



Jack R. Smith, Ph.D.  
Interim State Superintendent of Schools

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**TO:** Members of the State Board of Education  
**FROM:** Jack R. Smith, Ph.D. *JRS/CLW*  
**DATE:** December 8, 2015  
**SUBJECT:** Code of Maryland Regulations (COMAR) 13A.08.07  
Transfer of Educational Records for Children in State Supervised Care  
**ADOPTION**

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**PURPOSE:**

The purpose of this action is to seek adoption of amendments to COMAR 13A.08.07 Transfer of Educational Records for Children in State Supervised Care (ATTACHMENT I).

**BACKGROUND/HISTORICAL PERSPECTIVE:**

The Federal Fostering Connection to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act) contains provisions to promote the educational stability of children in foster care. It requires child welfare agencies to coordinate with local education systems to ensure that children subject to the Act remain in the school in which the child was enrolled at the time of placement, if doing so is in the best interest of the child, or be immediately enrolled in a new school. In 2012, the Maryland General Assembly integrated the educational stability provisions of the Fostering Connections Act into the Educational Article. As of July 2002, §7-101(b)(2)(ii) of the Education Article has required local school superintendents to allow a child subject to the Fostering Connections Act to remain in the school the child has been attending, regardless of where the child is currently living, if it is in the best interests of the child to continue at that school. The local Department of Social Services (DSS) or the Department of Juvenile Services (DJS), in consultation with the local education system, makes the best interest determination. The cost of transporting the child to and from the original school is borne by either the local DSS or by DJS, not the local educational system.

**EXECUTIVE SUMMARY:**

The Maryland State Department of Education (MSDE) has been charged with establishing a regulation to implement the provisions described above. MSDE has consulted with the Department of Human Resources, DJS and other stakeholders in developing the proposed regulations. Local school systems were informed of this proposal in the State Superintendent's weekly update to local superintendents. Opportunities for public comment were provided through publication of the proposed regulation in the Maryland Register (ATTACHMENT I) from October 2, 2015 through November 2, 2015. The only comment received was from the Public Justice Center and Advocates for Children and Youth supporting the adoption of the regulation (ATTACHMENT II).

**ACTION:**

I am requesting that the State Board grant adoption of the proposed amendments to COMAR 13A.08.07 Transfer of Educational Records for Children in State-Supervised Care.

## PROPOSED ACTION ON REGULATIONS

1270

## Title 12

# DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

### Subtitle 10 CORRECTIONAL TRAINING COMMISSION

#### 12.10.01 General Regulations

Authority: Correctional Services Article, §§8-208, Annotated Code of Maryland

##### Notice of Proposed Action [15-261-P]

The Secretary of Public Safety and Correctional Services, in cooperation with the Correctional Training Commission, proposes to amend Regulation .05 under COMAR 12.10.01 General Regulations.

##### Statement of Purpose

The purpose of this action is to amend Correctional Training Commission regulations to conform with the requirements of Correctional Services Article, §§8-209.1, Annotated Code of Maryland (which became effective on July 1, 2015 through enactment of Ch. 305, Acts of 2015), as well as federal statutory and regulatory provisions (5 U.S.C. 552a; 28 U.S.C. 534; 42 U.S.C. 14616; and 28 CFR Part 20 — Criminal Justice Information) that provide procedures for fingerprinting and obtaining a criminal history records information background report on an applicant for a position as a correctional officer or a Department of Juvenile Services employee certified by the Correctional Training Commission.

##### 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

The proposed action has no economic impact.

##### 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 no impact on individuals with disabilities.

##### Opportunity for Public Comment

Comments may be sent to Thomas C. Smith, Director Policy and Process Review, Police and Correctional Training Commissions, 6852 4th Street, Sykesville, MD 21784, or call 410-875-3605, or email to [tcsmith@dpscs.state.md.us](mailto:tcsmith@dpscs.state.md.us), or fax to 410-875-3584. Comments will be accepted through November 2, 2015. A public hearing has not been scheduled.

#### .05 Background Investigation and Criminal History Record Checks.

A. (text unchanged)

B. Criminal History Record Checks and Fingerprints.

(1) An agency head submitting an AFC for an applicant to be certified as a correctional officer or Department of Juvenile Services employee shall require that the applicant:

(a) [An applicant is] Be fingerprinted; and

(b) [An applicant's fingerprints are forwarded to the appropriate local, State, and national agency for a criminal history record check] Apply to the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services for a State and national criminal history records check.

[(2) An agency head, or a designee, may conduct an applicant's criminal history record check using the National Crime Information Center (NCIC) files in place of a criminal history record check.

(3) An agency head, or a designee, submitting an AFC for an applicant shall:

(a) Maintain the results of an applicant's criminal history record checks; and

(b) Include the results on the AFC.]

(2) An applicant applying for a criminal history records check under this section shall request the results of the criminal history records check be provided to the:

(a) Applicant;

(b) Commission; and

(c) Agency submitting the AFC for the applicant.

[(4)] (3) Record of Criminal Conviction.

(a) [The agency head] The Commission shall include with the Commission's records for the applicant's AFC results of the [National Crime Information Center check or the local, State, or national fingerprint] criminal history records check that reveal an applicant has:

(i) — (iv) (text unchanged)

(b) The Commission may [refuse to certify the applicant based on derogatory information resulting from the criminal history record check.

(c) The Commission may] not certify an applicant in a mandated position if the applicant has a conviction for an offense under Regulation .20 of this chapter.

(4) The Commission shall notify the applicant that the applicant may contest the contents of the criminal history records check results as provided under Criminal Procedure Article, Title 10, Annotated Code of Maryland.

(5) The Commission may refuse to certify the applicant based on derogatory information resulting from the criminal history records check or other verified reliable source.

STEPHEN T. MOYER

Secretary of Public Safety and Correctional Services

## Title 13A

# STATE BOARD OF EDUCATION

### Subtitle 08 STUDENTS

#### 13A.08.07 Transfer of Educational Records for Children in State-Supervised Care

Authority: Education Article, §§2-205, 2-206, 4-122, 7-101, and 8-501—8-506, Annotated Code of Maryland

##### Notice of Proposed Action [15-114-R]

The Maryland State Board of Education proposes to adopt new Regulation .06 under COMAR 13A.08.07 Transfer of Educational Records for Children in State-Supervised Care. Since substantive changes have been made to the original proposal as published in 42:8 Md. R. 614—615 (April 17, 2015), this action is being repropose at

this time. This action was considered at the July 28, 2015 meeting of the State Board of Education.

**Statement of Purpose**

The purpose of this action is to promote the educational stability of children in foster care.

**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.** There will be costs associated with transportation of foster children. All transportation costs will be the responsibility of the local departments of social services.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	(E+)	Unknown
C. On local governments:	NONE	
	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.)

B. Costs for transportation of foster children will be the responsibility of local departments of social services.

**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 no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to John T. McGinnis, Pupil Personnel and School Social Worker Specialist, Division of Student, Family, and School Support, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0295 (TTY 410-333-6442), or email to john.mcginis@maryland.gov, or fax to 410-333-8148. Comments will be accepted through November 2, 2015. A public hearing has not been scheduled.

**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 December 8, 2015, 9 a.m., at 200 West Baltimore Street, Baltimore, Maryland 21201.

Ed. Note: Pursuant to State Government Article, §10-113, Annotated Code of Maryland, if a promulgating agency substantively alters the text of regulations that have been previously proposed in the Maryland Register, the altered text must be published in the Maryland Register as though it were initially proposed. The text of regulations appearing immediately below has been altered substantively from the initially proposed text.

Symbols: Roman type indicates existing text of regulations. *Italic* type indicates initially proposed new text. **Arial Bold Italic** type indicates new text that substantively alters the text as initially proposed. [Single brackets] indicate existing text proposed for repeal. [[[Triple brackets]]] indicate text proposed for deletion which substantively alters the originally proposed text.

