



Nancy S. Grasmick  
State Superintendent of Schools

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**TO:** Members of the Maryland State Board of Education  
**FROM:** Nancy S. Grasmick *Nancy*  
**DATE:** December 10-11, 2009  
**SUBJECT:** COMAR 13A.06.03.04 (Amend) Operational Guidelines  
and COMAR 13A.06.04 (New) Corollary Athletic Programs  
PERMISSION TO PUBLISH

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**PURPOSE:**

The purpose of this action is to seek your permission to publish amendments to COMAR 13A.06.03.04 and COMAR 13A.06.04. The purposes of these amendments are to: ensure that students with disabilities have an opportunity to try out for and if selected participate in athletic programs, provide reasonable accommodations to allow athletic opportunities and provide corollary athletic programs.

**HISTORICAL BACKGROUND:**

In 2008 the Fitness and Athletic Equity for Students with Disabilities Act was signed into law. The Act calls for the Maryland State Board of Education to:

- (1) Ensure that students with disabilities have an equal opportunity to:
  - (i) Try out for and, if selected, participate in mainstream athletic programs;
- (2) Ensure the provision of reasonable accommodations necessary to provide students with disabilities equal opportunity to participate, to the fullest extent possible, in mainstream athletic programs; and
- (3) Ensure that additional Athletic Programs are available.

In addition, the statute requires the State Board of Education to adopt a model policy to assist local Boards of Education in the implementation of the provisions set forward.

In order to implement these provisions of the law, the Maryland Public Secondary Schools Athletic Association (MPSSAA) and the Maryland State Department of Education (MSDE) have proposed amending two sections of COMAR. First, to amend the athletic bylaws the procedure calls for:



“Amendments approved by the MPSSAA shall be forwarded to the State Superintendent of Schools who will receive recommendations from Local Superintendents of Schools before the State Superintendent of Schools submit recommendations to the State Board of Education.”

In December 2008 the MPSSAA Board of Control approved amendments to the athletic regulations. The Local Superintendents of Schools voted to support these changes at their April 2009 meeting.

Second, in addition to providing the opportunity to try out for interscholastic athletic teams, the law also requires local Boards of Education to provide equivalent opportunities for students with disabilities to participate. Providing an equivalent opportunity is defined as providing an interscholastic athletic or corollary athletic program. To assist local school systems in implementing such plans, MSDE is proposing a new chapter in the regulations to establish such programs.

These COMAR provisions were previewed at four regional briefings conducted for athletic, physical education and special education supervisors from all 24 local school systems during the spring of 2009. They were also reviewed by local superintendents October 2009.

The amendments are now presented to the State Board of Education for consideration.

#### **EXECUTIVE SUMMARY:**

The Fitness and Athletic Equity for Students with Disabilities Act passed in 2008 calls for full implementation within three years. MSDE and the local school systems have been working to establish programs to accommodate the provisions of the law.

The purposed regulations that provide greater athletic opportunities for students with disabilities will bring the State Board of Education into compliance and provide specific guidance for local schools. They provide the foundation needed so that all their athletic offerings will comport with State regulations and thereby satisfy the requirements specified in the law.

#### **ACTION:**

I request that the Maryland State Board of Education grant permission to publish the proposed amendments to COMAR 13A.06.03 and COMAR 13A.06.04 using the following tentative timeline:

Maryland Regulation Issue Date: January 29, 2010

Hearing: N/A

30 Day Open Comment Period Ends: March 2, 2010

Adoption: March 23-24, 2010

13A.06.03.04 (11/19/09)

**.04 Operational Guidelines.**

The regulations given below are established for all MPSSAA interscholastic sports:

A. Equal Opportunity for Participation. Students may not be excluded on the basis of sex from overall equal opportunity to participate in athletic programs. If a school sponsors a team in a particular sport for members of one sex but sponsors no such team for members of the opposite sex, and before July 1, 1975, overall opportunities for members of the excluded sex have been limited, the excluded sex shall be allowed to try out for the team.

B. Athletics Equity for Students with Disabilities.

1. Students who meet the eligibility requirements of Regulation .02 of this chapter may not be excluded on the basis of disability from the opportunity to try out for and if selected, participate in mainstream interscholastic athletic programs.

2. Member Maryland Public Secondary Schools Athletic Association. (MPSSAA) schools shall provide reasonable accommodations necessary to provide students with disabilities with equal opportunities to participate to the fullest extent possible in mainstream athletic programs.

3. Students with disabilities who meet the eligibility requirements of Regulation .02 of this chapter may be excluded from mainstream athletic programs if inclusion:

(a) presents an objective safety risk to the student or others based on an individualized assessment of the student; or

(b) fundamentally alters the nature of the school's mainstream athletic program.

[B.] C. MPSSAA Coaching Eligibility.

(1) — (4) (text unchanged)

[C.] D. Required Practice. A member MPSSAA school may not participate in a regularly scheduled game until at least 20 calendar days have elapsed after and including the first day of practice. Golf is the only exception to this regulation.

[D.] E. Limits of Participation.

(1) — (9) (text unchanged)

[E.] F. Policies Pertaining to Wrestling.

(1) — (4) (text unchanged)

[F.] G. Postponed Games. One postponed contest may be rescheduled in addition to the maximum number permitted per week in Regulation .03 of this chapter.

[G.] H. Out-of-Season Practice.

(1) — (2) (text unchanged)

[H.] I. Sports Officials. Schools involved in interscholastic contests shall use only those officials certified by Maryland Public Secondary Schools Athletic Association. Only qualified officials shall be used in all sports where MPSSAA certified officials are not available.

[I.] J. Summer Camps.

(1) — (4) (text unchanged)

[J.] K. Competitors.

(1) — (3) (text unchanged)

**IMPACT STATEMENTS**

**13A.06.03.04**

***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:

B. On other State agencies:

C. On local governments:

Benefit (+)

Cost (-) Magnitude

D. On regulated industries or trade groups:

E. On other industries or trade groups:

F. Direct and indirect effects on public:

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

**Part B**  
(check one option)

**Economic Impact on Small Businesses**

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)

The proposed action has no impact on individuals with disabilities.

or

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

The proposed action provides greater opportunity for students with disabilities to tryout and if selected participate on an interscholastic athletic team.

**Part C**

**(For legislative use only; not for publication.)**

- A. Fiscal Year in which regulations will become effective: **FY-11**
- B. Does the budget for fiscal year in which regulations become effective contain funds to implement the regulations?
- Yes  No
- C. If a yes," state whether general, special (exact name), or federal funds will be used:
- D. If a no," identify the source(s) of funds necessary for implementation of these regulations:

No funds are required.

- E. If these regulations have no economic impact under Part A, indicate reason briefly:

Regulation only assures opportunity to participate.

If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

Regulation has no bearing on small business.

## 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:



**MARYLAND STATE BOARD OF EDUCATION**  
**Subtitle 06 SUPPORTING PROGRAMS**  
**13A.06.04 Corollary Athletic Programs**

**REVISED 10-27-09**

**.01 Purpose**

The purpose of this chapter is to define the requirements for a Corollary Athletic Program in the local school systems to provide athletic opportunities so that every student in public schools may have an equal opportunity to access the benefits of education-based athletic programs.

**.02 Definitions**

- A. In this chapter, the following terms have the meanings indicated.
- B. Terms Defined.
  - (1) “Corollary Athletic Program” means a program that is not governed by the requirements of COMAR 13A.06.03 and COMAR 13A.04.13 and that is specifically designed to combine groups of students with and without disabilities together in physical activity.
  - (2) “Department” means the Maryland State Department of Education.
  - (3) Interscholastic Athletic Programs means programs governed by the requirements of COMAR 13A.06.03.
  - (4) “Student with a disability” means:
    - (a) A student who meets the definition of a "handicapped person" as 45 C.F.R. § 84.3(j);
    - (b) A student who meets the definition of student with a disability as defined in COMAR 13A.05.01.03B(78); or
    - (c) A student who meets the definition of a “handicapped person” as defined in 34 C.F.R. § 104.3(j).

**.03 Access to School Athletic Programs**

- A. Each local school system shall:
  - (1) Develop a plan, policies and procedures to promote and protect the inclusion of students with disabilities in school athletic programs;
  - (2) Provide students with disabilities equivalent opportunities for participation in either the Interscholastic Athletic Program or the Corollary Athletic Program;

- (3) Maintain evidence indicating that the interests and abilities of students with disabilities have been fully and effectively accommodated by the local school systems Interscholastic Athletic or Corollary Athletic Program.

#### **.04 Corollary Athletic Programs**

- A. Corollary Athletic Programs shall provide for the diversity of abilities and interests of students with disabilities.
- B. The local school system shall offer a Corollary Athletic Program in each of the fall, winter and spring seasons. The dates of the fall, winter and spring seasons do not need to match the dates prescribed in COMAR 13A.06.03. The sport season for the Corollary Athletic Program shall be limited to a maximum of 12 consecutive weeks.

