



Mohammed Choudhury
State Superintendent of Schools

TO: Members of the State Board of Education
FROM: Mohammed Choudhury, State Superintendent of Schools
DATE: September 26, 2023
SUBJECT: COMAR 13A.02.06.01, .02, .05-.07 (AMEND)
General Financial Aid to Local School Systems
Permission to Adopt

Purpose

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

Regulation Promulgation Process

Under Maryland law, a state agency, such as the State Board, may propose a new or amended regulation whenever the circumstances arise to do so. After the State Board votes to propose such a regulation, the proposed regulation is sent to the Administrative, Executive, and Legislative Review (AELR) Committee for a 15-day review period.

If the AELR Committee does not hold up the proposed regulation for further review, it is published in the Maryland Register for a 30-day public comment period. At the end of the comment period, the Maryland State Department of Education (MSDE) staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board of Education to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because the suggested revision is not a substantive change; or (3) revise the regulation and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may be recommended to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

Background/Historical Perspective

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

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

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

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

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

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

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

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

Executive Summary

The State Board granted permission to publish at the May 18, 2023, State Board meeting. The amendments to COMAR 13A.02.06.01, .02, .05-.07 were published in the Maryland Register from July 14 to August 14, 2023.

Recommended modifications to the regulations include:

- Adding students that have transportation identified as a related service in their Section 504 plan to be eligible for the \$1,000 per student transportation services grant so that grant funds may be used to support all students who require such services, not just those with an IEP; and
- Removing the terms “disabled student,” “Limited English proficient student,” and “special education student” throughout the regulations in favor of person-first language and retitling the grants as the “Transportation Services Grant” and “English Learner Education Grant.”

During the open comment period, the MSDE did not receive any comments from the public. Therefore, the MSDE is not proposing any additional revisions to the proposed regulations.

Action

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

Attachments

COMAR 13A.02.06.01, .02, .05-.07, *General Financial Aid to Local School Systems*

.01 Scope.

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

.02 Definitions.

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

B. Terms Defined.

(1)—(7) (text unchanged)

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

[(9)](9)—[(12)](11) (text unchanged)

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

[(14)](12)—[(15)](13) (text unchanged)

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

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

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

(1)—(2) (text unchanged)

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

B.—C. (text unchanged)

.06 State Financial Assistance Under the Special Education Grant.

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

(1)—(2) (text unchanged)

(3) Receiving special education services, as defined in the Federal Individuals with Disabilities Education Act, on October 1 of the prior fiscal year.

B.—C. (text unchanged)

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

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

(1) (text unchanged)

(2) The student is enrolled in a public school, a school maintained by a State agency, or a nonpublic school [in a local school system];

(3) [Special transportation] Transportation services are identified as a related service for a free appropriate public education in the student's individualized education program or in the student's Section 504 plan; and

(4) (text unchanged)

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

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

MOHAMMED CHOUDHURY
State Superintendent of Schools