



**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:** April 14, 2020

**SUBJECT:** Request for Waivers Related to Graduation, Assessments, and Service Learning due to the COVID-19 Pandemic

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**PURPOSE:**

To review waiver recommendations related to requirements for graduation including assessments, service learning, and completer requirements as a result of the extraordinary circumstances created by the COVID-19 pandemic and resulting school closures.

**BACKGROUND/HISTORICAL PERSPECTIVE:**

As a result of the COVID-19 pandemic and state of emergency declared by Governor Larry Hogan, Maryland schools have been closed since March 16, 2020, and will be closed at least through April 24, 2020. The Maryland State Department of Education has been fielding questions and concerns regarding the impact of extended closures. Some of the common and most critical issues for local school systems and the State are the instructional and logistical barriers to meeting graduation requirements for seniors and awarding of credits, requirements for all students, requirements for assessments, and for service learning.

**EXECUTIVE SUMMARY:**

The Local School Superintendents have been meeting at least three times a week with the State Superintendent to address issues related to COVID-19, such as identifying concerns, sharing best practices, and making recommendations. Other groups have also been meeting regularly including Assistant Superintendents for Instruction, Assistant Superintendents for Special Education, Directors of Student Services, Coordinators of School Counseling, Federal Program Liaisons, Chief Financial Officers, and many other groups. In addition, five committees with state-wide representation were established and met on April 1, 2020, to address Seniors/High School Requirements, Attendance for Students and Teachers, Grading and Reporting, English Learners, and Continuity of Learning (Standards). It would be inefficient for each local superintendent on behalf of the local school system and local boards of education to specifically request a waiver from each regulation. As a result of reviewing the Maryland Annotated Code, the Code of Maryland Regulations (COMAR), and other documents, and based on the authority of the State Board included under Education Article section 2-205 and COMAR 13A.01.01.02-1 *Waiver from Regulations*, the following waivers are requested

collectively for all local school systems for good cause, as necessary and justifiable, arising from the state of emergency:

COMAR 13A.01.01.02-1 *Waivers from Regulations* – Request a waiver from the requirement that the local superintendent of schools on behalf of the school system file a waiver request with the State Superintendent of School.

Note: COMAR 13A.03.02.03 *Credits for Graduation* – Remain the same – 21 credits required by the State (No waiver requested)

COMAR 13A.03.02.01 *Scope* – Local Superintendents may waive additional graduation requirements for graduates in their school systems (credit requirements range from 21 to 26)

COMAR 13A.03.02.06 *Maryland High School Assessments* –Request a waiver for seniors from participating in and passing assessments in Algebra I, English 10, and American Government, and for participating in the Maryland Integrated Science Assessment (MISA). This request includes a waiver for seniors from completing the Bridge Plan for Algebra I, English 10, and/or American Government.

COMAR 13A.03.02.05 *Student Service - Graduation Requirement*– Request waiver of the Student Service requirement for seniors who have not met the requirements.

Note: Recommend that all other middle and high school students who are enrolled in a course which has Service Learning embedded in the course would receive credit for the Service Learning for that course; all students who earned hours of Service Learning prior to March 13, 2020, would be awarded credit for Service Learning for the 2019-2020 school year.

COMAR 13A.04.19.02 *Program for Cosmetology*– Request waiver for seniors for 500 hours of theory and 1000 hours for demonstration and practical application. Seniors would graduate as a CTE completer with at least four CTE credits and would need to complete the Requirements to practice cosmetology and for Cosmetology Operator licensure as required by the Board of Cosmetology, beyond the school year.

COMAR 13A.04.09.03 *Curriculum for Nail Technician* – Request waiver for seniors of the 250 clock hour of theory demonstration and practical application. Seniors would graduate as a CTE completer with at least four CTE credits and would need to complete requirements for licensure beyond the school year.

COMAR 13A.04.20 *Program for Barbers* - – Request waiver for seniors for 1200 hours for practical application. Seniors would graduate as a CTE completer with at least four CTE credits and would need to complete the practical application for a barber to practice barbering as required by the Board of Cosmetology, beyond the school year.

