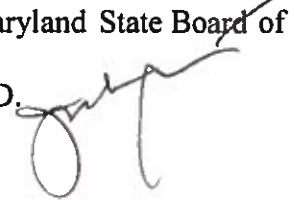




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TO: Members of the Maryland State Board of Education
FROM: Jack R. Smith, Ph.D. 
DATE: January 15, 2016
SUBJECT: Code of Maryland Regulations (COMAR) 13A.10.01 Administration of Home Instruction Program (AMEND)
PERMISSION TO RE-PUBLISH

PURPOSE:

To obtain permission to re-publish COMAR 13A.10.01.01-.05, Administration of Home Instruction Program (ATTACHMENT I), as revised based upon public comment.

REGULATION PROMULGATION PROCESS:

Under Maryland law, a state agency, such as the State Board, may propose a new or amended regulation whenever the circumstances arise to do so. After the State Board votes to propose such a regulation, the proposed regulation is sent to the AELR Committee for a 15-day review period. If the AELR Committee does not hold up the proposed regulation for further review, it is published in the Maryland Register for a 30-day public comment period. At the end of the comment period, MSDE staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board of Education to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because the suggested revision is not a substantive change; or (3) revise the regulation and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may recommend to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

BACKGROUND/HISTORICAL PERSPECTIVE:

The proposed regulation would expressly authorize enrollment in college courses on a part-time or full-time basis. This would eliminate the need for a home school coordinator to determine whether a particular number of college credits is supplemental to any other primary instruction received at home from the parent. Based upon public comment, two substantive changes were made to the proposed regulation: 1) students

supervised by a local school system will have the option to submit a report card or transcript for college courses, instead of a portfolio of educational materials, to the local superintendent; and 2) students supervised by a nonpublic school or institution do not need to obtain approval from the supervising nonpublic school or institution prior to their enrollment in college courses.

The proposed regulation would also eliminate the phrase "teach his or her children at home" and allow a parent or guardian to "provide a home instruction program for his or her child." This rephrasing would give parents and guardians additional flexibility in designing a home instruction program for their children. Parents and guardians may continue to teach their children directly, using educational materials of their choice, or may arrange for individualized instruction to be delivered by another person inside or outside of the home. Based upon public comment, the Department will update its Home Instruction Fact Sheet and "Frequently Asked Questions" to further define "home instruction program." The proposed regulation would only expand instructional options; it would not disturb what is currently accepted.

On September 22, 2015, the State Board approved this regulation for publication as a Proposed Regulation. It was published in the Maryland Register on November 13, 2015, for a 30-day public comment period. During the 30-day comment period, MSDE received a number of public comments from individual families and home school associations. The five most common comments received were: 1) amend "shall" to "may" regarding submission of a report card or transcript; 2) eliminate approval by a supervising nonpublic school or institution for college course enrollment; 3) define "home instruction program"; 4) eliminate "observe instruction"; and 5) the request for a public hearing (ATTACHMENT II).

As described above, MSDE accepted the first two changes, and they are the basis for this request for permission to re-publish. The third comment can be addressed through Departmental guidance, which would be updated to coincide with the State Board's adoption of the regulation. The fourth comment is beyond the scope of the current revision, as it relates to pre-existing language in the regulation that is not part of the proposal that is before the State Board. The fifth comment does not apply because MSDE provided the required 30-day public comment period, and recommended substantive changes based on the comments received. Suggestions beyond the scope of the current revision can be addressed through subsequent stakeholder meetings.

EXECUTIVE SUMMARY:

The proposed amendments, as revised: (1) eliminate the phrase "to teach his or her child at home" to allow flexibility in instructor and location of instruction; (2) allow a home instruction program to include enrollment on a part-time or full-time basis in courses offered by accredited or unaccredited colleges, with an option to submit verification through either a report card or transcript to the local superintendent; and (3) allow enrollment on a part-time or full-time basis in courses offered by accredited or unaccredited colleges, without requiring the approval of a supervising nonpublic school or institution prior to enrollment.

Members of the State Board of Education
January 26, 2015
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ACTION:

I request permission to re-publish COMAR 13A.10.01.01-.05, Administration of Home Instruction Program with the following TENTATIVE timeline:

Maryland Register Issue Date	March 18, 2016
Hearing	N/A
30-Day Open Comment Period	March 18 - April 18, 2016
Adoption	May 24, 2016

Home School Regulation – Public Comment Chart

#	Comment	# Received	MSDE Response
1.	Amend “shall” to “may” regarding submission of a report card or transcript	409	Accepts change
2.	Eliminate approval by a supervising nonpublic school or institution for college course enrollment	400	Accepts change
3.	Define “home instruction program”	25	To be addressed through Departmental guidance
4.	Eliminate “observe instruction”	351	Beyond the scope of the current revision
5.	Request for a public hearing	6	Utilized 30-day public comment process; additional suggestions to be addressed through regular stakeholder meetings

.01 Home Instruction Program.

A. Purpose. The purpose of this regulation is to establish a procedure to be used by the superintendent of each local school system to determine if a child participating in a home instruction program is receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age.

B. Written Agreement.

(1) A parent or guardian who chooses to [teach his or her child at home] *provide a home instruction program for his or her child* shall initially sign a statement on a form prescribed by the State Department of Education which:

(a) Indicates consent to the requirements set forth in §§ C, D, and E of this regulation; and

(b) Shall be submitted to the local superintendent at least 15 days before the beginning of a home instruction program.

(2) Annual Verification. Annually thereafter, before the beginning of the school year, a parent or guardian shall verify the continuation of home schooling for his or her child with the local school superintendent or with the supervising nonpublic school or institution described in Regulation .05 of this chapter.

