
- (d) National Origin;**
- (e) Family structure;
- (f) Gender identity and expression;
- (g) Language;
- (h) Race;
- (i) Religion;
- (j) Sexual orientation; and (k) Socio-economics

#### **.04 Requirements—Educational Equity in Maryland**

**B.** Each local school system shall develop an educational equity policy and regulations, to be reviewed **every 2 years**, with the goals of providing educational equity to all students.

**C.** The policy and regulations shall: (1) Be designed to create and maintain environments that are **fair**, equitable, safe, diverse, and inclusive;

**ADD: (7) Require that an equity lens be used in recruiting, hiring, and retention decisions;**

~~(7)~~ **(8)** Require that an equity lens be used in reviews **and evaluation metrics** for staff, including administrators, teacher and all additional school staff, curriculum, pedagogy, professional learning, instructional materials, and assessment design;

~~(10)~~ **(11)** Identify the school system’s process for analyzing **disaggregated** data to develop goals, objectives, strategies, and timelines for the implementation of equitable and culturally competent practices in each school;

#### **.05 Monitoring and Reporting**

**(A)(1)** Address implementation of the equity policy through its Local ESSA Consolidated Strategic Plan **and incorporate into other processes or structures as determined appropriate;**

**(A)(2)** Beginning September 1, 2019, include **and make publicly available its equity initiatives** as an integrated component of its Local ESSA Consolidated Strategic Plan; and

**(A)(3)** Beginning September 1, 2020, and every **2 years** thereafter, in its Local ESSA Consolidated Strategic Plan, submit to the State Superintendent an analysis

<sup>3</sup> The Glossary of Education Reform, <https://www.edglossary.org/access/>.

*of the results of the accountability measures related to data collected on achieving equity goals and objectives **that will then be published and made accessible to the public.***

***(B)(2)** Convene the Network for Equity and Excellence in Education with representation from each local school system **and a broad range of education stakeholders** to review Statewide progress and to develop implementation and peer review guidelines for this chapter;*

***(B)(3)** Develop a guide for implementation of equity initiatives at the local level which includes sample components of high-quality equity policies, guidance around how to apply an equity lens within priority **Pre-K–12** focus areas, and strategies on how to measure and evaluate the application of an equity lens; and*

***C.** Beginning December 1, 2020, and every **2 years** thereafter, the State Superintendent shall report progress on the implementation of this chapter to the State Board **and publish the data and make it easily accessible for public viewing.***

***D.** Beginning in 2020 and annually thereafter, the State Board of Education and the Superintendent will recognize schools, school staff, and local school systems, **who have been nominated as demonstrating** the most significant advances in promoting equity and excellence.*

Thank you for your consideration of our comments. If you have any questions about the aforementioned concerns, please do not hesitate to contact me at [humphrey@aclu-md.org](mailto:humphrey@aclu-md.org).

Sincerely,

Kimberly R. Humphrey, Esq.  
Legislative Counsel – Education  
ACLU of Maryland