Education Article Section 7-205.2 – Request waiver of CPR and AED required instruction for students who were in a health or physical education class in the 2019-2020 school year but were unable to complete the instruction.

Education Article Section 7-404 and COMAR 13A.05.05.07 *Vision and Hearing Screenings* – Request a waiver to delay the intervals for the required screenings until the State of Emergency is lifted and it is medically safe to reinstate screenings for students who have not obtained the screenings in the 2019-2020 school year and students who have not obtained screening within the past year.

Education Article 7-203 – Request waiver of the requirement to implement the middle school social studies assessment in the 2019-2020 school year because it is not feasible to administer the assessment under the present instructional limitations due to the COVID-19 State of Emergency and Executive Orders in effect.

COMAR 13A.04.02.03(G) *Secondary School Career and Technology Education* – Request waiver for seniors of the requirements for supervised work-based learning experiences and industry-mentored projects for seniors. Seniors would graduate as a CTE completer with at least four CTE credits and could complete work-based learning experiences beyond the school year.

**ACTION:**

Request approval of the identified waivers.

**ATTACHMENT:**

Code of Maryland Regulations (COMAR) and Maryland Annotated Code Applicable to the Requested Waivers

**CODE OF MARYLAND REGULATIONS and MARYLAND ANNOTATED CODE**  
**Applicable to the Requested Waivers (April 14, 2020)**

**Background - Authority of the State Board and State Superintendent  
of Schools to Grant Waivers:**

**13A.01.01.02-1**

**.02-1 Waivers from Regulations**

A. Authority. Upon a demonstration of good cause, substantial compliance, or comparable effort by an educational institution or program seeking a waiver, the State Board of Education may grant waivers from its regulations.

B. Term.

(1) The term of a waiver may not exceed 3 years.

(2) Requests to renew waivers for additional 3-year terms may be filed with the State Superintendent of Schools.

C. Procedure.

(1) The head of an educational institution or program, including an institution of higher education, or the local superintendent of schools on behalf of a school or school system, shall file a waiver request with the State Superintendent of Schools. The request shall include a description of the desired outcome and an explanation of why the waiver is necessary and justifiable under the circumstances.

(2) The State Superintendent of Schools shall submit to the State Board of Education each waiver request within 45 calendar days of its receipt with a recommendation for either granting or denying the waiver, specifying its term, and providing written justification for any recommended denial.

(3) The State Board of Education shall render a decision at its next regularly scheduled meeting. The decision of the State Board of Education on a waiver request is final.

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**Broad Powers Given to the State Superintendent by the State Board on March 24, 2020**

As a result of the March 24, 2020, emergency State Board resolution, the State Superintendent can make decisions on behalf of the State Board to take appropriate actions to control and prevent the spread of the COVID-19 virus. Under the resolution, the State Superintendent in consultation with and with instruction of the President of the State Board is authorized to take appropriate actions that will be reviewed by the State Board at its next meeting.

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## CODE OF MARYLAND REGULATIONS (COMAR) - WAIVERS

### 13A.03.02.03

#### .03 Enrollment and Credit Requirements.

A. Beginning with students entering the 9th grade class of 2014—2015 school year, each student shall enroll in a mathematics course in each year of high school that the student attends, up to a maximum of 4 years of attendance, unless in the 5th or 6th year a mathematics course is needed to meet a graduation requirement.

B. To be awarded a diploma, a student shall be enrolled in a Maryland public school system and shall have earned a minimum of 21 credits that include the following specified credits:

(1) English — four credits of organized instruction in comprehension of literary and informational text, writing, speaking and listening, language, and literacy, of which one credit shall be aligned with the Maryland High School Assessment for English;

(2) Fine arts — one credit in visual arts, music, theater, or dance, or a combination of these;

(3) Mathematics — three credits, including one with instruction in algebra aligned with the Maryland High School Assessment for algebra or one or more credits in subsequent mathematics courses for which Algebra I is a prerequisite, and one with instruction in geometry aligned with the content standards for geometry;

(4) Physical education — one-half credit;

(5) Health education — one-half credit;

(6) Science — three credits of organized instruction which includes a laboratory component engaging in the application of the science and engineering practices, the crosscutting concepts, and disciplinary core ideas including Earth/space science, life science, physical science (chemistry and physics), engineering, and technology, aligned to the Maryland High School Assessment for science;

(7) Social studies — three credits including one credit in United States history, one credit in world history, and one credit in local, State, and national government aligned with the Maryland High School Assessment for government;

(8) Technology education — one credit that includes the application of knowledge, tools, and skills to solve practical problems and extend human capabilities; and

(9) One of the following:

(a) Two credits of world language, which may include American Sign Language;

(b) Two credits of advanced technology education; or

(c) Successfully complete a State-approved career and technology program.

C. Elective programs and instruction shall be developed at the discretion of the local school system, open to enrollment for all students, and shall focus on in-depth study in required subject areas, exploration, or application and integration of what has been learned.

D. All students must complete a locally designed high school program of environmental literacy as set forth in COMAR 13A.04.17 that is approved by the State Superintendent of Schools

**13A.03.02.01**

**.01 Scope.**

- A. This chapter sets out the enrollment, credit, student service, and State assessment requirements for graduation from a public high school in Maryland.
  - B. It is the expectation of the State Board that each student enrolled in a public school system in Maryland shall earn a Maryland High School Diploma in accordance with the requirements set forth in this chapter.
  - C. Upon notifying the State Superintendent of Schools, each local school system may establish graduation requirements beyond the minimum requirements established by the State Board.
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**13A.03.02.05**

**.05 Student Service.**

To graduate, students shall complete one of the following:

- A. 75 hours of student service that includes preparation, action, and reflection components and that, at the discretion of the local school system, may begin during the middle grades; or
  - B. A locally designed program in student service that has been approved by the State Superintendent of Schools.
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**13A.04.19 Program in Cosmetology**

**.01 Program Approval.**

- A. A cosmetology program in a public school that possesses a school permit issued by the State Board of Cosmetologists, that was valid as of June 30, 1991, shall be considered an approved cosmetology program by the State Department of Education.
- B. To obtain approval for a cosmetology program after June 30, 1991, a local school system shall apply to the State Department of Education on a form provided by the Department. The proposal for approval of a cosmetology program shall meet all the requirements in Regulations .02—.07 of this chapter.

**.02 Program Completer Requirements for Cosmetology Operator.**

- A. A program of instruction for cosmetology operator shall require a minimum of 1,500 locally determined clock hours of instruction of which:
    - (1) 500 hours shall be theory; and
    - (2) 1,000 hours shall be demonstration and practical application.
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**13A.04.19**

**.03 Curriculum for Nail Technician.**

- A. The program of instruction for nail technician shall require a minimum of 250 locally determined clock hours of instruction in theory, demonstration, and practical application.
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### **13A.04.20 Program for Barbers**

#### **.01 Program Approval.**

A. A barber program in a public school that possesses a school permit issued by the State Board of Barbers, that was valid as of June 30, 1991, shall be considered an approved barber program by the State Department of Education.

B. To obtain approval for a barber program after June 30, 1991, a local school system shall apply to the State Department of Education on a form provided by the Department. The proposal for approval of a barber program shall meet all the requirements in Regulations .02— .06 of this chapter.

#### **.02 Program Completer Requirements for Barbers.**

A. A program of instruction for barber shall require a minimum of 1,200 locally determined clock hours of instruction of which:

- (1) 200 hours shall be theory and demonstration; and
- (2) 1,000 hours shall be practical application.

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### **Maryland received a Waiver from the U.S. Department of Education on Flexibility for States on the Elementary and Secondary Education Act for Assessment and Accountability Requirements – dated March 27, 2020**

The Maryland State Department of Education received a letter of approval dated, March 27, 2020, for Flexibility for Assessment and Accountability Requirements. Through the waiver, Maryland will not need to administer its statewide assessments to all students in the 2019-2020 school year, or make annual accountability determinations, identify schools for support and improvement, or provide data on Maryland's and local report cards for assessment and accountability information based on the 2019-2020 data.

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### **Maryland Annotated Code 7-203(h)(6)**

- (1)(i) In this subsection, "assessment" means a federal, State, or locally mandated test that is intended to measure a student's academic readiness, learning progress, and skill acquisition.
- (6) This subsection may not be construed to supersede the requirements of the federal Elementary and Secondary Education Act, 20 U.S.C. 6301, et seq.

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### **13A.03.02.06**

#### **.06 Maryland High School Assessments.**

A. A student shall take the requisite Maryland High School Assessment during its next regular administration if the student received credit for taking, by the methods identified in Regulations .03 and .04 of this chapter, any of the following courses aligned with the Maryland High School Assessment:

- (1) Algebra;
- (2) Science;
- (3) English; or
- (4) Government.

B. To be awarded the Maryland High School Diploma, all students, including elementary and middle school students who take high school level courses, shall take the Maryland High School Assessment for algebra, science, English, and government after the student completes the required course or courses.

C. Each local school system shall provide appropriate assistance to strengthen areas of weaknesses for students who have not achieved satisfactory scores on the Maryland High School Assessments.

D. Bridge Plan for Academic Validation.

(1) Eligibility Criteria. A student is eligible to satisfy the graduation assessment requirement through the Bridge Plan for Academic Validation if the student has:

(a) Failed one or more Maryland High School Assessments;

(b) Received credit in the course or courses related to the assessment or assessments;

(c) Demonstrated overall satisfactory attendance in the most recent school year completed; and

(d) Demonstrated satisfactory progress toward achieving the high school diploma requirements specified in COMAR 13A.03.02.09B(1) and (2); and

(e) Participated successfully in appropriate assistance as defined in §C of this regulation after having failed one or more of the Maryland High School Assessments.

(2) A student may begin a Bridge Project after one failure of a Maryland High School Assessment

(3) A student may use the score on the Bridge Project to meet the graduation requirement only after the student has taken the Maryland High School Assessment twice and failed twice.

(4) The Bridge Plan for Academic Validation shall consist of:

(a) Specific modules developed by the Department in each of the Maryland High School Assessments content areas;

(b) The assignment by the local school system of one or more modules for completion by each student meeting the eligibility criteria;

(c) Scoring by the local review panels of the completed modules according to State-developed, Statewide scoring protocols;

(d) A recommendation from the local review panels to the local superintendent as to the outcome of the scoring of each student's module or modules;

(e) Acceptance or rejection by the local superintendent of the local review panel's recommendations; and

(f) An opportunity for the student to appeal the local superintendent's decision to the State Superintendent of Schools.

E. Reporting Student Performance.

(1) A school system shall state on the student's performance record card only that the student has or has not met all assessment requirements and shall not describe the option used to meet the requirement.

(2) For the purpose of this section, except for students identified in §F of this regulation, "met all assessment requirements" means achieving a passing score on all Maryland High School Assessments, or meeting the requirements of the combined score option, or successfully completing a Bridge Project in those assessment areas that the student did not pass.

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### 13A.03.02.09B

#### .09 Diplomas and Certificates.

A. The types of diplomas and certificates specified in §§B—D of this regulation shall be awarded to any student who meets the requirements for award.

B. Maryland High School Diploma. Except as provided in Regulation .12 of this chapter, and in §C of this regulation, to be awarded a Maryland high school diploma, a student shall:

(1) Complete the enrollment, credit, and service requirements as specified in this chapter;

(2) Complete local school system requirements; and

(3) Meet the graduation assessment requirements in the following ways:

(a) Achieve a passing score on the Maryland High School Assessments for Algebra I, science, government, and English 10;

(b) Achieve a combined score(s) as established by the Department on the Maryland High School Assessments;

(c) Achieve a passing score on an approved alternative assessment as established by the Department, such as Maryland High School Assessment for Algebra II, Advanced Placement examinations, SAT, ACT, or International Baccalaureate examinations; or

(d) Except for students described in Regulation .06F of this chapter, if a student is unable to meet the requirements in §B(3)(a)—(c) of this regulation, then the student shall satisfactorily complete the requirements of the Bridge Plan for Academic Validation as set forth in Regulation .06D of this chapter.

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### § 7-205.2. Cardiopulmonary resuscitation and automated external defibrillator instruction.

#### Universal Citation: MD Education Code § 7-205.2 (2014)

(a) Definitions.--

(1) In this section the following words have the meanings indicated.

(2) "Automated external defibrillator" has the meaning stated in § 13-517 of this article.

(3) "Psychomotor skills" means the use of hands-on practicing to support cognitive learning.

(b) Instruction required.-- Beginning with students entering grade 9 in the 2015-2016 school year, a student shall complete, as part of the health or physical education curriculum, instruction in cardiopulmonary resuscitation that includes hands-only cardiopulmonary resuscitation and the use of an automated external defibrillator.

(c) County board to provide instruction.-- Beginning in the 2015-2016 school year, each county board shall provide, as part of the health or physical education curriculum, instruction in cardiopulmonary resuscitation that includes hands-only cardiopulmonary resuscitation and the use of an automated external defibrillator in every public school that enrolls students in any of the grades 9 through 12 in the county.

(d) Development of approved instructional program.-- The instruction required under subsections (b) and (c) of this section shall:

(1) Use an instructional program that is:

(i) Developed by the American Heart Association or the American Red Cross; or

(ii) Approved by the Department and the county board and is nationally recognized and based on the most current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator; and

(2) Incorporate the psychomotor skills necessary to perform cardiopulmonary resuscitation and to use an automated external defibrillator.

(e) Instructor requirements -- Certification or non-certification courses. --

(1) If the instruction required under subsections (b) and (c) of this section is offered for certification, the course must be conducted by an individual who is certified by the American Heart Association, the American Red Cross, or a similar nationally recognized entity as an instructor of cardiopulmonary resuscitation and the use of an automated external defibrillator.

(2) If the instruction required under subsections (b) and (c) of this section is not offered for certification, a teacher who is not a certified instructor of cardiopulmonary resuscitation and the use of an automated external defibrillator may facilitate, provide, or oversee the instruction.

(f) Monitoring process. -- The Department shall develop a process to monitor the implementation of the requirements established under this section.

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#### **7-404. Hearing and vision screening tests.**

(b) When administered.-

(1) Unless evidence is presented that a student has been tested within the past year, the screenings required under subsection (a) of this section shall be given in the year that a student enters a school system, enters the first grade, and enters the eighth or ninth grade.

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#### **Education Article 7-203**

(iii) 1. The State Board and the State Superintendent shall implement assessment programs in reading, language, mathematics, science, and social studies that include written responses;

2. The assessment program required in this subsection shall:

A. Provide information needed to improve public schools by enhancing the learning gains of students and academic mastery of the skills and knowledge set forth in the State's adopted curricula or common core curricula;

B. Inform the public annually of the educational progress made at the school, local school system, and State levels; and

C. Provide timely feedback to schools and teachers for the purposes of adapting the instructional program and making placement decisions for students; and

3. The following assessments shall be implemented and administered annually:

A. At the middle school level, a statewide, comprehensive, grade band assessment program that measures the learning gains of each public school student towards achieving mastery of the standards set forth in the common core curricula or the State's adopted curricula for the core content areas of reading, language, mathematics, science, and social studies; and

B. At the high school level, a statewide, standardized, end-of-course assessment that is aligned with and that measures each public school student's skills and knowledge of the State's adopted curricula for the core content areas of reading, language, mathematics, science, and social studies;

(iv) Each public school shall establish as the basis for its assessment of its needs, project goals and objectives that are in keeping with the goals and objectives established by its county board and the State Board;

(v) With the assistance of its county board, the State Board, and the State Superintendent, each public school shall develop programs to meet its needs on the basis of the priorities it sets;

(vi) Evaluation programs shall be developed at the same time to determine if the goals and objectives are being met; and

(vii) A reevaluation of programs, goals, and objectives shall be undertaken regularly.

