


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.05.01 Provision of a Free Appropriate Public Education (Amend)
COMAR 13A.05.02 Administration of Services for Students with Disabilities (Amend)
COMAR 13A.08.03 Discipline of Students with Disabilities (Amend)
COMAR 13A.08.04 Student Behavior Interventions (Amend)
COMAR 13A.13.01 Maryland Infants and Toddlers Program (Amend)
ADOPTION

PURPOSE:

The purpose of this action is to request permission to adopt the proposed regulations that were published in the Maryland Register on July 6, 2009. These regulations amend current State Board regulations in COMAR 13A.05.01 Provision of a Free Appropriate Public Education, COMAR 13A.05.02 Administration of Services for Students with Disabilities, COMAR 13A.08.03 Discipline of Students with Disabilities, COMAR 13A.08.04 Student Behavior Interventions, and COMAR 13A.13.01 Maryland Infants and Toddlers Program, 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 Special Education/Early Intervention Services (DSE/EIS) followed established procedures for promulgation of the regulations. On May 27, 2009 the DSE/EIS and the Division of Student, Family and School Support (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. Four comments were received.



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EXECUTIVE SUMMARY:

Adoption of amendments to include new federal requirements, clarify the use of student behavior interventions, make revisions as a result of State legislation, make technical and nonsubstantive revisions.

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

ACTION:

I request the State Board of Education adopt proposed amendments to COMAR 13A.05.01 Provision of a Free Appropriate Public Education, COMAR 13A.05.02 Administration of Services for Students with Disabilities, COMAR 13A.08.03 Discipline of Students with Disabilities, COMAR 13A.08.04 Student Behavior Interventions, and COMAR 13A.13.01 Maryland Infants and Toddlers. The tentative timeline is as follows:

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

NSG/CAH/DRR:gh
Attachments

SYNOPSIS OF COMMENTS

COMMENTERS	COMMENT	PROPOSED ACTION	RATIONALE
COMAR 13A.05.01 Provision of a Free Appropriate Public Education (FAPE)			
MSDE	Add the SEED School as an agency that serves students with disabilities and required to comply with the applicable regulations.	Revise	Revise the regulation to read as follows: 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 IEP, including the Maryland State Department of Education, local school systems, the Department of Health and Mental Hygiene, the Department of Juvenile Services, the Maryland School for the Deaf, Blind, the Maryland School for the Deaf, [and] the Department of Labor, Licensing, and Regulation, and the SEED School.
.03 DEFINITIONS			
Educational Advocacy Coalition (EAC)	COMAR 13A.05.01.03B(12) – Consent – Subsection (b)(1) Revocation of Consent – Clarify that revocation includes only the specific services listed on the student's IEP. Also, clarify whether parents can revoke consent to some IEP-listed services and not others. With more and more students with disabilities receiving services through a Response to Intervention (RtI) model, it is important to clarify that revocation in the context of the special education regulations means special education services listed in the IEP.	No Change	In accordance with the Individuals with Disabilities Education Act (IDEA), revocation of consent is revocation of the implementation of the services described in the student's Individualized Educational Program (IEP), as determined by the student's IEP team as necessary to ensure the provision of FAPE.

SYNOPSIS OF COMMENTS

COMMENTERS	COMMENT	PROPOSED ACTION	RATIONALE
Educational Advocacy Coalition (EAC)	COMAR 13A.05.01.03B(36) – Intellectual Disability – Explain the term “significantly sub-average” by using guidelines, percentile rank, or some other means that helps parents and others understand what it means. Many people do not know what “average” means in a quantifiable way and, therefore, will not be able to make sense of this definition.	No Change	The definition is unchanged from the federal definition of mental retardation in 34 CFR §300.8(c)(6).
MSDE	COMAR 13A.05.01.03B(59)(b) – Public Agency – Add the SEED School as a public agency.	Revise	Revise regulation to read as follows: (b)“Public agency” includes local school systems, the Department, the Department of Health and Mental Hygiene, the Department of Juvenile Services, the Maryland School for the Blind, the Maryland School for the Deaf, [and] the Department of Labor, Licensing, and Regulation, and the SEED School.
COMAR 13A.05.02 Administration of Services for Students with Disabilities			
.02 Scope			
MSDE	Add the SEED School as an agency that serves students with disabilities and required to comply with the applicable regulations.	Revise	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 IEP, including the Maryland State Department of Education, local school systems, the Department of Health and Mental Hygiene, the Department of Juvenile Services, the Maryland School for the Deaf, Blind, the Maryland School for the Deaf, [and] the Department of Labor, Licensing, and Regulation, and the SEED School.

SYNOPSIS OF COMMENTS

COMMENTERS	COMMENT	PROPOSED ACTION	RATIONALE
COMAR 13A.08.03 Discipline of Students with Disabilities			
No Comments			
COMAR 13A.08.04 Student Behavior Interventions			
.02 Definitions			
Educational Advocacy Coalition (EAC)	COMAR 13A.08.04.02B(3) – The EAC commends MSDE for including gestures, symbols, and American Sign Language within the definition of "communicate." Children with disabilities communicate in a variety of ways and the proposed revisions recognize that. Making clear that students communicate in a variety of ways is extremely important so that a student's attempt to communicate is not inadvertently hindered by the use of restraint or seclusion. It is not difficult to imagine how a difficult situation can escalate when a student's use of nonverbal communication is cut off by restraint of the student's hands or arms or by the placement of the student in a room alone.	No Change	MSDE agrees that regulations must clearly include that communication occurs in a variety of verbal and nonverbal formats and that a child is able to freely communicate his or her distress.
Maryland Developmental Disabilities Council (DDC)	COMAR 13A.08.-04.02B(3) – We commend MSDE for the expansion of the definition of "communicate" to include gestures, symbols, and American Sign Language. It is important to acknowledge that students communicate in a variety of ways, including nonverbally and that no form of communication should be hindered, especially in an escalated situation that results in restraint or seclusion.	No Change	MSDE agrees that regulations must clearly include that communication occurs in a variety of verbal and nonverbal formats and that a child is able to freely communicate his or her distress.
.05 GENERAL REQUIREMENTS FOR THE USE OF RESTRAINT OR SECLUSION			
Educational Advocacy Coalition (EAC)	COMAR 13A.08.04.05A(1)(d) – Use of Restraint – EAC is pleased to see the additional restrictions on the use of restraint but would prefer to see a complete ban on the use of prone restraint. As noted in the most recent report published by the General Accountability Office (GAO) and discussed during the hearing convened by Congressman George Miller to discuss the GAO report, prone restraint can be particularly deadly. Although the proposed safeguards are an improvement over the current regulations and we support the proposed revisions to COMAR, there is no absolutely safe way to engage in prone restraint, nor is there any peer reviewed research supporting its use.	No Change	To conform to the Maryland Style Guide and to read as agreed upon in consultation with the Maryland Disability Law Center (MDLC), Maryland Association of Nonpublic Special Education, Facilities (MANSEF), Attorney General's Office: (e) In applying physical restraint, school personnel may not: (i) Place a student in a face down position; (ii) Place a student in any other position that will: (1) obstruct a student's airway or otherwise impair a student's ability to breathe;

SYNOPSIS OF COMMENTS

COMMENTERS	COMMENT	PROPOSED ACTION	RATIONALE
<p>Maryland Developmental Disabilities Council (DDC)</p>	<p>COMAR 13A.08.04.05A(1)(e) – Although the proposed safeguards are an improvement over the current regulations, there is no absolutely safe way to engage in prone restraint. As noted on many occasions, most recently in the report published by the General Accountability Office (GAO) and subsequent hearings to discuss the GAO’s report, prone restraint can be particularly deadly. MSDE should take the next step and ban prone restraint altogether.</p>	<p>Revise</p>	<p>(II) [obstruct] <i>OBSTRUCT</i> a staff member's view of a student's face[,]; (III) [restrict] <i>RESTRICT</i> a student's ability to communicate distress[, or place]; (IV) <i>PLACE</i> pressure on a student's head, neck, or torso; or [(iii)] (V) Straddle a student's torso.</p>
			<p>To conform to the Maryland Style Guide and to read as agreed upon in consultation with the Maryland Disability Law Center (MDLC), Maryland Association of Nonpublic Special Education, Facilities (MANSEF), Attorney General's Office: (e) In applying physical restraint, school personnel may not[: (i) Place] place a student in a face down position[: (ii) Place a student] <i>OR</i> in any other position that will: (I) [obstruct] <i>OBSTRUCT</i> a student's airway or otherwise impair a student's ability to breathe[,]; (II) [obstruct] <i>OBSTRUCT</i> a staff member's view of a student's face[,]; (III) [restrict] <i>RESTRICT</i> a student's ability to communicate distress[, or place]; (IV) <i>PLACE</i> pressure on a student's head, neck, or torso; or [(iii)] (V) Straddle a student's torso.</p>

SYNOPSIS OF COMMENTS

COMMENTERS	COMMENT	PROPOSED ACTION	RATIONALE
Robin Church Kennedy Krieger	<p>In the email you sent dated April 1st where you summarized what Leslie Margolis wrote and asked for agreement from all of us you use the following language and I quote: "A physical restraint shall not place a student in a face down position or any other position that will: (i) obstruct a student's airway or impair a student's ability to breathe; (ii) obstruct a staff member's view of a student's face; (iii) restrict a student's ability to communicate distress; (iv) place pressure on a student's head, neck, or torso; or (v) straddle a student's torso"</p> <p>In the proposed regulation the first sentence is broken in two and now reads and I quote: "(i) Place a student in a face down position; (ii) Place a student in any other position that will obstruct a student's airway or otherwise impair a student's ability to breathe; (iii) Restrict a student's ability to communicate distress; or (iv) Place pressure on a student's head, neck, or torso; or (v) Straddle a student's torso."</p>	Revise	<p>To conform to the Maryland Style Guide and to read as agreed upon in consultation with the Maryland Disability Law Center (MDLC), Maryland Association of Nonpublic Special Education, Facilities (MANSEF), Attorney General's Office: (e) In applying physical restraint, school personnel may not: (i) Place a student in a face down position; (ii) Place a student in any other position that will: (I) obstruct a student's airway or otherwise impair a student's ability to breathe; (II) obstruct a staff member's view of a student's face; (III) restrict a student's ability to communicate distress; or place; (IV) Place pressure on a student's head, neck, or torso; or (iii) Straddle a student's torso.</p>

SYNOPSIS OF COMMENTS

COMMENTERS	COMMENT	PROPOSED ACTION	RATIONALE
<p>Educational Advocacy Coalition (EAC)</p>	<p>COMAR 13A.08.04.05B(5) – Use of Seclusion – The EAC is pleased to see a proposed time limit of 30 minutes on the use of seclusion and to see proposed limits on the use of seclusion based on the student’s developmental level, severity of behavior, and ability to communicate distress. The EAC would prefer to see a ban on the use of seclusion. The dangers of seclusion were discussed most recently in the GAO report and at the hearing convened by Congressman George Miller. We would urge MSDE to work with local school systems to develop an alternative to seclusion rooms based on state-of-the-art alternatives such as doorless or unlocked multisensory de-escalation rooms.</p>	<p>No Change</p>	<p>The use of seclusion is prohibited in public agencies and nonpublic schools unless there is an emergency situation and seclusion is necessary to protect a student or another person after other less intrusive interventions have failed or been determined to be inappropriate, the student's IEP or behavioral intervention plan describes the specific behaviors and circumstances in which seclusion may be used, or the parents of a nondisabled student have otherwise provided written consent for the use of seclusion while a behavior intervention plan is being developed.</p> <p>MSDE is working with MDLC and local school systems to implement multisensory de-escalation rooms as an alternative to seclusion.</p>
<p>Maryland Developmental Disabilities Council (DDC)</p>	<p>COMAR 13A.08.04.05B(5) – Use of Seclusion – Again the proposed safeguards are an improvement over the current regulation. The proposed time limit of 30 minutes on the use of seclusion and the proposed limits on the use of seclusion based on the student’s developmental level and severity of the behavior and ability to communicate distress are a good first step. However, with the known dangers associated with the use of seclusion in schools (described most recently in the GAO report and the following hearing), there should be an outright ban on the use of seclusion.</p>	<p>No Change</p>	<p>The use of seclusion is prohibited in public agencies and nonpublic schools unless there is an emergency situation and seclusion is necessary to protect a student or another person after other less intrusive interventions have failed or been determined to be inappropriate, the student's IEP or behavioral intervention plan describes the specific behaviors and circumstances in which seclusion may be used, or the parents of a nondisabled student have otherwise provided written consent for the use of seclusion while a behavior intervention plan is being developed.</p>

