


Nancy S. Grasmick  
State Superintendent of Schools

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**TO:** Members of the State Board of Education  
**FROM:** Nancy S. Grasmick   
**DATE:** August 25, 2009  
**SUBJECT:** COMAR 13A.08.01.11 Disciplinary Action (Amend)  
**ADOPTION**

**PURPOSE:**

The purpose of this action is to request adoption of the proposed regulations that were published in the Maryland Register on July 6, 2009. These regulations amend current State Board regulations in COMAR 13A.08.01.11, Disciplinary Action, with a tentative effective date of September 21, 2009.

**HISTORICAL BACKGROUND:**

Since submission of the proposed amendments to the State Board of Education on April 27, 2009, the Division of Student, Family, and School Support (DSFSS) followed established procedures for promulgation of the regulations. On May 27, 2009 the Division of Special Education/Early Intervention Services (DSE/EIS) and DSFSS disseminated a memorandum to local school system personnel, educational organizations, advocacy organizations, and stakeholders announcing the tentative Maryland Register publication date and how the public should provide the Department with written comment. Proposed COMAR amendments were published in the Maryland Register, Vol. 36, Issue 14, Monday, July 6, 2009 (Attachment I). Personnel within DSE/EIS and DSFSS conducted three public hearings across the State to solicit public input on the proposals after publication in the Maryland Register. One comment was received.

**EXECUTIVE SUMMARY:**

Adoption of amendments to COMAR 13A.08.01.11, Disciplinary Action will clarify the use of in-school suspension.

ATTACHMENT I                      Maryland Register, Vol. 36, Issue 14, Monday, July 6,  
2009  
ATTACHMENT II                     Comment and Analysis



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**ACTION:**

Request the State Board of Education adopt proposed amendments to COMAR 13A.08.01.11, Disciplinary Action. The tentative timeline is as follows:

ADOPTION:	August 25, 2009
EFFECTIVE DATE:	September 21, 2009

NSG/AC/CB:drr  
Attachments

COMENT AND ANALYSIS  
COMAR 13A.08.01.11 Disciplinary Action

COMMENTERS	COMMENT	PROPOSED ACTION	RATIONALE
<b>COMAR 13A.08.01.11 Disciplinary Action</b>			
Educational Advocacy Coalition (EAC)	Subsection C(2)(c) – the provision should state when the principal will notify the parent that the student has been given an in-school suspension. The written notification should be provided on the first day of the suspension. Not having a required date of provision of notice in the regulation means that parents might not be notified that their child had an in-school suspension until well after the fact. It is important that parents receive notification at the time the suspension begins.	No Change	The parent/legal guardian will be notified in writing on the first day of in-school suspension as is required in COMAR 13A.08.01.11.

days prior to the event. Contact Andrew Wilson, MSDE, Division of Special Education/Early Intervention Services, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0242, or fax to 410-333-8165, or email to awilson@msde.state.md.us.

**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 August 27 and 28, 2009, at the Nancy S. Grasmick Education Building, 200 W. Baltimore St., Baltimore, MD 21201.

**.02 Scope.**

A. This chapter applies to public agencies that provide educational services to students with disabilities, 3 years old through the end of the school year in which the student turns 21 years old, in accordance with the student's Individualized Education Program (IEP), including the Department, local school systems, Department of Health and Mental Hygiene, Department of Juvenile Services, the Maryland School for the Blind, [and] the Maryland School for the Deaf, and the Department of Labor, Licensing, and Regulation.

B. (text unchanged)

**.04 State Administration.**

A. — C. (text unchanged)

D. State Performance Plan.

(1) — (4) (text unchanged)

(5) *If the Department receives notice that the Secretary of the U.S. Department of Education is proposing to take or is taking an enforcement action pursuant to 34 CFR §300.604, the Department shall notify the public in the manner described in 34 CFR §300.606.*

E. (text unchanged)

**.13 Local Public Agency Administration.**

A — N. (text unchanged)

O. *Transition from a Local Infants and Toddlers Program. The public agency shall ensure that a representative of the public agency attends the local infants and toddlers transition planning meeting as described in 20 U.S.C. §1437(a)(9)(A)(ii)(II).*

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**Subtitle 08 STUDENTS**

**13A.08.01 General Regulations**

Authority: Education Article, §§2-205, 7-101, 7-101.1, 7-301, 7-303 — 7-305, 7-307, 7-308, and 8-404,

Annotated Code of Maryland;

Federal Statutory Reference: 20 U.S.C. §§1232g and 7912

**Notice of Proposed Action**

[09-193-P]

The Maryland State Board of Education proposes to amend Regulation .11 under **COMAR 13A.08.01 General Regulations**. This action was considered at the Maryland State Board of Education meeting on April 27, 2009.

**Statement of Purpose**

The purpose of this action is to align State regulations with the longstanding guidance from the U.S. Department

of Education, Office of Special Education Programs, relative to in-school suspension of students with disabilities.

**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**

**I. Summary of Economic Impact.** The Maryland State Department of Education (MSDE) and public agencies will need to expend existing federal, State, and local funds to provide professional development on the implementation of these regulations and to revise policies and procedures.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
Professional development	(E+)	\$150,000
B. On other State agencies:	NONE	
C. On local governments:		
Professional development	(E+)	\$50,000
	Benefit (+)	Magnitude
	Cost (-)	
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.)

A. Funds are needed to revise administrative policies and procedures and develop and conduct professional development for public agencies. It is expected that the State and public agencies will fund this professional development with existing funding sources.

C. Funds are needed by public agencies for the revision and dissemination of local policies and procedures and to develop and conduct professional development activities for agency administrators, general educators, special educators, related service providers, and parents. It is expected that the State and public agencies will fund this professional development with existing funding sources.

**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 an impact on individuals with disabilities as follows: The proposed amendments clarify in-school suspensions for students with disabilities and implementation of services for students with disabilities to ensure the Department, local school systems, and public agencies provide a free appropriate public education to students with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Donna R. Riley, Policy and Resource Specialist, MSDE, Division of Special Education/Early Intervention Services, 200 W. Baltimore Street, Baltimore, MD 21201, or call 410-767-0242, or email to driley@msde.state.md.us, or fax to 410-333-1571. Comments will be accepted through August 6, 2009. Three public hearings will be conducted to provide the public an opportunity to comment upon proposed amendments to COMAR 13A.08.01.11. Individuals wishing to make oral public comment must be registered to speak. To register,

contact Andrew Wilson, MSDE, Division of Special Education/Early Intervention Services, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0242, or fax to 410-333-8165, or email to awilson@msde.state.md.us not later than 4 p.m. the day prior to the applicable public hearing. Each registered presenter will have 3 minutes to present their testimony and should bring a written copy of their comments to the hearing for the moderator. Each public hearing is scheduled for 7 to 9 p.m. at the following locations:

Tuesday, July 21, 2009  
Anne Arundel County Public Schools  
2644 Riva Road, Board Room  
Annapolis, MD 21401

Wednesday, July 22, 2009  
Chesapeake College  
Wye Mills Campus, Room EDC27  
Routes 50 and 213  
Wye Mills, MD 21679

Thursday, July 23, 2009  
Frederick County Public Schools  
Professional Development Center  
7630 Hayward Road  
Frederick, MD 21702

Appropriate accommodations for individuals with disabilities will be provided upon request given 8 business days prior to the event. Contact Andrew Wilson, MSDE, Division of Special Education/Early Intervention Services, 200 W. Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0242, or fax to 410-333-8165, or email to awilson@msde.state.md.us.

**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 August 27 and 28, 2009, at the Nancy S. Grasmick Education Building, 200 W. Baltimore St., Baltimore, MD 21201.

**.11 Disciplinary Action.**

A. (text unchanged)

B. Terms Defined. In this regulation, the following terms have the meanings indicated:

(1) — (2) (text unchanged)

(3) "Extended suspension" means the temporary [exclusion] *removal* of a student from school for a specified period of time longer than 10 school days for disciplinary reasons by the local superintendent or the local superintendent's designated representative.

(4) "In-school suspension" means the [exclusion] *removal* within the school building of a student from the student's [regular] *current* education program for up to but not more than 10 school days *in a school year* for disciplinary reasons by the school principal.

(5) (text unchanged)

(6) "Short-term suspension" means the [exclusion] *removal* of a student from school for up to but not more than 10 school days for disciplinary reasons by the principal.

(7) "*Suspension*" means the application of extended suspension, in-school suspension, or short-term suspension.

C. Suspension and Expulsion.

(1) (text unchanged)

(2) *In-School Suspension.*

(a) *An in-school removal is not considered a day of suspension as long as the student is afforded the opportunity to continue to:*

(i) *Appropriately progress in the general curriculum;*

(ii) *Receive the special education and related services specified on the student's IEP, if the student is a student with a disability in accordance with COMAR 13A.05.01;*

(iii) *Receive instruction commensurate with the program afforded to the student in the regular classroom; and*

(iv) *Participate with peers as they would in their current education program to the extent appropriate.*

(b) *A student may not receive an in-school suspension unless the student has been informed of the reasons for the suspension and has been given an opportunity to respond before the suspension becomes effective.*

(c) *The school principal shall provide the student's parents with written notification of the in-school suspension action taken by the school.*

(d) *After 10 days of cumulative in-school suspension, the student, the student's parents or guardian, and the principal shall confer.*

(e) *The student's school of current enrollment shall make provision for the student's education during the period of in-school suspension.*

(f) *Local school systems shall develop policies pertaining to a student's participation in extracurricular activities if the student receives an in-school suspension.*

(g) *Local school systems shall develop and implement a behavioral program of positive interventions to address the causes of misbehavior as part of the in-school suspension.*

[(2)] (3) — [(7)] (8) (text unchanged)

D. — E. (text unchanged)

NANCY S. GRASMICK  
State Superintendent of Schools

**Subtitle 08 STUDENTS**

**13A.08.03 Discipline of Students with Disabilities**

Authority: Education Article, §§2-205, 7-305, 8-404, and 8-407, Annotated Code of Maryland

**Notice of Proposed Action**

[09-194-P]

The Maryland State Board of Education proposes to amend Regulation .10 under COMAR 13A.08.03 **Discipline of Students with Disabilities**. This action was considered at the Maryland State Board of Education meeting held on April 27, 2009.

**Statement of Purpose**

The purpose of this action is to incorporate a revised federal regulatory requirement relative to students with disabilities not yet eligible for special education and parental revocation of consent for special education and related services.

**Comparison to Federal Standards**

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