(3)(i) The State Board shall determine whether the assessments required under paragraph (2)(iii)3 of this subsection adequately measure the skills and knowledge set forth in the State's adopted curricula for the core content areas of reading, language, mathematics, science, and social studies.

(ii) If the State Board makes a determination under subparagraph (i) of this paragraph that an assessment does not adequately measure the skills and knowledge set forth in the State's adopted curricula for a core content area, the State Board shall develop a State-specific assessment in that core content area to be implemented in the 2018-2019 school year.

(4) At the middle school level, the State Board shall develop, in collaboration with county boards, county curriculum specialists in social studies, middle school social studies teachers, and academics with expertise in social studies education, a social studies assessment that:

(i) Consists, to the greatest extent possible, of criterion-referenced, performance-based tasks that require students to utilize critical and historical thinking skills and analyze primary sources;

(ii) Shall be administered, to the greatest extent possible, within existing class periods; and

(iii) Shall be implemented in the 2019-2020 school year.

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### **13A.04.02 Secondary School Career and Technology Education**

#### **.01 Scope.**

A. Each local school system shall assure that students have equal access to career and technology education programs without regard to sex, race, national origin, physical or mental disability, socioeconomic status, academic disadvantages, economic disadvantages, or limited English-speaking ability. Each local school system shall further assure that career and technology education programs are readily available to students from all geographic sections of the local school system.

B. Each local school system shall make career awareness, exploratory activities, and unbiased program information equally available to students in accordance with §A of this regulation.

C. Each local school system that develops career and technology education programs shall do so in accordance with the Career and Technology Education Development Standards in Regulation .03A of this chapter.

.02 Definitions.

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

B. Terms Defined.

(1) "Articulation agreement" means a written commitment as described in the Carl D. Perkins Career and Technical Education Act, Public Law 109-270 (2006).

(2) "Career and Technology Education (CTE) enrollee" means a student who is enrolled in at least one course which is part of an identified CTE completer program.

(3) "CTE Concentrator" means a student who is sequentially enrolled in an upper level CTE course which is considered to be in the second half of the program course sequence.

(4) "CTE Completer" means a student who meets all requirements outlined in the State-approved proposal for a CTE Completer program.

(5) "Eligible recipient" means an entity that meets the requirements of the Carl D. Perkins Career and Technical Education Act, Public Law 109-270 (2006), and Education Article, §§2-205(h) and 21-203, Annotated Code of Maryland, which are incorporated by reference.

(6) "Liquidation" means the elimination of financial obligations.

(7) "Value-added opportunities" means advanced standing at the postsecondary level, industry certification, or guaranteed apprenticeship or employment placement.

.03 Career and Technology Education Development Standards.

CTE Programs shall be:

- A. Developed by the Maryland State Department of Education (MSDE) and/or local school system and implemented to increase the academic, career, and technical skills of students in order to prepare them for careers and further education;
- B. Developed in conjunction with all relevant stakeholder groups, including industry and postsecondary partners;
- C. Organized under broad career clusters, based on all aspects of an industry and designed to help students make informed decisions regarding career pathways;
- D. Developed to include value-added opportunities based on current and projected economic market demands;
- E. Developed to prepare students for both college and careers through the completion of a planned sequential program of study that blends academic, technical, and workplace skills;
- F. Developed to include a coherent set of academic, employability, and technical skills, based on national and State standards that provide students moving directly to employment with a value-added competitive advantage;
- G. Developed to provide multiple options for students as they prepare for entry into careers and further education through articulation agreements, supervised work-based learning opportunities, and industry-mentored or capstone projects; and employment, the military or postsecondary programs, for a means of upgrading programs and increasing student performance.