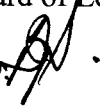




Bernard J. Sadusky, Ed.D.  
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**TO:** Members of the State Board of Education  
**FROM:** Bernard J. Sadusky, Ed.D.   
**DATE:** September 27, 2011  
**SUBJECT:** COMAR 13A.06.02 Prekindergarten Programs  
**ADOPTION**

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**PURPOSE:**

The purpose of this action is to seek adoption of regulations that govern Public Prekindergarten Programs. (Attachment I)

**HISTORICAL BACKGROUND:**

In 1978, the Maryland State Board of Education issued a resolution (No.1978-17) to establish the Extended Elementary Education (EEEP) for four-year old children in order to provide prekindergarten to children with a “high potential for school failure.” The State Board instructed the State Superintendent of Schools to place the program in the FY80 budget, which was affirmed by the Maryland General Assembly. Title1/Chapter1 schools were eligible for EEEP prekindergarten sites, and all four-year old children living in the attendance area of these schools were eligible to be enrolled in the program. The programmatic requirements for this program were established in the form of EEEP Program Assurances.

In 1999, the Maryland State Board of Education adopted Code of Maryland Regulations (COMAR), which included provisions for student eligibility and programmatic requirements.

In 2004, the Maryland State Board of Education adopted revised COMAR regulations for Prekindergarten Programs. These revised regulations included changes in the prekindergarten program in order to meet the Bridge to Excellence in Public Schools Act requirement that local schools systems ensure that publicly funded prekindergarten programs are available to all eligible students within their jurisdictions by the 2007-2008 school year. Eligibility is determined as “applicants who are from families with economically disadvantaged backgrounds or who are homeless.” For vacancies remaining after compliance with 03.A of this regulation a local school system may enroll 4-year-old applicants who are not from families with economically disadvantaged backgrounds but who represent a student population that exhibits a lack of school readiness.

In 2010, the Maryland State Department of Education (MSDE) convened a prekindergarten regulations workgroup to revise existing COMAR regulations to address the expansion of prekindergarten, and the provisions of the 2007 *Task Force on Universal Prekindergarten* recommendations for Preschool for All, and to correct an inconsistency in the legal and regulatory framework pertaining to children with disabilities. The revised regulations allow for the enrollment of three-year-old children into the public prekindergarten program. This provision allows for an improved transition of children with disabilities who receive services through the Individuals with Disabilities Education Act (IDEA) – Part C.

The workgroup included representation from the MSDE and identified stakeholder groups, such as local school systems, child care provider associations, and Head Start.

Final publication will reflect two non-substantive changes in wording. In .02 Definitions, (4) “CDA” means the Child Development Associate Certificate, will change to Child Development Associate Credential. In .03(B), Student Eligibility, the word “school” will be added prior to the word readiness to further define the eligibility criteria under .02(B) as a “student population that exhibits a lack of *school* readiness.”

**SUMMARY:**

The proposed revised Regulations under COMAR 13A.06.02.01-.05 will:

- Allow local education agencies to enroll three-year-old children into prekindergarten, providing for an improved transition of children from Part C, special education programs into the prekindergarten program;
- Require local school systems to provide prekindergarten programs that will accommodate the needs of all income eligible families seeking a placement for a four-year-old child;
- Refine and expand section .02: Definitions, .03 Eligibility, and .04: Site Selection
- Clarify section .05 Requirements for Local School Systems; and
- Add to section .05 Requirements for Qualified Vendors and for Maryland State Department of Education (MSDE).

Opportunities for comments were provided. Two comments were received. The attached chart summarizes those comments and the staff’s response. (Appendix II)

**ACTION:**

I request that you adopt the revised regulations 13A.06.02 Prekindergarten Programs.

