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TO: Members of the Maryland State Board of Education

FROM: Nancy S. Grasmick *Nancy*

DATE: January 26, 2010

SUBJECT: Program of Pupil Services
COMAR 13A.05.05.06 (AMEND)
COMAR 13A.05.05.07 (AMEND and REPEAL)
Student Health Services Standards – Definitions and
Student Health Services Standards – For All Students
PERMISSION TO PUBLISH

PURPOSE:

To request “Permission to Publish” proposed amendments to COMAR 13A.05.05.06 and COMAR 13A.05.05.07 (ATTACHMENT I) which define and describe school health standards for all students. The proposed amendments will align the regulations with changes in statute pertaining to the provision of early intervention of Hearing and Vision Screenings (§ 7-404) and the repeal of Scoliosis Screenings (§ 7-405).

BAKGROUND/HISTORICAL PERSPECTIVE:

COMAR 13A.05.05.06 and COMAR 13A.05.05.07 were adopted in 1991 as part of School Health Standards in accordance with §7-401 of the Education Article, Maryland Annotated Code. Under the Code, MSDE and the Department of Health and Mental Hygiene were required to jointly develop public standards and guidelines for school health programs. These standards included the provision of hearing and vision screenings and screening for scoliosis.

As the result of action taken by the General Assembly in 2008, new requirements related to hearing and vision screenings were placed into statute (§7-404). The new law for early intervention hearing and vision screenings became effective on October 1, 2008 and required screenings when a student enters a school system, enters first grade, and enters eighth or ninth grade.

The statute requiring scoliosis screening was repealed, effective in law as of October 1, 2006. The Maryland Chapter of the American Academy of Pediatrics advocated the elimination of scoliosis screening based on findings from the U.S. Preventive Services Task Force (part of the Agency for Healthcare Research and Quality in the U.S. Department of Health and Human Services). The Task Force found that scoliosis screening for adolescents is not evidence-based.



EXECUTIVE SUMMARY:

A statewide committee of representatives including school health services coordinators, hearing and vision supervisors, local health department representatives, and vision care professionals were convened to develop and review draft regulations to respond to the new statutory requirements for hearing and vision screenings and the repeal of scoliosis screenings. The proposed revisions of the COMAR 13A.05.05.06 and 13A.05.05.07 align the regulations with current state law.

Beyond the screenings required by law, additional screenings may be required under the policies adopted by the local board of education or local health departments. Legal counsel reviewed language and advises no changes for students who fail screenings.

FISCAL IMPACT:

The proposed action has no economic impact.

ACTION:

1. We request permission to publish the proposed amendments to COMAR 13A.05.05.06 and COMAR 13A.05.05.07

Maryland Register Issue Date	March 26, 2010
Hearing	N/A
30-Day Open Comment	April 26, 2010
45-Day Mandatory Adoption Waiting Period Ends	May 11, 2010
Adoption	May 25-26, 2010

NSG:AM:mw
Attachments

Chapter 05 Programs of Pupil Services

Authority: Education Article, §§2-205(b), and 7-401—7-403 **et seq.**, Annotated Code of Maryland

13A.05.05.06 - School Health Services Standards—Definitions.

A. In Regulations .05—15, the following terms have the meanings indicated.

B. Terms Defined.

[(1) – (9) Unchanged]

(10) "Scoliosis" means a lateral curvature of the spine, which can develop into a permanent crippling disability if left untreated.

(11) **(10)** "Screening" means a procedure to identify students who are at risk of having a health problem.

(12) **(11)** "Special health needs" means temporary or long-term health problems arising from physical, emotional, or social factors or any combination of these. The student with special health needs may or may not be enrolled in a special education program.

(13) **(12)** "Staff development" means the process of both formal and informal acquisition by staff of further knowledge, skills, and attitudes needed to perform assigned functions.

(14) **(13)** "Supervision" means the process of critically watching, directing, and evaluating another's performance.

13A.05.05.07 - School Health Services Standards—For All Students.

[A. – B. Unchanged]

C. Health Appraisal. A health appraisal for students identified through the review of records as having health problems or concerns shall be conducted by the designated school health services professional. The health appraisal may include health observations, interviews, and conferences with parents/guardians, students, educators, and other health professionals. Health appraisals shall be conducted as follows:

(1) The health appraisal shall take place not later than 6 months after the date of entry to a school system and after that as indicated in §C(2), below.

(2) The health appraisal of students with identified health problems shall be repeated as frequently as deemed necessary by the designated school health services professional.

(3) Screening of students shall be carried out according to mandated or recommended screening programs established by the Department of Education and the Department of Health and Mental Hygiene. These shall include:

(a) Hearing and Vision Screening Tests. The local board of education or local health department shall provide and fund hearing and vision screenings for all students in the public schools. The local health

department shall provide and fund hearing and vision screenings for all students in any private school that has received a certificate of approval under Education Article, §2-206, Annotated Code of Maryland, and students in any nonpublic educational facility in this State approved as a special education facility by the Department.

(a). Unless evidence is presented that a student has been tested within the past year, these **hearing and vision** screenings shall be given in the years that a student enters a school system, enters the fourth, fifth, or sixth **first** grade, and enters the **eighth or ninth** grade. **Additional screenings may be required under the policies adopted by the local board of education or local health department.**

(b). The results of the hearing and vision screenings shall be made a part of the permanent record file of each student and given to the parents of any student who fails the screenings and reported to the local board of education or the local health department. **If a student fails the screenings, the parent/guardian shall report on the recommended services received by the student to the local board of education or local health department on an approved form.**

(c). The local board of education or local health department shall report to the Department of Health and Mental Hygiene the results of the hearing and vision screenings and, to the extent practicable, the number of students receiving the recommended services.

(d). Students may be exempt from these **hearing and vision** screenings if the parent/guardian objects in writing on the ground that it conflicts with the tenets and practice of a recognized church or religious denomination of which the parent/guardian is a member.

[(b) Scoliosis. The local board of education, in conjunction with the local health department, shall provide scoliosis screening tests for all students in public schools at least once in grades 6 through 8. If a student is suspected of having scoliosis, a copy of the screening report shall be given to the parent or guardian of the student with information about idiopathic scoliosis, the significance of treating scoliosis at an early stage, and services available for treatment after diagnosis, and a copy of the screening report shall be sent to the local health department. The local health department shall ascertain if the services recommended based on the results of the scoliosis screening have been obtained, determine if additional services are needed, and report the results of the scoliosis screening and the number of students receiving the recommended services to the Department of Health and Mental Hygiene. A student whose parent or guardian objects in writing to the screening may not be required to be screened. A person who performs any scoliosis screening required by law is not liable for any civil damages resulting from acts or omissions in the screening not amounting to gross negligence.]

(4) When a health problem has been identified through the health appraisal process, the designated school health services professional or designee shall notify and assist students, or parents/guardians, or both, in selecting recommended services.

(5) For students without a usual source of care, the designated school health services professional or designee shall assist the student/family to identify a primary care provider.

(6) The designated school health services professional shall be responsible for follow-up.

(7) The designated school health services professional or the school health services aide shall inform appropriate school personnel of students who have health problems which may impede learning or require special care, or both.

[D. – F. Unchanged]

IMPACT STATEMENTS

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:

Part C

(For legislative use only; not for publication.)

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

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: