Karen B. Salmon, Ph.D.
State Superintendent of Schools

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TO: Members of the State Board of Education

FROM: Karen B. Salmon, Ph.D.

DATE: June 20, 2018

SUBJECT: COMAR 13A.08.04
Student Behavior Interventions
ADOPTION

PURPOSE:

The purpose of this item is to request that the State Board adopt COMAR 13A.08.04 – *Student Behavior Interventions.*

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 Administrative, Executive, and Legislative Review (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, Maryland State Department of Education (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:

In 2017, the Maryland General Assembly enacted Senate Bill 786 – Education – Restraint and Seclusion – Consideration and Reporting (2017 Md. Laws, Chap. 611). The legislation required the MSDE to submit proposed regulations to the State Board by December 2017. The legislation also required the MSDE to convene a Task Force on Restraint and Seclusion to consider the following:

1) The circumstances under which, and the schools or types of schools in which, restraint and seclusion shall be prohibited;

2) Contraindications for restraint and seclusion and who may authorize restraint and seclusion;
3) Definitions of "positive behavioral supports," "behavior interventions," and "trauma informed interventions;"
4) Training requirements for school staff regarding behavioral interventions;
5) Minimum requirements for policies and procedures to be developed by local school systems, state operated programs, and nonpublic schools; and
6) Standards for monitoring compliance by local school systems, State operated programs, and nonpublic schools.

The Task Force on Restraint and Seclusion completed its report, which was shared with the Board at its meeting on September 19, 2017.

EXECUTIVE SUMMARY:

The proposed regulations add and clarify definitions, and strengthen provisions which require a continuum of behavior interventions to be a part of a student's behavior intervention plan (BIP) or individualized education program (IEP). The proposed regulations retain the requirement that restraint and seclusion are to be utilized in emergency situations and add a requirement to ensure that any contraindications based on medical history or past trauma are considered. If restraint or seclusion are included in an IEP or BIP, parental consent is required consistent with Education Article §8-405, Annotated Code of Maryland.

The State Board reviewed the regulations and granted permission to publish at the December 5, 2017 State Board Meeting. The Regulation was published in the Maryland Register from March 30, 2018 to April 30, 2018. During the public comment period, a total of twenty comments were received from the following: the Education Advisory Coalition for Students with Disabilities (EAC); the Maryland Association of Nonpublic Special Education Facilities (MANSEF); the Maryland Developmental Disabilities Council (MDDC); and Montgomery County Public Schools (MCPS).

Upon careful review of the submitted comments, the MSDE recommends no changes to the COMAR 13A.08.04 – *Student Behavior Interventions* at this time. A summary of comments and MSDE responses are included as Attachment I.

ACTION:

Request that the State Board adopt COMAR 13A.08.04 – *Student Behavior Interventions*.

Public Comment Summary

COMAR 13A.08.04 – Student Behavior Interventions

Organization	Comment	MSDE Response
Education Advisory Coalition for Students with Disabilities (EAC)	• (B)(l): Definition of "behavior intervention plan". We commend MSDE for this definition, particularly the requirements that the plan be data-based and linked to a functional behavioral assessment, and that the plan be consistently applied by trained staff.	• Accepted.
	• (B)(8)(b)(iv): Definition of what does not constitute a "mechanical restraint". The proposed regulation excludes orthopedically prescribed devices that permit a student to participate in activities without risk of harm. This language is vague and could conceivably be construed to permit the use of orthopedic devices such as Rifton Chairs for students who have non-orthopedic impairments such as autism if deemed necessary for their safe participation in classroom activities. The apparent intent of this provision is covered by (b)(i), and therefore (b)(iv) should be deleted from the regulations.	• The proposed regulation adopts the definition used in the *Restraint and Seclusion: Resource Document* issued by the U.S. Department of Education in May 2012.
	• (B)(l1) Definition of "physical restraint". MSDE has not proposed a change to (l1)(b)(iii), which excludes from the definition of physical restraint "moving a disruptive student who is unwilling to leave the area if other methods such as counseling have been unsuccessful." In practice, these transports are hands- on, prevent or limit a student from moving limbs freely, and involve forced movement, often to a seclusion room. School district staff have often had great difficulty determining when such movement of a disruptive student becomes a	• The proposed regulation adopts the definition used in the *Restraint and Seclusion: Resource Document* issued by the U.S. Department of Education in May 2012.