#### **.05 Eligibility for Corollary Athletic Programs**

- A. Students in grades K-8 who participate in the Corollary Athletic Program shall:
  - (1) Be officially registered and attending a Maryland Public School;
  - (2) Present to their school principal, or the principal's designee, a form from a parent or guardian giving permission for participation;
- B. Secondary school students in grades 9-12 who participate in the Corollary Athletic Program shall:
  - (1) Be officially registered and attending a Maryland Public School;
  - (2) Present to their high school principal, or the principal's designee, a form from a parent or guardian giving permission for participation;
  - (3) Be making satisfactory progress toward:
    - (i) Graduation with a Maryland High School Diploma specified in COMAR 13A.03.02.09B; or
    - (ii) School completion with a Maryland High School Certificate of Program Completion specified in COMAR 13A.03.02.09D.
  - (4) Have not participated on an interscholastic athletic team in the same sport.
- C. If a student acquires a disability during their years of participation in interscholastic sports, the local school system may permit an exception to 05.B (4).

## **.06 Complaints and Appeal Process**

- A. Parents, guardians and legal representatives of students with disabilities may file a written complaint with the local superintendent regarding an alleged violation of this chapter.
- B. The written complaint shall:
  - (1) State the alleged violation;
  - (2) Contain a brief statement of facts necessary to understand the complaint;
  - (3) Contain a brief statement of relief sought;
  - (4) Be filed within 30 days of the discovery date of the alleged violation.
- C. The appeals process set forth in the §4-205(c) of the Education Article, Annotated Code of Maryland, including an appeal to the State Board from a local board's decision on the complaint shall govern the processing of the complaint.

## **.07 Corrective Actions**

In response to systemic complaints filed alleging on-going violations of this chapter or at its discretion, the Department may initiate a fact-finding process and may impose corrective action on a school system.

## **.08 Annual Reports**

- A. First annual report. Local school systems shall submit the first Annual Report on May 15, 2010. It shall include:
  - (1) State the total number of students who participated in the Interscholastic Athletic Program and the Corollary Athletic Program along with the total number of students with disabilities as defined in § .02B(8) of this chapter who participated in the Interscholastic Athletic Program and the Corollary Athletic Program and
  - (2) Provide a copy of the plans, policies and procedures developed by the local school systems under Section .03A of this regulation.
- A. Subsequent reports: Local school systems shall submit Annual Reports on May 15 and shall:
  - (1) Describe modifications of policies and procedures by the local school system to engage students with disabilities in the Interscholastic Athletic Program and the Corollary Athletic Program.

- (2) State the total number of students who participated in the Interscholastic Athletic Program and the Corollary Athletic Program along with the total number of students with disabilities as defined in § .02B(8) of this chapter who participated in the Interscholastic Athletic Program and the Corollary Athletic Program.

## IMPACT STATEMENTS

13A.06.04

### *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:

B. On other State agencies:

C. On local governments:

The Fitness and Athletic Equity Act of 2008 requires local school systems to “Provide the opportunity for students with disabilities to participate in extracurricular or intramural competition.” The proposed regulation provides the opportunity for local school systems to be in compliance of the Act.

Either with an Allied Interscholastic Program or Corollary Athletic Program school systems may accommodate students with disabilities. These programs would encompass three sports seasons per school year and be designated to be populated with a roster comprised of students with and without disabilities.

Cost estimates for establishing new programs range from \$15,000 per school to \$33,000 per school with an estimated range around \$25,000 per school. These estimates include one sport offering per school in each of the three seasons. Thus, the total cost for local school systems to come into compliance with the law is \$4,725,000 the first year.

Estimates in the following year would remain the same. Cost savings experienced with the reuse of equipment and uniforms would be mitigated with increases in travel fees.

Benefit (+)  
Cost (-) \_\_\_\_\_ Magnitude

D. On regulated industries or trade groups:

E. On other industries or trade groups:

F. Direct and indirect effects on public:

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

**Part B**

(check one option)

**Economic Impact on Small Businesses**

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)

The proposed action has no impact on individuals with disabilities.

or

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

The proposed action provides for athletic opportunities for students with disabilities in Maryland Public Schools.

**Part C**

**(For legislative use only; not for publication.)**

- A. Fiscal Year in which regulations will become effective: **FY-11**
- B. Does the budget for fiscal year in which regulations become effective contain funds to implement the regulations?
- Yes  No
- C. If a yes," state whether general, special (exact name), or federal funds will be used:
- D. If a no," identify the source(s) of funds necessary for implementation of these regulations:  
Local school system implementation.
- 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.

Regulation has no bearing on small business.

## 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: