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State Superintendent of Schools

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TO: Members of the State Board of Education
FROM: Karen B. Salmon, Ph.D. *KBS*
DATE: September 27, 2016
SUBJECT: Code of Maryland Regulations (COMAR) 13A.05.07 *Programs for English Learners*
ADOPTION

PURPOSE:

The purpose of this action is to obtain permission to adopt the revisions to the COMAR 13A.05.07 *Programs for English Learners*.

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 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, MSDE staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board of Education to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because suggested revision is not a substantive change; or (3) revise the regulation and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may recommend to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

BACKGROUND/HISTORICAL PERSPECTIVE:

Maryland is among 37 states that have joined the WIDA (World Class Instructional Design and Assessment) consortium which provides standards and assessments for English Learners. Since Maryland joined the consortium in 2011, all local Maryland school systems have been using the WIDA standards to develop curricula and place English Learners in appropriate programs. The required assessment of English language proficiency, ACCESS 2.0, is aligned to the WIDA standards.

During the regulatory review process, it was evident that COMAR 13A.05.07 did not include current federal requirements for identification and assessment of English learners. The proposed revision incorporates the WIDA standards, includes federal program requirements, and updates definitions.

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EXECUTIVE SUMMARY:

ACTION:

Request permission to adopt amendments to regulations under COMAR 13A.05.07 *Programs for English Learners*.

.17 Preparation for Parole Consideration.

- A. — B. (text unchanged)
- C. Notice to Inmate and Access to Files.
 - (1) — (4) (text unchanged)
 - (5) Review of Parole Commission file.

(a) The institutional parole agent and the inmate or [his] *the inmate's* representative shall review the file at the appointed time. [Psychological reports, psychiatric reports, and other information which is considered privileged shall be removed from the file and the institutional parole agent shall orally give a short summary of the contents where appropriate.]

(b) [Recommendations of classification counsellors, work sheets, and other work products of Commissioners and hearing examiners are hereby declared privileged.] *Except as provided in Correctional Services Article, §7-303(b)(1)(ii), Annotated Code of Maryland, the inmate or the inmate's representative may, on request, examine a document that the Commission or Hearing Examiner uses in determining whether the inmate is suitable for parole.*

(c) *Subject to the provisions of Correctional Service Article, §7-303(b)(2), Annotated Code of Maryland, any documents submitted by a victim or the victim's designated representative shall be available for review by the inmate or the inmate's representative except when prohibited by Correctional Services Article, §7-303(b)(1)(ii), Annotated Code of Maryland.*

(d) *If a risk assessment prepared for the Commission contains diagnostic opinions, that assessment may not be available for examination, only a summary that does not contain the diagnostic opinions may be prepared and made available, upon request, to the inmate or the inmate's representative.*

- (6) (text unchanged)

.18 Consideration for Parole.

A. General.

- (1) — (2) (text unchanged)

(3) *In addition to the factors contained under §§A(1) — (2) of this regulation, the Commission considers the following factors in determining whether a prisoner who committed a crime as a juvenile is suitable for release on parole:*

- (a) *Age at the time the crime was committed;*
- (b) *The individual's level of maturity and sense of responsibility at the time of the crime was committed;*
- (c) *Whether influence or pressure from other individuals contributed to the commission of the crime;*
- (d) *Whether the prisoner's character developed since the time of the crime in a manner that indicates the prisoner will comply with the conditions of release;*
- (e) *The home environment and family relationships at the time the crime was committed;*
- (f) *The individual's educational background and achievement at the time the crime was committed; and*
- (g) *Other factors or circumstances unique to prisoners who committed crimes at the time the individual was a juvenile that the Commissioner determines to be relevant.*

[(3)] (4) To make these determinations the Commission examines:

- (a) The offender's prior criminal and juvenile record and [his] *the offender's* response to prior incarceration, parole or probation, or both;
- (b) The offender's behavior and adjustment and [his] *the offender's* participation in institutional and self-help programs;
- (c) — (l) (text unchanged)

B. — I. (text unchanged)

STEPHEN T. MOYER
Secretary

Title 13A STATE BOARD OF EDUCATION

Subtitle 05 SPECIAL INSTRUCTIONAL PROGRAMS

13A.05.07 Programs for [Non-English and Limited-English Proficient Students] English Learners

Authority: Education Article, [§5-203.1] §§2-205 and 4-111, Annotated Code of Maryland

Notice of Proposed Action [16-193-P]

The Maryland State Board of Education proposes to amend Regulations .01—.05 under COMAR 13A.05.07 Programs for Non-English and Limited-English Proficient Students. This action was considered at the May 24, 2016 meeting of the State Board of Education.

Statement of Purpose

The purpose of this action is to incorporate new standards and new federal language and program requirements.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Susan C. Spinnato, Director of Instructional Programs, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0349 (TTY 410-333-6442), or email to susan.spinnato@maryland.gov, or fax to 410-333-1146. Comments will be accepted through September 6, 2016. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on September 27, 2016, 9 a.m., at 200 West Baltimore Street, Baltimore, Maryland 21201.

.01 Scope.

These regulations pertain to all programs for [non-English and limited-English proficient (NEP/LEP) students] *English Learners (ELs)* that provide instructional assistance and services to enable [NEP/LEP students] *ELs* to [acquire and improve English language skills and cultural understandings and thus be able to participate successfully in the academic and social activities of their regularly assigned schools] *attain English proficiency, develop high levels of academic language, and achieve at high levels in academic subjects*

so that all ELs can meet the same challenging Maryland College and Career Ready Standards that all students are expected to meet.

.02 Definitions.

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

B. Terms Defined.

(1) "Bilingual education program" means one in which students receive instruction in their native language as well as in English.

(2) "English as a Second Language (ESL) program" or "English for Speakers of Other Languages (ESOL) program" means a program in which the students are instructed only by means of English using established methodologies for developing second language skills.]

(3) (1) "Home language survey" means one or more questions posed to all parents and students upon entering a local school system in order to determine the language or languages spoken in the home.

(4) "Interrupted schooling" means a student comes to a Maryland public school with an interruption of 6 or more months in schooling in the student's home country.]

(5) (2) ["Non-English or limited-English proficient (NEP/LEP)"] "English Learner" means a student [who]:

(a) [Was born outside the United States or whose native language is not English] *Who communicates in a language other than English; or*

(b) [Comes from an environment where a language other than English is dominant; or] *Whose family uses a primary language other than English in the home; and*

(c) [Is an American Indian or Alaskan Native and comes from an environment where a language other than English has had a significant impact on the student's level of English language proficiency] *Whose English language proficiency falls within the range established by the State for an English language development program.*

.03 Programs for [Non-English and Limited-English Proficient Students] English Learners.

A. Each local school system shall establish [ESL or bilingual education] *an English language development program[s]* for those students who have been identified as [NEP/LEP] *ELs* by means of a home language survey as well as *the State-approved English language proficiency placement* [an] assessment [of English listening, speaking, reading, and writing skills that is considered reliable by the Maryland State Department of Education].

B. The [ESL or bilingual education] *English language development* programs shall contain the following components:

(1) — (4) (text unchanged)

(5) [Personnel] *Certified English for Speakers of Other Languages (ESOL) teachers;*

(6) — (7) (text unchanged)

(8) Program [organization] *delivery models;*

(9) (text unchanged)

(10) Support services; [and]

(11) *Exit criteria; and*

[(11)] (12) Program evaluation.

C. A student who has been identified as [NEP/LEP] *an EL* shall:

(1) [Receive appropriate ESL or bilingual services] *Be placed in an English language development program; and*

(2) Be evaluated each year *on the State-approved summative English language proficiency assessment* in listening, speaking, reading, and writing [English] to determine [LEP] *EL* status.

D. The English language development program shall include the following standards:

(1) *English language learners communicate for Social and Instructional purposes within the school setting.*

(2) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Language Arts.*

(3) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Mathematics.*

(4) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Science.*

(5) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Social Studies.*

[D.] E. Local school systems shall adopt policies and procedures to ensure that there is an [ESL or bilingual education] *English language development* program and that the program meets the requirements of this chapter.

.04 Funding.

A. The amount of State funding shall be determined annually on the basis of the number of [NEP/LEP students] *ELs* who are reported on the *Enrollment Survey as of October 31* [as having been in the local school system for a period of 2 years or less as of May 15 of the second preceding school year].

[B. Funds may be used for items such as:

(1) Teachers;

(2) Aides;

(3) Tutors;

(4) Materials of instruction;

(5) Translation and interpreting services;

(6) Counseling services;

(7) Teacher in-service;

(8) Summer programs;

(9) Curriculum development; and

(10) Logistical support for instructional programs.

C. Local school systems are eligible to receive State funding for a period of up to 5 years for NEP/LEP students who:

(1) Are determined to be illiterate in their native language;

(2) Come from backgrounds of interrupted schooling; or

(3) Are special needs students with disabilities with an Individualized Education Program (IEP).]

.05 Reporting Requirements [; Local School System Responsibilities].

[Each July 15, each local school system shall:

A. Report to the State Department of Education an itemization of expenditures; and

B. Complete annually the Maryland LEP Data Survey which shall include the number of years that each NEP/LEP student has been receiving ESL or bilingual education services.]

Local school systems shall annually report to the Department their goals, objectives, and strategies regarding the performance of English learners along with timelines for implementation and methods for measuring progress.

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