	restraint. MSDE should eliminate this exception to the definition of restraint; this type of movement of a student is a restraint and should be identified and documented as such.	
	• (b)(19): We commend MSDE for its definition of trauma informed intervention.	• Accepted.
	• (A)(l)(b): The EAC strongly opposes the proposed provision that permits physical restraint to be included on a student's IEP or behavioral intervention plan. Instead, the EAC supports the recommendation of the Task Force to eliminate this language from the proposed regulations and asks that (A)(l)(a) and (A)(l)(b) be revised accordingly to delete language referencing the IEP or behavioral intervention plan.	• The proposed regulation only allows physical restraint to be included in a student's behavioral intervention plan or IEP "to address the student's behavior in an emergency situation." This is not inconsistent with the Report of the Task Force, which recognized: 1) restraint is a crisis-oriented response that should not be used in lieu of less intrusive interventions; and 2) it is necessary to plan ahead for students who exhibit behaviors that are likely to cause harm to self or others (i.e. behaviors that could constitute an emergency). Putting these together, the proposed regulation only allows physical restraint to be included in a student's behavioral intervention plan or IEP "once physical restraint has been used or school personnel have made a student-specific determination that it may need to be used" consistent with an emergency situation as described in the regulation. Moreover, the proposed regulation requires school personnel to identify any contraindications, identify less intrusive interventions for non-emergencies, and obtain written consent from the parent, consistent with Education Article §8-405.
	• The current regulations and the proposed regulations permit physical restraint to be used if a student poses an imminent likelihood of serious physical harm to self or others. Restraint does not have to be on an IEP or a behavioral intervention plan to be used in this circumstance. Because physical restraint should never be	• As noted in the response above, the Report of the Task Force recognized that Student Support Teams (SST) and Individualized Education Plan (IEP) teams should plan ahead. Specifically, they should convene to determine how to safely respond to student's behaviors and consider whether the risk

	used in a situation other than when a student poses an imminent likelihood of serious physical harm to self or others, there is no reason why physical restraint should be on the IEP. Further, if it is used with any level of frequency, the student's IEP and/or behavioral intervention plan should be reviewed for appropriateness and revised as necessary to minimize the need for restraint in the future.	of the targeted behavior outweighs the risk of physical restraint. This is preferable to having to respond to an emergency situation without advance planning. It is appropriate for the IEP team to document emergency planning. In fact, Education Article §7-435 now requires that if a student with an IEP requires specific accommodations for evacuation in an emergency, the IEP must include those accommodations.
	● The EAC commends MSDE for requiring professional development to school personnel regarding trauma informed interventions, first aid and cardiopulmonary resuscitation.	● Accepted.
	● SB 798 included data collection requirements. These are not included in the proposed regulations and need to be added	● The data collection requirements do not require regulations to provide additional clarity. They are self-executing statutory requirements that the Maryland State Department of Education (MSDE) will communicate to public agencies and nonpublic schools. A provision requiring the MSDE to adopt regulations to implement this section of the bill was struck from the bill.
Maryland Association of Nonpublic Special Education Facilities **(MANSEF)**	● Debrief is not defined nor is a timeframe outlined. We respectfully request additional clarification.	● This section of the regulation can be interpreted by its plain meaning, so no definition is necessary.
	● If a school's practice is to train all staff on physical interventions would this mean all staff are expected to also be First Aid and CPR trained or could a school designate staff for this even though all staff are trained in hands-on interventions such as Crisis Prevention Interventions?	● The proposed regulation requires any school personnel designated by a school administrator to use physical restraint to receive professional development on applicable regulations, policies, and procedures, as well as the items listed in C(3), which include First Aid and CPR. Designation by a school administrator triggers the requirement.
	● Based on the proposed regulations, we are asking to confirm that restraint and seclusion is prohibited in	● Physical restraint is prohibited in public agencies and nonpublic schools until there is an emergency

	public agencies and nonpublic schools until there is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive nonphysical interventions have failed or been determined inappropriate. We are clarifying that physical restraint may then be included in the IEP or BIP with parent permission to address situations like this, however; lack of parent permission does not prohibit restraint from being implemented under the conditions described above.	situation as describe in the regulation. Physical restraint may be included in the behavioral intervention plan or IEP to address the student's behavior in an emergency situation, but it can only be included in the IEP with the written consent of a parent, consistent with Education Article §8-405. While the regulation contemplates emergency planning via the IEP with parental consent, physical restraint may be used in an emergency situation even without parental consent.
Montgomery County Public Schools **(MCPS)**	• "Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle" are not prescribed by an appropriate medical or related services professional, so inclusion in the definition of "mechanical restraint" exclusions is confusing. Seat belts are already included in the definition of "Protective or Stabilizing Device," under 13A.08.04.05(A)(2) so it is duplicitous to include it again in the definition of "mechanical restraint."	• The proposed regulation adopts the definition used in the *Restraint and Seclusion: Resource Document* issued by the U.S. Department of Education in May 2012. Further, the definition of "mechanical restraint" no longer includes a reference to the term "protective or stabilizing device," so the reference is not duplicative.
	• The original definition of physical restraint, which included the exclusion for "Holding a student's hand or arm to escort the student safely from one area to another," was more consistent with the purpose of a physical restraint. The new language implies that the student may be in a situation where given the risk of the behavior, i.e., "acting out," there is a safety concern warranting the use of a physical restraint to ensure the student's safety (after less intrusive strategies have proven ineffective.) This type of physical interaction with a student should be documented because you have evidence of a safety concern and/or a risk behavior. Failure to document this type of situation could result in inappropriate services for the student. Therefore, MCPS requests that the original language remain the same.	• The proposed regulation adopts the definition used in the *Restraint and Seclusion: Resource Document* issued by the U.S. Department of Education in May 2012.

	• MCPS recommends removing "Moving a disruptive student who is unwilling to leave the area if other methods such as counseling have been unsuccessful" as it is encompassed/implied within the (b)(ii) language to physical escort a student to another location. This language is duplicitous even given the proposed language changes to (b)(ii).	• The proposed regulation adopts the definition used in the *Restraint and Seclusion: Resource Document* issued by the U.S. Department of Education in May 2012.
	• MCPS suggests a delay in the effective time period for this provision given that most school districts use Crisis Prevention Institute training which currently does not address these topics. Local school systems should be afforded time to develop comprehensive in person or online training modules geared to the new required elements of training, such as trauma informed intervention and CPR. Otherwise, several local school systems will immediately be non-compliant with the required training.	• All effective dates for implementation are in the statute on which this regulation is based.
	• Alternatively, MCPS requests consideration by MSDE in developing training modules and/or resources for use by all local school systems, with input from all stakeholders (community and local school systems).	• The MSDE will develop a database, which will include a listing of approved training resources.
Maryland Developmental Disabilities Council **(MDDC)**	• COMAR 13A.08.04.05(A)(1) Use of Restraint: We commend the MSDE for amending the definitions of "behavior intervention plan" and "positive behavior interventions, strategies, and supports" and including a definition of "trauma-informed intervention." These changes reflect the idea any discussion of the use of restraint or seclusion should begin with efforts to make learning environments safe and ensure students have the supports and services needed so that restraint and seclusion are unnecessary. In addition, the changes recognize that the impact of trauma experienced by students can affect his or her behavior, response to a situation, emotional health, and ability to function in an educational setting. And that it is equally important not to re-traumatize a student, especially in an escalated	• Accepted.

	situation that results in restraint or seclusion.	
	● We agree with the recommendation of the Task Force to eliminate language from the regulations allowing restraint to be included in an Individualized Education Program (IEP) or Behavioral Intervention Plan (BIP) and therefore strongly recommend the following changes: ○ Delete "except as provided in §A(1)(b) of this regulation" from 13A.08.04.05(A)(1)(a) ○ Delete "physical restraint may be included in a student's behavioral intervention plan or IEP to address the student's behavior in an emergency situation" from 13A.08.04.05(A)(1)(b) ○ Delete 13A.08.04.05(A)(1)(b)(iii) since written consent is not necessary if restraint and seclusion cannot be included in a student's BIP or IEP.	● The proposed regulation only allows physical restraint to be included in a student's behavioral intervention plan or IEP "to address the student's behavior in an emergency situation." This is not inconsistent with the Report of the Task Force, which recognized: 1) restraint is a crisis-oriented response that should not be used in lieu of less intrusive interventions; and 2) it is necessary to plan ahead for students who exhibit behaviors that are likely to cause harm to self or others (i.e. behaviors that could constitute an emergency). Putting these together, the proposed regulation only allows physical restraint to be included in a student's behavioral intervention plan or IEP "once physical restraint has been used or school personnel have made a student-specific determination that it may need to be used" consistent with an emergency situation as described in the regulation. Moreover, the proposed regulation requires school personnel to identify any contraindications, identify less intrusive interventions for non-emergencies, and obtain written consent from the parent, consistent with Education Article §8-405.
	● COMAR 13A.08.04.05(B) Use of Seclusion: We agree with the recommendation of the Task Force to eliminate language from the regulations allowing seclusion to be included in an IEP or BIP; and therefore strongly recommended the following changes: ○ Delete "except as provided in §B(2) of this regulation" from 13A.08.04.05(B)(1) ○ Delete "seclusion may be included in a student's behavioral intervention plan or IEP to address the student's behavior in an emergency situation" from 13A.08.04.05(B)(2)	● The proposed regulation only allows seclusion to be included in a student's behavioral intervention plan or IEP "to address the student's behavior in an emergency situation." This is not inconsistent with the Report of the Task Force, which recognized: 1) seclusion is a crisis-oriented response that should not be used in lieu of less intrusive interventions; and 2) it is necessary to plan ahead for students who exhibit behaviors that are likely to cause harm to self or others (i.e. behaviors that could constitute an emergency).

	○ Delete 13A.08.04.05(B)(2)(c) since written consent is not necessary if seclusion cannot be included in a student's BIP or IEP.	Putting these together, the proposed regulation only allows seclusion to be included in a student's behavioral intervention plan or IEP "once seclusion has been used or school personnel have made a student-specific determination that it may need to be used" consistent with an emergency situation as described in the regulation. Moreover, the proposed regulation requires school personnel to identify any contraindications, identify less intrusive interventions for non-emergencies, and obtain written consent from the parent, consistent with Education Article §8-405.
	● Despite some improvements in the proposed regulations, the DD Council remains concerned about the overuse of restraint and seclusion with students with disabilities in Maryland. Stronger regulations are needed to better protect students, especially students with disabilities.	● The MSDE and the Task Force have worked collaboratively to develop the regulation. The MSDE will review the data collected per the statute and review outcomes to ensure that all students are protected.

(5) [An employee or an applicant for employment] *A school vehicle driver or trainee* is determined as having refused to take an alcohol test if the [employee] *school vehicle driver or trainee*:

(a) Fails to appear for a test, except a pre-employment test *as set forth in §B(6) of this regulation*, within a reasonable time as determined by the employer or supervisor and consistent with regulations, after being directed to report for a test;

(b) In the case of [an employee] *a school vehicle driver or trainee* who is an owner-operator or self-employed [individual] *school vehicle driver or trainee*, fails to appear for a test when notified to do so by an employer or supervisor;

(c)—(g) (text unchanged)

(6) [An applicant] *A school vehicle driver or trainee* reporting for a pre-employment test who does not provide a saliva or breath specimen under §B(2)(g) of this regulation because the applicant left the testing site before the testing commences, is not considered to have refused to test.

C. Reporting Disqualified Drivers.

(1)—(2) (text unchanged)

(3) The Office of Pupil Transportation of the Department shall maintain a confidential computer database of the *disqualified school vehicle driver's or trainee's* information reported by the local school systems under §C(1) of this regulation.

(4) (text unchanged)

(5) Upon receipt of the current list of active school vehicle drivers, the Department's Office of Pupil Transportation shall match that list with the Department's confidential computer database established under this regulation and immediately notify the supervisor of transportation if an active [driver] *school vehicle driver or trainee* is listed on the Department's computer database.

D.—F. (text unchanged)

KAREN B. SALMON, Ph.D.
State Superintendent of Schools

Subtitle 08 STUDENTS

13A.08.04 Student Behavior Interventions

Authority: Education Article, §§2-205, 7-301, 7-303—7-305, 7-307, 7-308, and 7-1101—7-1104, Annotated Code of Maryland

Notice of Proposed Action

[18-049-P]

The Maryland State Board of Education proposes to amend Regulations **.02**, **.05**, and **.06** under **COMAR 13A.08.04 Student Behavior Interventions**. This action was considered at the State Board of Education meeting held on December 5, 2017.

Statement of Purpose

The purpose of this action is to add and clarify definitions, and strengthen provisions which require a continuum of behavior interventions to be a part of a student's behavior intervention plan (BIP) or individualized education program (IEP). The proposed regulations retain the requirement that restraint and seclusion are to be utilized in emergency situations and add a requirement to ensure that any contraindications based on medical history or past trauma are considered. If restraint or seclusion are included in an IEP or BIP, parental consent is required consistent with Education Article, §8-405, Annotated Code of Maryland.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

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 Walter J. Sallee, Director, Student Services and Strategic Planning, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0417 (TTY 410-333-6442), or email to walter.sallee@maryland.gov, or fax to 410-333-0880. Comments will be accepted through April 30, 2018. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on May 22, 2018, at 9 a.m., at 200 West Baltimore Street, Baltimore, Maryland 21201.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Behavior intervention plan" means a [proactive plan designed to address problem behaviors exhibited by a student in the educational setting through the use of positive behavioral interventions, strategies, and supports] *proactive, data-based, structured plan that is developed as a result of a functional behavioral assessment which is consistently applied by trained staff to reduce or eliminate a student's challenging behaviors and to support the development of appropriate behaviors and responses.*

(2)—(7) (text unchanged)

(8) Mechanical Restraint.

(a) "Mechanical restraint" means [any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove] *the use of any device or equipment to restrict a student's freedom of movement.*

(b) "Mechanical restraint" does not include [a protective or stabilizing device.] *devices implemented by trained school personnel, or used by a student, that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed, including:*

(i) Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;

(ii) Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;

(iii) Restraints for medical immobilization; or

(iv) Orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

(9)—(10) (text unchanged)

(11) Physical Restraint.

(a) "Physical restraint" means [the use of physical force, without the use of any device or material, that restricts the free movement of all or a portion of a student's body] *a personal restriction that immobilizes or reduces the ability of a student to move the student's torso, arms, legs, or head freely.*

(b) "Physical restraint" does not include:

(i) (text unchanged)

(ii) [Holding a student's hand or arm to escort the student safely from one area to another] *A physical escort, which is the temporary touching or holding of the hand, wrist, arm, shoulder, or*

back for the purposes of inducing a student who is acting out to walk to a safe location;

(iii)—(iv) (text unchanged)

(12) "Positive behavior interventions, strategies, and supports" means the [application of affirmative school-wide and individual student specific actions, instruction, and assistance to encourage educational success] *school-wide and individual application of data-driven, trauma-informed actions, instruction, and assistance to promote positive social and emotional growth while preventing or reducing challenging behaviors in an effort to encourage educational and social emotional success.*

(13)—(16) (text unchanged)

[(17) "Seclusion" means the confinement of a student alone in a room from which the student is physically prevented from leaving.]

(17) Seclusion.

(a) "Seclusion" means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.

(b) "Seclusion" does not include a timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

(18) (text unchanged)

(19) "Trauma-informed intervention" means an approach that is informed by the recognition of the impact that trauma, including violence, abuse, neglect, disaster, terrorism, and war, may have on a student's physical and emotional health and ability to function effectively in an educational setting.

.05 General Requirements for the Use of Restraint or Seclusion.

A. Use of Restraint.

(1) Physical Restraint.

(a) [The] *Except as provided in §A(1)(b) of this regulation, the* use of physical restraint is prohibited in public agencies and nonpublic schools[, unless:] *until there is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate.*

[(i) There is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;

(ii) The student's behavioral intervention plan or IEP describes the specific behaviors and circumstances in which physical restraint may be used; or

(iii) The parents of a nondisabled student have otherwise provided written consent to the use of physical restraints while a behavior intervention plan is being developed.]

(b) Once physical restraint has been used or school personnel have made a student-specific determination that it may need to be used consistent with §A(1)(a) of this regulation, physical restraint may be included in a student's behavioral intervention plan or IEP to address the student's behavior in an emergency situation, provided that school personnel:

(i) Review available data to identify any contraindications to the use of physical restraint based on medical history or past trauma, including consultation with medical or mental health professionals as appropriate;

(ii) Identify the less intrusive, nonphysical interventions that will be used to respond to the student's behavior until physical restraint is used in an emergency situation; and

(iii) Obtain written consent from the parent, consistent with Education Article, §8-405, Annotated Code of Maryland.

[(b)] *(c)*—[(e)] *(f)* (text unchanged)

(2) (text unchanged)

(3) Documentation of the Use of Restraint.

(a) Each time a student is in a restraint, school personnel *involved in the restraint* shall *debrief and* document:

(i)—(v) (text unchanged)

(b) (text unchanged)

(4)—(5) (text unchanged)

B. Use of Seclusion.

(1) [The] *Except as provided in §B(2) of this regulation, the* use of seclusion is prohibited in public agencies and nonpublic schools [unless:] *until there is an emergency situation and seclusion is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate.*

[(a) There is an emergency situation and seclusion is necessary to protect a student or another person after other less intrusive interventions have failed or been determined to be inappropriate;

(b) The student's IEP or behavioral intervention plan describes the specific behaviors and circumstances in which seclusion may be used; or

(c) The parents of a nondisabled student have otherwise provided written consent for the use of seclusion while a behavior intervention plan is being developed.]

(2) Once seclusion has been used or school personnel have made a student-specific determination that it may need to be used consistent with §B(1) of this regulation, seclusion may be included in a student's behavioral intervention plan or IEP to address the student's behavior in an emergency situation, provided that school personnel:

(a) Review available data to identify any contraindications to the use of seclusion based on medical history or past trauma, including consultation with medical or mental health professionals as appropriate;

(b) Identify the less intrusive, nonphysical interventions that will be used to respond to the student's behavior until seclusion is used in an emergency situation; and

(c) Obtain written consent from the parent, consistent with Education Article, §8-405, Annotated Code of Maryland.

[(2)] *(3)* Seclusion Room.

(a) At a minimum, a room used for seclusion shall:

(i) (text unchanged)

(ii) Provide school personnel an adequate view of the student from [an adjacent area] *all angles*; and

(iii) (text unchanged)

(b) The door of a seclusion room shall not be fitted with a lock unless it releases automatically when not physically held in the locked position by school personnel on the outside of the door.

[(3)] *(4)* School personnel shall:

(a) Remain in close proximity to the door of a seclusion room at all times;

[(a)] *(b)*[View] *Actively observe* a student placed in seclusion at all times; and

[(b)] *(c)*(text unchanged)

[(4)] *(5)*—[(5)] *(6)*(text unchanged)

[(6)] *(7)* Documentation of Seclusion.

(a) Each time a student is placed in seclusion, school personnel *involved in the seclusion event* shall *debrief and* document:

(i)—(iv) (text unchanged)

(b) The documentation under [§B(6)] *§B(7)* of this regulation shall include a description of the seclusion event, including:

(i)—(iv) (text unchanged)

[(7)] *(8)* The documentation described in [§B(6)] *§B(7)* of this regulation shall be maintained in the student's educational record and

available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

[(8)] *(9)*(text unchanged)

C. Referral to a Pupil Services or IEP Team.

(1)—(3) (text unchanged)

(4) When an IEP team meets to review or revise a student's IEP or behavior intervention plan, as specified in §C(3) of this regulation, the IEP team shall consider:

(a) Existing health, physical, psychological, and psychosocial information, *including any contraindications to the use of restraint or seclusion based on medical history or past trauma*;

(b) (text unchanged)

(c) Observations by teachers and related service providers; [and]

(d) The student's current placement[.]*; and*

(e) The frequency and duration of restraints or seclusion events that occurred since the IEP team last met.

(5) The local school system or nonpublic school shall provide the parent of the student with written notice in accordance with COMAR 13A.05.01.12A when an IEP team proposes or refuses to initiate or change the student's IEP or behavior intervention plan that includes the use of restraint or seclusion[.].

[(6) A parent may request mediation in accordance with COMAR 13A.05.01.15B or a due process hearing in accordance with COMAR 13A.05.01.15C if the parent disagrees with the IEP team decision to propose or refuse to initiate or change:

(a) The student's IEP;

(b) The student's behavior intervention plan to use restraint or seclusion; or

(c) The student's placement.]

(6) Parental Consent.

(a) The IEP team shall obtain the written consent of the parent if the team proposes to include restraint or seclusion in the behavior intervention plan or IEP to address the student's behavior.

(b) If the parent does not provide written consent, the IEP team shall send the parent written notice within 5 business days of the IEP team meeting that states:

(i) The parent has the right to either consent or refuse to consent to the use of restraint or seclusion; and

(ii) If the parent does not provide written consent or a written refusal within 15 business days of the IEP team meeting, the IEP team may implement the proposed use of restraint or seclusion.

(c) If the parent provides written refusal, the IEP team may use the dispute resolution options listed in Education Article, §8-413, Annotated Code of Maryland, to resolve the matter.

.06 Administrative Procedures.

A.—B. (text unchanged)

C. Professional Development.

(1) Each public agency and nonpublic school shall provide professional development to [designated] school personnel *designated by a school administrator to use restraint or seclusion* on this chapter and the appropriate implementation of policies and procedures developed in accordance with §A of this regulation.

(2) (text unchanged)

(3) The school personnel described in *§C(1) and* §C(2) of this regulation shall receive training in current professionally accepted practices and standards regarding:

(a) (text unchanged)

(b) Trauma-informed intervention;

[(b)] *(c)*—[(d)] *(e)*(text unchanged)

[(e)] *(f)* Seclusion; [and]

[(f)] *(g)* Symptoms of physical distress and positional asphyxia[.]*;*

(h) First aid and cardiopulmonary resuscitation (CPR); and

(i) Individualized behavior interventions based on student characteristics, including disability, medical history, and past trauma.

(4) (text unchanged)

D. (text unchanged)

KAREN B. SALMON, Ph.D.
State Superintendent of Schools

Title 13B
MARYLAND HIGHER EDUCATION COMMISSION

Subtitle 08 FINANCIAL AID

13B.08.18 Maryland Loan Assistance Repayment Program for Foster Care Recipients

Authority: Education Article, §§11-105(u) and 18-3206, Annotated Code of Maryland

Notice of Proposed Action

[18-061-P]

The Maryland Higher Education Commission proposes to adopt new Regulations **.01—.14** under a new chapter, **COMAR 13B.08.18 Maryland Loan Assistance Repayment Program for Foster Care Recipients**. This action was considered at a public meeting of the Maryland Higher Education Commission held on November 15, 2017.

Statement of Purpose

The purpose of this action is to provide for the administration of the Maryland Loan Assistance Repayment Program for Foster Care Recipients.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. $100,000 annually of general fund expenditures.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)	$100,000 annually
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	**Magnitude**
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	