**.06 School Stability.**

A. (originally proposed text unchanged)

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

(1)–(4) (originally proposed text unchanged)

(5) "Receiving school system" means the local school system serving the jurisdiction where the child welfare agency has placed the foster child.

(6) "School of origin" means the school the foster child attended prior to the [[[original placement or prior to the most recent change]]] **most recent change** in placement by the child welfare agency.

(7) "School system of origin" means the local school system serving the jurisdiction where the school of origin is located.

C. In accordance with Education Article, §7-101(b)(2)(ii), Annotated Code of Maryland, the local school system superintendent of the school of origin shall allow a foster child to remain enrolled in the school of origin unless the child welfare agency responsible for the child provides notice to the principal of the school of origin and the Fostering Connections liaison in the receiving school system that it is not in the best [[[interest]]] **interests** of the child to remain enrolled in the school of origin, pursuant to the procedures set forth in COMAR 07.02.11.12B.

D. If the child welfare agency has determined that it is not in the best [[[interest]]] **interests** of the foster child to remain at the school of origin, the receiving school shall immediately enroll the child once a person authorized to enroll the child initiates the enrollment.

E. The receiving school shall immediately enroll the foster child even if the child welfare agency is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

F. Notwithstanding any other enrollment documentation requirements of the receiving school, at the time of enrollment the receiving school may not require the person authorized to enroll the foster child to present more than documentation that the child is in the care of the child welfare agency and a written statement of the address where the child has been placed.

G. (originally proposed text unchanged)

H. *Transportation to School of Origin.*

(1)–(2) (originally proposed text unchanged)

(3) Section [[[E(1)]]] **H(1)** of this regulation [[[shall not be construed as]]] **may not:**

(a) [[[precluding]]] **Preclude** the child welfare agency from making its own transportation arrangements, including arrangements with the school system of origin if it is different than the receiving school system; or

(b) ~~Excuse the child welfare agency from its obligation to provide transportation to the foster child in the absence of an agreement with the receiving school system.~~

**1. Fostering Connections Liaison.**

(1) ~~Each local school system shall designate an individual as the Fostering Connections liaison.~~

(2) ~~The Fostering Connections liaison for the school system of origin shall consult with the child welfare agency about whether it is in the best interests of the foster child to continue the child's education at the school of origin.~~

(3) ~~The Fostering Connections liaison for the local school system where the foster child will attend school after a change in placement and best interests determination shall:~~

(a) ~~Coordinate with the child welfare agency regarding enrollment of the foster child in the school of origin in accordance with Education Article, §7-101(b)(2)(ii), Annotated Code of Maryland, or enrollment at the receiving school;~~

(b) ~~Serve as the initial school system contact with whom the child welfare agency communicates regarding the best interests determination and transportation for the foster child;~~

(c) ~~Communicate with the school of origin and the Fostering Connections liaison in the jurisdiction of the school of origin regarding school placement after the child welfare agency has communicated its best interests determination;~~

(b) ~~Facilitate if the foster child transfers schools, facilitate the transfer of the child's educational records from the school of origin to the receiving school; and~~

(c) ~~Request periodic updates from the child welfare agency regarding the foster child's attendance and performance at the school of origin; and~~

(4) ~~If the child welfare agency arranges transportation with the receiving school system, the Fostering Connections liaison for the receiving school system will serve as the initial school system contact to help facilitate transportation arrangements.~~

(5) ~~The Fostering Connections liaison for each local school system shall communicate the educational stability requirements of the Fostering Connections to Success and Increasing Adoptions Act of 2008 to appropriate school personnel.~~

(6) (originally proposed text unchanged)

JACK R. SMITH, Ph.D.  
Interim State Superintendent of Schools

# Title 13B MARYLAND HIGHER EDUCATION COMMISSION

**Notice of Proposed Action**

[15-267-P]

The Maryland Higher Education Commission proposes to:

- (1) Amend Regulations .02, .03, and .04-1 and adopt new Regulation .07-1 under COMAR 13B.02.01 Requirements for Authorization of Out-of-State Degree-Granting Institutions to Operate in Maryland;

- (2) Adopt new Regulations .01—.09 under a new chapter, COMAR 13B.02.05 Approval and Oversight of In-State SARA Institutions; and

- (3) Amend Regulations .01 and .02 under COMAR 13B.05.01 Registration.

This action was considered at an open meeting of the Maryland Higher Education Commission held on August 24, 2015, pursuant to General Provisions Article, §3-301, Annotated Code of Maryland.

**Statement of Purpose**

The purpose of this action is to facilitate the State's participation in, and implementation of, the State Authorization Reciprocity Agreement (SARA), pursuant to Ch. 175, Acts of 2015.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** With respect to in-State institutions of higher education, the regulations will lower the administrative costs that the institutions incur in connection with obtaining approval to offer online education to students located in other states. With respect to the Maryland Higher Education Commission, the regulations will lower the fees received by the Commission in connection with registering out-of-State institutions of higher education to provide online education to students within Maryland. However, the regulations will increase the fees that the Commission receives from in-State institutions applying to participate in SARA.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:		
(1) Fees for out-of-State institutions	(R-)	\$365,400 in FY 2017
(2) Fees for in-State institutions	(R+)	\$90,000 in FY 2017
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude

D. On regulated industries or trade groups:

Cost reduction for in-State SARA institutions (+) Indeterminable

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(1). Beginning in fiscal year 2017, out-of-State institutions participating in SARA will not be required to pay fees to the Commission in order to offer online education in Maryland.

A(2). Beginning in fiscal year 2017, in-State institutions that apply to the Commission to participate in SARA will pay application fees and renewal fees to the Commission.



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*By Electronic Mail*

October 28, 2015

John T. McGinnis  
Pupil Personnel and School Social Worker Specialist  
Division of Student, Family, and School Support  
Maryland State Department of Education  
[john.mcginis@maryland.gov](mailto:john.mcginis@maryland.gov)

John Nethercut  
Executive Director

Debra Gardner  
Legal Director

Re: Proposed Amendment to COMAR 13A.08.07, "Transfer of Educational Records for Children in State Supervised Care"

Dear Mr. McGinnis:

**ATTORNEYS**  
Monisha Cherayil  
Sally Dworak-Fisher  
Matthew Hill  
Anna Jagelewski  
John Pollock  
Russell R. Reno, Jr.  
Carnilla Roberson  
Zafar S. Shah  
Andrea Vaughn

I am writing on behalf of the Public Justice Center and Advocates for Children and Youth to express support for the revised proposed changes to COMAR 13A.08.07 published the Maryland State Department of Education (MSDE) in the October 2, 2015 edition of the Maryland Register.

Levern Blackmon  
Certified Paralegal

As stated in previous letters dated May 18 and July 28, 2015, we applaud MSDE for taking action to promote the educational stability of children in out-of-home care. Children in out of home care frequently transfer schools or undergo a period of absences when changing placements, experiences which contribute to their low rates of school completion and success. MSDE's proposed regulations provide a critical tool through which educators and child welfare professionals, working together, can minimize the educational disruptions that children suffer when they enter out of home care or move from one placement to another.

**PARALEGALS**  
Emily Ford  
Rebecca Reynolds  
Hannah Walsh

Moreover, we appreciate that MSDE has revised the proposed regulatory language in a manner that addresses the concerns we shared in our May 18 letter. As revised, the proposed regulation accurately reflects the requirements of law, and appropriately clarifies the role of school systems in ensuring the educational stability of students in foster care. Accordingly, we urge the State Board to adopt the proposed regulation as final as expeditiously as possible, to facilitate ongoing efforts by school systems and foster care agencies to comply with Fostering Connections and related law.

Brenda Midkiff  
Office Manager

Jennifer Pelton, CFRE  
Development Director

Erin Brock  
Development Associate

Albi Mullai  
Administrative/  
Development Assistant

Thank you for your consideration.

Sincerely,

**Monisha Cherayil**  
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