SYNOPSIS OF COMMENTS

COMMENTERS	COMMENT	PROPOSED ACTION	RATIONALE
<p>Maryland State Teacher's Association (MSTA)</p>	<p>.06 Administrative Procedures C(3) – Classroom teachers that work with students should receive the training described.</p>	<p>No Change</p>	<p>Each local school system and nonpublic school is required to identify school personnel to serve as a school-wide resource to assist in ensuring the proper administration of exclusion, restraint, and seclusion by school personnel. The individual serving as the school-wide resource is to ensure the school personnel, including classroom teachers, as determined appropriate, responsible for the implementation of exclusion, restraint, or seclusion, receive professional development to address the school's policies, procedures, and practices to address a continuum of positive behavioral interventions, strategies, and supports for use by school personnel before exclusion, restraint, or seclusion, the prevention of self-injurious behaviors, methods for identifying and defusing potentially dangerous behavior, and the appropriate use and documentation of exclusion, restraint, and seclusion.</p>
<p align="center">COMAR 13A.13.01 Maryland Infants and Toddlers</p>			
<p>No Comments</p>			

(3) (text unchanged)

C. — F. (text unchanged)

11.23.02 Driver Education Program

Authority: Transportation Article, §§12-104(b), 12-117, 13-621, 15-102 — 15-111, 15-701 — 15-710, 15-801 — 15-807, 16-212.1(b), and 16-501 — 16-507, Annotated Code of Maryland

.14 Criminal Background Check.

A. [An] Under Transportation Article, §15-804, Annotated Code of Maryland, an individual applying for an instructor certification or renewal of an instructor certification shall be fingerprinted and have a State and national criminal background check conducted by the Criminal Justice Information System (CJIS) Central Repository of the Department of Public Safety and Correctional Services.

B. The applicant shall:

(1) (text unchanged)

(2) Pay the required fee, including the fee authorized under Criminal Procedure Article, §10-221(b), Annotated Code of Maryland, for access to [Maryland] criminal history records; and

(3) (text unchanged)

C. — E. (text unchanged)

JOHN T. KUO
Administrator
Motor Vehicle Administrated

Title 13A**STATE BOARD OF EDUCATION****Subtitle 05 SPECIAL INSTRUCTIONAL PROGRAMS****13A.05.01 Provision of a Free Appropriate Public Education**

Authority: Education Article, §§2-205, 8-301 — 8-307, and 8-401 — 8-416; [Article 49D] Human Services Article, §§8-401 — 8-409; Annotated Code of Maryland
Federal Statutory Reference: 20 U.S.C. [§1400 et seq.] §§1411 — 1416; Federal Regulatory References: 34 CFR 99, 300, and 301[, 303, and 99]

Notice of Proposed Action

[09-191-P]

The Maryland State Board of Education proposes to amend Regulations .02, .03, .06, .08 — .10, .13, and .15 under COMAR 13A.05.01 Provision of a Free Appropriate Public Education. 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 align State regulations with the Individuals with Disabilities Education Act of 2004 and House Bill 20, Ch. 119, Acts of 2009, "Rosa's Law," and to make technical revisions.

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), local school systems, and public agencies will need to expend existing federal, State, and local funds to provide professional development on the implementation of these regulations and revisions to policies and procedures. For the implementation of professional development, the MSDE has allocated funds to local school systems and public agencies to offset the cost of developing professional development materials and conducting professional development activities for administrators, general educators, special educators, related service personnel, parents, and advocates.

II. Types of Economic Impact.

	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:			
Professional development	(E+)		\$150,000
B. On other State agencies:			
Professional development	(E+)		\$50,000
C. On local governments:			
Professional development	(E+)		\$50,000
	Benefit (+)	Cost (-)	Magnitude
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 policies and procedures, develop professional development materials for local school systems, public agencies, Preschool Partners, Partners for Success Centers, families, and advocates. It is expected that the State local school systems and public agencies will fund this professional development with existing funding sources.

B. Funds are needed to revise interagency agreement, policies, and procedures and to conduct professional development for agency personnel in public agencies, for the implementation of regulations. It is expected that the State, local school systems, and public agencies will fund this professional development with existing funding sources.

C. Funds are needed by local school systems and public agencies for the revision and distribution of local policies and procedures for the implementation of these regulations and professional development for school personnel and parents. It is expected that the State, local school systems, 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: Proposed amendments implement the Individuals with Disabilities Education Act of 2004 for students with disabilities to ensure the provision of a free appropriate public education.

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 on proposed amendments to COMAR 13A.05.01. 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 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, Continuing Education Building
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 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 IEP, including the Maryland State Department of Education, local school systems, the Department of Health and Mental Hygiene, the 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)

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (11) (text unchanged)

(12) ["Consent" means a parent:] *Consent.*

(a) "Consent" means a parent:

[(a)] (i) — [(c)] (iii) (text unchanged)

(b) "Consent" includes consent given to an action before a parent revokes consent, so that:

(i) If a parent revokes consent, that revocation is not retroactive and does not negate an action that occurred after the consent was given and before the consent was revoked; and

(ii) If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the student's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

(13) — (35) (text unchanged)

(36) "Intellectual disability" means general intellectual functioning, adversely affecting a student's educational performance, that:

(a) Is significantly subaverage;

(b) Exists concurrently with deficits in adaptive behavior; and

(c) Is manifested during the developmental period.

[(36)] (37) — [(41)] (42) (text unchanged)

[(42)] "Mental retardation" means general intellectual functioning, adversely affecting a student's educational performance, which:

(a) Is significantly subaverage;

(b) Exists concurrently with deficits in adaptive behavior; and

(c) Is manifested during the developmental period.]

(43) (text unchanged)

(44) Multiple Disabilities.

(a) "Multiple disabilities" means concomitant impairments, such as [mental retardation] *intellectual disability-blindness* or [mental retardation] *intellectual disability-orthopedic impairment*, the combination of which causes such severe educational problems that the student cannot be accommodated in special education programs solely for one of the impairments.

(b) (text unchanged)

(45) — (58) (text unchanged)

(59) Public Agency.

(a) (text unchanged)

(b) "Public agency" includes local school systems, the Department, the Department of Health and Mental Hygiene, the Department of Juvenile Services, the Maryland School for the Blind, the Maryland School for the Deaf, and [adult correctional facilities] *the Department of Labor, Licensing, and Regulation.*

(60) — (72) (text unchanged)

(73) Specific Learning Disability (SLD).

(a) — (b) (text unchanged)

(c) "SLD" does not include students who have learning problems which are primarily the result of visual, hearing, or motor impairments, [mental retardation] *intellectual disability*, emotional disturbance, or environmental, cultural, or economic disadvantage.

(74) — (77) (text unchanged)

(78) "Student with a disability" means a student, 3 years old through the end of the school year in which the student turns 21 years old:

(a) Evaluated in accordance with Regulation .06 of this chapter as having:

(i) — (iv) (text unchanged)

(v) [Mental retardation] *Intellectual disability*;

(vi) — (xii) (text unchanged)

- (b) (text unchanged)
 (79) — (85) (text unchanged)

.06 Evaluation, Reevaluation, and Eligibility.

- A. — C. (text unchanged)
 D. Determination of an SLD.
 (1) (text unchanged)
 (2) The IEP team shall determine that a student has an SLD if:
 (a) (text unchanged)
 (b) The student's lack of achievement described in §D(2) of this regulation is not primarily the result of:
 (i) (text unchanged)
 (ii) [Mental retardation] *Intellectual disability*;
 (iii) — (vi) (text unchanged)
 (3) — (4) (text unchanged)
 (5) When a student is suspected of having an SLD, the IEP team shall prepare a written report that includes:
 (a) — (e) (text unchanged)
 (f) The determination of the IEP team concerning the effects of visual, hearing, or motor disability, [mental retardation] *intellectual disability*, emotional disturbance, cultural factors, environmental or economic disadvantage, or limited English proficiency on the student's achievement level;
 (g) — (h) (text unchanged)
 (6) — (7) (text unchanged)
 E. Reevaluation.
 (1) — (2) (text unchanged)
 (3) The IEP team shall review existing assessment data in accordance with [§B] §C of this regulation.
 (4) — (12) (text unchanged)

.08 Individualized Education Program (IEP) Team Responsibilities.

- A. IEP Development.
 (1) (text unchanged)
 (2) Transition from a Local Infants and Toddlers Program.
 (a) If a child transitioning from a local infants and toddlers program is determined to be a student with a disability or developmental delay in accordance with Regulation .06B of this chapter, the public agency shall:
 [(i) Ensure that a representative of the public agency attends the local infants and toddlers transition planning meeting as described in 20 U.S.C. §637(a)(9)(A)(ii)(II);
 [(ii) (i) — [(iv) (iii) (text unchanged)
 (b) (text unchanged)
 (3) — (11) (text unchanged)
 B. (text unchanged)

.09 Individualized Education Program Document.

- A. — B. (text unchanged)
 C. Students in Adult Correctional Facilities.
 (1) — (2) (text unchanged)
 (3) The Department of Labor, Licensing, and Regulation provides special education and related services to students with disabilities incarcerated in adult correctional institutions identified in §C(2) of this regulation.
 (4) — (5) (text unchanged)
 D. — F. (text unchanged)
 .10 Least Restrictive Environment (LRE).
 A. — B. (text unchanged)
 C. Placements.
 (1) — (5) (text unchanged)
 (6) Removal of Students for Disciplinary Actions.

(a) The removal of a student with a disability from the student's current educational setting and the provision of educational services shall conform with the provisions of 34 CFR §§300.101 and [300.521 — 300.529] 300.530 — 300.536, Education Article, §7-305; Annotated Code of Maryland, and COMAR 13A.08.03.

- (b) (text unchanged)

.13 Procedural Safeguards — Consent.

- A. (text unchanged)
 B. Consent for Special Education Services.
 (1) — (3) (text unchanged)
 (4) [If] *Consistent with 34 CFR §300.300, if a parent of a student with a disability refuses to provide the initial consent as described in §B(2) of this regulation, or revokes consent as described in §B(5) of this regulation, the public agency is not:*
 (a) Considered to be in violation of the requirement to make FAPE available to the student for failing to provide the student with the special education and related services for which the public agency sought parental consent in accordance with §B(1) of this regulation *or further special education and related services in accordance with §B(5) of this regulation and consistent with 34 CFR §300.300; and*
 (b) (text unchanged)
 (5) *If, at any time subsequent to the initial provision of special education and related services, the parent revokes consent in writing for the continued provision of special education and related services, the public agency:*

(a) *Shall provide the parent prior written notice in accordance with 34 CFR §300.503 and Regulation .12 of this chapter before ceasing the provision of special education and related services;*

(b) *May not continue to provide special education and related services to the student;*

(c) *May not use the procedures described in Regulation .15B and C of this chapter to obtain agreement or a ruling that the services may be provided to the child; and*

(d) *Is not required to amend the student's education records to remove any references to the student's receipt of special education and related services, in accordance with 34 CFR §300.9(c)(3).*

- [(5)] (6) — [(9)] (10) (text unchanged)

.15 Procedural Safeguards — State Complaints, Mediation, and Due Process.

- A. — B. (text unchanged)
 C. Due Process Complaint.
 (1) — (10) (text unchanged)
 (11) Resolution Session.
 (a) — (c) (text unchanged)
 (d) *In accordance with 34 CFR §300.510(a)(3), a resolution session need not be held if:*
 (i) *The parent and the public agency agree in writing to waive the meeting;*
 (ii) *The parent and the public agency agree to try mediation; or*
 (iii) *The public agency initiated the due process complaint.*

- [(d)] (e) — [(h)] (i) (text unchanged)

- (12) — (17) (text unchanged)

(18) *Any party to a due process hearing, conducted in accordance with 34 CFR §§300.507 — 300.513 or §§300.530 — 300.536, has the right to:*

- (a) *Represent themselves;*