



Nancy S. Grasmick
State Superintendent of Schools

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD

TO: Members of the Maryland State Board of Education
FROM: Nancy S. Grasmick *Nancy*
DATE: December 10-11, 2009
SUBJECT: Code of Maryland Regulations 13A.08.06.01-02 (Revised)
Positive Behavioral Interventions and Support (PBIS)
PERMISSION TO PUBLISH

PURPOSE:

The 2008 Maryland General Assembly amended Section 7-304.1 of the Education Article, Annotated Code of Maryland, thus requiring the amendment of the implementing regulations contained in Code of Maryland Regulations 13A.08.06.01-.02 (Attachment 1), to bring them into alignment with the State law. The purpose of this communication is to request approval from the Maryland State Board of Education to publish these amended regulations in the Maryland Register.

BACKGROUND:

The 2008 Maryland General Assembly passed legislation expanding the criteria which requires that a school implement a PBIS or alternative behavioral modification program in collaboration with the Maryland State Department of Education. Previously, the law and ensuing regulations stated that any elementary school with an out-of-school suspension rate that exceeds the following standards must implement PBIS or an alternative behavioral modification program:

- 16 percent for the 2006-2007 school year;
 - 14 percent for the 2007-2008 school year;
 - 12 percent for the 2008-2009 school year; and
 - 10 percent for the 2009-2010 school year and each year, thereafter.
- (The suspension rate applied only to students in prekindergarten through grade 5 even in schools which have sixth, seventh, or eighth grades.)

The amended law expands the criteria for schools required to implement PBIS or an alternative behavioral program in the following three (3) ways:

1. An elementary school that has *already implemented* a positive behavioral intervention and support program or alternative program *shall expand* its existing program if it has a *suspension rate* that exceeds the standard for that school year.
 - 12 percent for the 2008-2009 school year; and,
 - 10 percent for the 2009-2010 school year and each year, thereafter.
2. Each county board shall require implementation of a positive behavioral interventions and support program; or an alternative behavior modification program in collaboration with the Department, in any school with a *truancy rate* that exceeds:
 - *8% of its enrollment for the 2008-2009 school year;*
 - 6% of its enrollment for the 2009-2010 school year;
 - 4% of its enrollment for the 2010-2011 school year;
 - 2% of its enrollment for the 2011-2012 school year; and,
 - 1% of its enrollment for the 2012-2013 school year and each school year thereafter.
3. A school that has *already implemented* a positive behavioral intervention and support program or an alternative behavior modification program *shall expand* its program if it has a *truancy rate* that exceeds the standards listed above.

In addition, this proposed regulation further refines the definition of schools impacted by the regulations. Based on feedback from superintendents and their staffs, the revised definition excludes alternative and or special schools.

EXECUTIVE SUMMARY:

The attached document contains the amended regulations bringing them into alignment with the new law and incorporates feedback that has been provided by the local school systems since the original law has been in place. Local school system superintendents have reviewed and commented on the amended regulations, and they are ready for publication upon the approval of the Board.

ACTION:

Request permission to publish the amendments to COMAR 13A.08.06.01-.02.

Maryland Register Issue Date:	January 29, 2010
Hearing:	N/A
30-Day Open Comment Period Ends:	March 2, 2010
Adoption:	March 23-24, 2010

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) “Alternative behavior[al] modification program” means a research based, positive and effective school wide program that includes the following:

(a) – (b) (text unchanged)

(2) “Elementary school” means any comprehensive public school, [including] excluding alternative settings or special schools, in which the school population includes any combination of students in prekindergarten through grade 5.

(3) “Habitually truant” means a student that meets all of the following criteria:

(a) The student was age 5 through 20 during the school year;

(b) The student was in membership in a school for 91 or more days; and

(c) The student was unlawfully absent from school for more than 20% of the days in membership.

(4) “Local school system” means any of the 24 local school systems in the State.

(5) “Positive behavioral interventions and support program (PBIS) means the research-based, systems approach method adopted by the State Board to:

(a) Build capacity among school staff to adopt and sustain the use of positive, effective practices to create learning environments where teachers can teach and students can learn; and

(b) Improve the link between research-validated practices and the environments in which teaching and learning occur.

(6) “School” means any comprehensive public school in which the school population includes any combination of students in prekindergarten through grade 12, excluding alternative settings or special schools, in which the school population includes any combination of students in prekindergarten through grade 12.

(7) “Suspension rate” means the unduplicated count of students who receive out-of-school suspension as a disciplinary action during a year divided by the September 30 enrollment count.

(8) “Truancy rate” means the unduplicated count of students who are “habitually truant” from school during a school year divided by the September 30 enrollment count.

13A.08.06.02 (11/9/09)

.02 Administrative Procedures -- Suspension Rates

A. — B. (text unchanged)

C. The school principal or the principal's designee and appropriate staff members shall:

(1) Develop a plan for implementing a program as set forth in §A of this regulation;

(2) Attend PBIS or alternative behavior modification training program approved by the Department; and

(3) Follow implementation guidelines and practices for PBIS or the alternative behavior modification training program.

D. -- E. (text unchanged)

F. An elementary school shall expand its existing PBIS or alternative behavior modification program by providing more intensive interventions to targeted students in need of such interventions if:

(1) The elementary school has already implemented a PBIS or an alternative behavior modification program; and

(2) The elementary school has a suspension rate that exceeds the standard specified in §B of this regulation.

ALL NEW

.03 Administrative Procedures — Truancy Rates

A. Upon receipt of notification from the Department that a school's habitual truancy rate exceeds the standard specified in §B of this regulation, the local school superintendent or the superintendent's designee shall direct the principal of the school to implement:

- (1) A PBIS; or
- (2) An alternative behavior modification program developed in collaboration with the Department.