(3) Change in Status. A parent or guardian shall notify the local school superintendent or the supervising nonpublic school or institution described in Regulation .05 of this chapter if a change occurs in the home school status of a child during the school year.

C. Instruction Program.

(1) The home instruction program shall:

(a) [1] Provide regular, thorough instruction in the studies usually taught in the public schools to children of the same age;

(b) [2] Include instruction in English, mathematics, science, social studies, art, music, health, and physical education; and

(c) [3] Take place on a regular basis during the school year and be of sufficient duration to implement the instruction program.

(2) *The home instruction program may include enrollment on a part-time or full-time basis in courses offered by accredited or unaccredited colleges.*

D. Educational Materials.

(1) A parent or guardian who chooses to [teach a child at home] *provide a home instruction program for his or her child* shall maintain a portfolio of materials which:

(a) [1] Demonstrates the parent or guardian is providing regular, thorough instruction during the school year in the areas specified in § C (1) [and (2)];

(b) [2] Includes relevant materials, such as instructional materials, reading materials, and examples of the child's writing, worksheets, workbooks, creative materials, and tests; *and*

(c) [3] Shall be reviewed by the local superintendent or the superintendent's designee at the conclusion of each semester of the local school system at such times as are mutually agreeable to the local superintendent or designee and the parent or guardian.

(2) A parent or guardian who chooses to enroll his or her child under § C (2) of this regulation [shall] *may elect to provide to the local superintendent or the superintendent's designee a copy of a report card or transcript from the accredited or unaccredited college at the conclusion of each semester of the accredited or unaccredited college in lieu of a portfolio of materials for the courses in which the child is enrolled under § C (2).*

E. A parent or guardian shall agree to permit a representative of a local school system to review the portfolio of education materials, discuss the instructional program, and observe instruction provided that all of the following requirements are met:

(1) The review is at a time and place mutually agreeable to the representative of the local school system and the parent or guardian;

(2) The purpose of the review is to ensure that the child is receiving regular, thorough instruction as set forth in § C; *and*

(3) There are not more than three reviews during a school year.

F. Additional Requirements. A local school system may not impose additional requirements for home instruction programs other than those in these regulations.

13A.10.01.02

.02 Voluntary Participation in Standardized Testing.

Upon request of a parent or guardian, a child receiving home instruction may participate in the regularly scheduled standardized testing programs that are administered in the public school the child is eligible to attend.

.03 Noncompliance with Requirements.

- A. Failure to Consent. If a parent or guardian does not agree to the requirements of Regulation .01B, C, [and] D, *and E [above]*, a child shall be enrolled promptly in a public school or nonpublic school as defined in COMAR 13A.09.09.02B[(9)].
- B. Deficiencies in the Program. If a local superintendent determines on the review of the home instruction program or inspection of the portfolio that a child is not receiving a regular, thorough instruction program in conformity with Regulation .01C and D, the local superintendent shall notify the parent or guardian in writing of any deficiencies in the program. The following apply:
- (1) Within 30 days of receipt of *written* notification of any deficiencies, the parent or guardian shall provide evidence to the local superintendent that the deficiency has been or is being corrected.
 - (2) If a local superintendent determines there is not a satisfactory plan to correct a deficiency or if a deficiency is not corrected, a child shall be enrolled promptly in a public school or a nonpublic school as defined in COMAR 13A.09.09.02B[(4)(a)].

13A.10.01.04

.04 Placement in Public School.

Upon application of a child for admission to a public school from a home instruction program, the local superintendent shall determine by an evaluation the placement of the child and any credits to be awarded toward high school graduation. The evaluation may include administration of standardized tests and examination and interviews with the child.

.05 Home Instruction Under Supervision of Nonpublic School *or Institution*.

A. A parent or guardian may provide [instruction for a child at home] *a home instruction program for his or her child* without compliance with the requirements of this regulation, other than the requirements of Regulations .01(B)(1)(b) and .04 of this chapter, if that [instruction is offered through correspondence courses] *program offers regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age* and is under the supervision of a:

(1) School or institution offering an educational program operated by a bona fide church organization, and the supervision includes at a minimum all of the following components:

(a) Preenrollment conferences with parents or guardians,

(b) Textbooks, lesson materials, and other instructional materials or equipment designed to be used independently by the pupil at a site other than a school,

(c) Annual visits by supervisory personnel to the site where the pupil is receiving instruction, and

(d) Conferences with parents or guardians at appropriate intervals during the period of enrollment; or

(2) Nonpublic school with a certificate of approval from the State Board of Education, and the supervision includes at a minimum all of the following components:

(a) Textbooks, lesson materials, and other instructional materials or equipment designed to be used independently by the pupil at a site other than a school, and

(b) Assignment of a school-based teacher to assist the home teacher in [using the correspondence courses] *implementing the home instruction program* and to assist the pupil by issuing progress reports, marking papers, and grading tests.

B. The home instruction program may include enrollment on a part-time or full-time basis in courses offered by accredited or unaccredited colleges [with the approval of the supervising nonpublic school or institution described in § A of this regulation].

C. [B.] Annual Verification. The supervising nonpublic school or institution described in § A of this regulation annually shall:

(1) Verify with the local school superintendent the identification of home schooled students whose instruction is continuing under its supervision;

(2) Notify the local school superintendent of the identification of home schooled students whose instruction is newly added to its supervision; and

(3) Provide the local school superintendent with the identification of home schooled students whose instruction is no longer under its supervision.

D. [C.] Change in Status. The supervising nonpublic school or institution described in § A of this regulation shall notify the local school superintendent if a change occurs in the status of a home schooled student whose instruction was under its supervision during the school year.