BJS/RG

Attachments – Comments and the Proposed Regulations

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 06 SUPPORTING PROGRAMS

### Chapter 02 Prekindergarten Programs

Authority: Education Article §2-205(c)—(g) and 7-101.1, Annotated Code of Maryland

#### .01 Scope and Purpose.

A. This chapter applies to all publicly funded prekindergarten programs for *all* eligible 4-year-old children, as defined at Education Article, §7-101.1(a)(3), Annotated Code of Maryland, administered by local boards of education or qualified vendors. [with the overall goal of providing learning experiences to help children develop and maintain school readiness skills necessary for successful school performance.

B. From the 2003—2004 school year through the 2006—2007 school year, enrollment shall be based upon the availability of prekindergarten sites established by the local board of education. Beginning in 2007—2008, local boards of education shall have completed expansion of prekindergarten programs in order to accommodate all eligible 4-year-old children seeking enrollment.]

*B. The overall goal of the prekindergarten program is to provide learning experiences to help children develop and maintain school readiness skills necessary for successful school performance.*

*C. Local boards of education shall provide prekindergarten programs to accommodate all eligible 4-year-old children seeking enrollment in public school programs.*

#### .02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Accredited" means meets standards of high quality set by the Department's Early Childhood Accreditation Program Standards or by an accrediting organization recognized by the Department.

[(1)] (2) (text unchanged)

(3) "Department" means the Maryland State Department of Education.

(4) "CDA" means the Child Development Associate ~~[[Certificate]]~~ Credential.

[(2)] (5) (text unchanged)

(6) "Eligibility" means meeting the criteria for enrollment into prekindergarten as stated in COMAR

13A.06.02.03A.

[(3)] (7) (text unchanged)

(8) "Homeless student" means a child or youth who lacks a fixed, regular, or adequate nighttime place of residence as defined in COMAR 13A.05.09.02.

(9) "Maryland Common Core State Curriculum" means measurable statements of what students should know and be able to do within a content area as defined and approved for prekindergarten by the Department in collaboration with local school systems.

(10) "Prekindergarten" means a publicly funded program for all eligible 4-year-olds focusing on social/emotional, physical, and cognitive development as described in the Maryland Common Core State Curriculum.

[(4)] (11) "Qualified vendor" means a State or nationally accredited child care [center] program or [a] an approved nonpublic school [approved by the Maryland State Department of Education to provide prekindergarten program services.] that:

(a) Is partnering with a local school system through a memorandum of agreement; and

(b) Meets the requirements of Regulation .05 of this chapter.

(12) "School readiness" means the stage of early development that enables an individual child to engage in and benefit from early learning experiences. As a result of family nurturing and interactions with others, a young child in this stage has reached certain levels of social and emotional development, cognition and general knowledge, language development, and physical well-being and motor development. School readiness acknowledges individual approaches toward learning as well as the unique experiences and backgrounds of each child.

[(5)] "State Content Standards" means measurable statements of what students should know and be able to do within a content area as defined in the State Curriculum for Prekindergarten—Grade 8 developed by the Maryland State Department of Education in collaboration with local school systems.]

#### .03 Student Eligibility.

A. A local school system shall enroll *in prekindergarten* all 4-year-old applicants who are from families with economically disadvantaged backgrounds or who are homeless.

B. For vacancies remaining after compliance with §A of this regulation a local school system may enroll 4-year-old applicants who are not from families with economically disadvantaged backgrounds but who represent a student population that exhibits a lack of school readiness [in personal and social development, language and literacy, mathematical thinking, scientific thinking, social studies, the arts, or physical development and health].

*C. Prekindergarten Programs for 3-Year-Old Children.*

(1) *A local school system or qualified vendor may establish a prekindergarten program enrolling 3-year-old applicants who are from economically disadvantaged or homeless families, or who represent a student population that exhibits a lack of school readiness.*

(2) *A local school system shall be in compliance with 34 CFR §300.115(a)(b) and COMAR 13A.05.01.10 regarding children with disabilities.*

(3) *A prekindergarten program for 3-year-old children shall meet the requirements of Regulation .05 of this chapter.*

**.04 Prekindergarten Site Selection.**

A. [Each] *A local school system shall develop a facilities plan identifying appropriate sites to ensure that a publicly funded prekindergarten program is available to all eligible 4-year-old children in its jurisdiction [by 2007—2008].*

B. The *facilities* plan may include local school system [agreements] *Memorandums of Agreement* with qualified vendors and Head Start to provide prekindergarten program services that meet the local school system responsibilities in accordance with Regulation .05 of this chapter.

**.05 Local School System, Qualified Vendor, and Department Responsibilities.**

A. A local school system shall:

[A.] (1) *Develop and maintain a policy for determining the eligibility and selection of prekindergarten sites as well as the eligibility of 4-year-old students for prekindergarten programs consistent with the requirements of this chapter; and*

(2) *Develop criteria in reference to Regulation .03B and C of this chapter that establishes procedures to include children in the prekindergarten program who are not eligible under Regulation .03A of this chapter;*

[B.] (3) *(text unchanged)*

[C.] (4) *Analyze the Department-approved kindergarten assessment system information described in COMAR 13A.08.01.02-3 to evaluate the effectiveness of the prekindergarten program[;], and make necessary adjustments to the prekindergarten instructional program;*

[D.] (5) *(text unchanged)*

[E.] (6) *Provide staffing for each [classroom] session of prekindergarten to include [an early childhood] a teacher who possesses a [valid] current State professional certificate in early childhood education and a para-professional with a minimum of a high school diploma, or its equivalent, or a CDA [assigned full-time for the half day program];*

[F.] (7) *Align each prekindergarten program with the [State Content Standards for prekindergarten] Maryland Common Core State Curriculum;*

[G.] (8) *Based on the September 30 enrollment count, maintain an average staff to student ratio of 1:10 with an average of 20 students per classroom[.]; and*

(9) *Provide responses to Department requests for information and data related to the operation of the prekindergarten program.*

B. A qualified vendor shall:

(1) *Maintain State or national early childhood program accreditation;*

(2) *Have the capacity to meet the responsibilities identified in this regulation;*

(3) *Be licensed to operate a child care center pursuant to COMAR 13A.16; and*

(4) *Provide responses to Department requests for information and data related to the operation of the prekindergarten program.*

C. The Department shall:

(1) *Approve and monitor local school systems for compliance with Regulations .03—.05 of this chapter; and*

(2) *Collect and monitor local school system responses to Department requests for information and data regarding compliance with §§A and B of this regulation.*

NANCY S. GRASMICK  
State Superintendent of Schools

Maryland State Board of Education meeting September 27, 2011  
 Prekindergarten Programs COMAR 13A.06.02 Public Comments

Public Comment	MSDE Response
<p>The Maryland Disabilities Council requests that the explicit language about children with disabilities included in 13A.06.02.03(C)(2) also be included in 13A.06.02.03(B).</p>	<p>The provision in the revised COMAR 13A.06.02 makes it possible for school systems to establish classrooms that include placements for three-year-old children transitioning out of IDEA-Part C. COMAR 13A.06.02.03(C) is new language added to the existing regulations for public prekindergarten programs. Local education agencies must currently be in compliance with 34 CFR §300.115(a)(b) and COMAR 13A.05.01.10 regarding children with disabilities.</p>
<p>The Maryland Child Care Association (MSCCA) provided public comment from association and board members regarding the enrollment of three-year-old children in public prekindergarten programs. MSCCA is opposed to COMAR 13A.06.02.03(C) which allows for the provision of three (3) year-olds to be enrolled in public prekindergarten programs. MSCCA's position is that the public prekindergarten program is not an appropriate placement for a 3 year-old child, and that by including this provision will negatively affect child care businesses in Maryland.</p>	<p>The provision in the revised regulations is not meant to expand preschool services in public prekindergarten programs to all three-year olds in general. The provision in the revised COMAR 13A.06.02 makes it possible for school systems to establish classrooms that include placements for three-year-old children transitioning out of IDEA-Part C.</p>