B. A school is subject to this regulation if it has a truancy rate that exceeds:

- (1) 8 percent of its enrollment for the 2008-2009 school year;
- (2) 6 percent of its enrollment for the 2009-2010 school year;
- (3) 4 percent of its enrollment for the 2010-2011 school year;
- (4) 2 percent of its enrollment for the 2011-2012 school year; and
- (5) 1 percent of its enrollment for the 2012-2013 school year and each school year thereafter.

C. The school principal or the principal's designee and appropriate staff members shall:

- (1) Develop a plan for implementing a program as set forth in §A of this regulation;

(2) Attend PBIS or alternative behavior modification training program approved by the Department; and

(3) Follow implementation guidelines and practices for PBIS or the alternative behavior modification training program.

D. A school shall expand its existing PBIS or alternative behavior modification program by providing more intensive interventions to targeted students in need of such interventions if:

(1) The school has already implemented a PBIS or an alternative behavior modification program; and

(2) The school has a truancy rate that exceeds the standard specified in §B of this regulation.

E. Nothing in this regulation precludes a school system from implementing PBIS or an alternative behavioral modification program either in specific schools or system-wide.

END ALL NEW

Administrative History

Effective date: March 13, 2006 (33:5 Md. R. 522)

Regulation .01B amended effective June 30, 2008 (35:13 Md. R. 1181)

Regulation .02 amended effective June 30, 2008 (35:13 Md. R. 1181)

IMPACT STATEMENTS

Part A

(check one option)

Estimate of Economic Impact

The proposed action has no economic impact.

or

The proposed action has an economic impact. Complete the following form in its entirety.

I. Summary of Economic Impact.

II. Types of Economic Impacts.

Revenue (R+/R-)

Expenditure (E+/E-) Magnitude

A. On issuing agency:

As the number of implementing schools increases (currently at approximately 750, the cost of supporting those schools also increases). Issuing agency currently absorbs costs for PBIS school-wide (universal) implementation, training and support into its existing budget. No line item budget for this initiative has been allocated in the 10 years the initiative has been operating, to date. This regulation identifies schools which are REQUIRED to implement PBIS, which will increase annually the number of schools to be trained. There are ongoing state level costs associated with providing training for new teams identified through this regulation in addition to the current PBIS efforts to provide ongoing technical assistance, training and support to PBIS schools.

Based specifically on the habitual truant data that the local school systems provide to the Department, sixty-two schools would require training in PBIS. Thirty-eight schools would require new team training and twenty-four would require expansion according to the statute [Section 7-304.1(c)(3)]. Some of these schools have already been trained in PBIS but have not remained active in implementation or did not maintain fidelity in their implementation. In order to train these schools, it is estimated that it would cost \$800 per school. This entails providing the training and materials for school teams and coaches, but does not account for the annual operating budget necessary to provide follow-up meetings to ensure implementation is on track with fidelity, and ongoing technical assistance from the Department, Sheppard Pratt, and Johns Hopkins. Moreover, the targeted audience of truants would benefit most from secondary interventions of tier two which have never been funded.

B. On other State agencies: NONE

C. On local governments:

The cost for each school to send an administrator and three additional team members (minimum requirement) to a to a two day training and to maintain the program throughout the year is approximately \$8,000 (per school). In addition, Local School Systems allocate staff time for behavioral support coaches and for a local "PBIS coordinator or "facilitator" to bring local teams together throughout the year. These costs have, to date, been absorbed locally.

Benefit (+)	
Cost (-)	<u>Magnitude</u>

D. On regulated industries or trade groups: NONE

E. On other industries or trade groups: NONE

F. Direct and indirect effects on public: NONE

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

Since Positive Behavioral Support and Interventions is a comprehensive prevention strategy, it is assumed that the cost to implement will be offset by the corresponding cost savings which will accrue due to the reduced discipline problems within our schools. Though not measurable at this time, there is a cost benefit that can be measured in two areas: student time in classroom and administrator time freed up.

Since PBIS is a framework through which research based practices can be implemented, it is possible to integrate secondary practices to target this population of students making up the Habitual Truancy rate. Most PBIS implementation across the nation has been provided to schools on a voluntary basis. There is no data to demonstrate how effective implementation is when a school is mandated to be trained in the PBIS model therefore, it is assumed that such training will be valuable.

Non quantifiable benefits: There is no way to estimate a dollar figure that will ultimately accrue to communities as an indirect result of creating safe and drug free learning environments. As children become more successful in our schools, thus producing more competent adolescents the ultimate effect will be better educated secondary schools graduates who will ultimately become productive citizens contributing to the overall good of the community, paying taxes and generating income instead of becoming the recipient of direct service agencies.

Part B
(check one option)

Economic Impact on Small Businesses

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

or

 The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows.

Impact on Individuals with Disabilities
(Check one option)

X The proposed action has no impact on individuals with disabilities.

or

 The proposed action has an impact on individuals with disabilities as follows:

Part C

(For legislative use only; not for publication.)

- A. Fiscal Year in which regulations will become effective: **FY 2009**
- B. Does the budget for fiscal year in which regulations become effective contain funds to implement the regulations?
- Yes No
- C. If B yes, state whether general, special (exact name), or federal funds will be used:
- D. If no, identify the source(s) of funds necessary for implementation of these regulations:
None identified at this time.
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

Comparison to Federal Standards
(Check one option)

There is no corresponding federal standard to this proposed regulation.

or

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

or

In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

- (1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:

- (2) Benefit to the public health, safety or welfare, or the environment:

- (3) Analysis of additional burden or cost on the regulated person:

- (4) Justification for the need for more restrictive standards: