

IN THE MATTER OF KIPP
HARMONY ACADEMY

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION
Order No. OR20-16

ORDER

On March 31, 2020, Marsha Reeves, Executive Director KIPP Harmony Academy (“KIPP”) submitted a letter “To Whom it May Concern” to Baltimore City Public Schools (“City Schools”) requesting a waiver for Kipp Harmony Academy from the requirements of COMAR 13A.12.03.02 (certification requirements for school counselors) and 13A.05.05.02A(15) (school counseling program). KIPP claims to have a current school counseling program including school based positions, a program run by a nonprofit operation, and two partnerships with Johns Hopkins.

On June 30, 2020, Angela Alvarez, Executive Director, Office of New Initiatives for City Schools, sent an email to State Superintendent of Schools, Karen B. Salmon, submitting the KIPP waiver request along with four other charter school waiver requests of the school counselor regulations. City Schools submitted a global response to the five waiver requests and did not endorse any of the requests. City Schools states there are “gaps in the approaches listed by each of the schools that if the state approves, each school will need to make sure they have comprehensive plans in place to ensure all students benefit from guidance counseling. For example, some schools do not include Response to Intervention or linking students to in-school supports in their plans. While others have more comprehensive approaches for certain grade levels but lack the coherence of a fully defined plan throughout their elementary and middle grades that ensures all students are benefiting from a holistic approach to social-emotional learning and academic/career counseling.”

Charter schools must comply with the provisions of law and regulation governing other public schools unless a county board grants a waiver for policies that are the policies of the county board and the State Board grants a waiver for policies that are the policies of the State Board. Educ. Art. §9-106(b). A member of the professional staff of a public charter school shall be subject to the same certification provisions established in regulations for the professional staff of other public schools. Educ. Art. §9-105. A waiver may not be granted from provisions of law or regulation relating to audit requirements, the measurement of academic achievement, or the health, safety or civil rights of a student or employee of the public charter school. Educ. Art. §9-106.

COMAR 13A.05.05.02(A)(15) requires a school counseling program to be provided by a State-credentialed school counselor as described in COMAR 13A.12.03.02 (school counselor certification requirements). The school counseling program set out in COMAR 13A.05.05.02 is comprehensive and includes providing student health and safety services to support student academic success and well-being. The school counseling program enhances awareness of mental

health and promotes positive, healthy behaviors; and provides school-based prevention and universal and targeted interventions for students with mental health and behavioral health concerns. It is comprehensive in scope, preventative in design, and developmental in nature. COMAR 13A.05.05.02A(1) -- (4). School counseling services are aligned with the social/emotional development domain and are intended to help students acquire the knowledge, attitudes, and interpersonal skills to help them understand and respect self and others; make decisions, set goals, and take the necessary action to achieve goals; and understand safety and survival skills. COMAR 13A.05.05.02C(3).

Certified school counselors have training in social and emotional matters that others do not. *See* COMAR 13A.12.03.02. Specifically, the school counselor certification requires them to have coursework that addresses the need for intervention or referral to indicators of mental illness and behavioral distress such as depression, trauma, violence, youth suicide and substance abuse. COMAR 13A.12.03.02F(2). The role of the school counselor in the public schools of our State is of significant importance given the prevalence of many of these issues among students, the rising mental health issues in the time of the COVID-19 pandemic, and the need for early intervention. It is our view that the regulation for a certified school counselor addresses health and safety issues for students and is not subject to waiver.

Therefore, it is this 28th day of July 2020, by the Maryland State Board of Education, ORDERED, for these reasons stated above, the waiver request is denied.

MARYLAND STATE BOARD OF EDUCATION

Clarence C. Crawford
President