



Jack R. Smith, Ph.D.  
Interim State Superintendent of Schools

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • msde.maryland.gov

**TO:** Members of the State Board of Education  
**FROM:** Jack R. Smith, Ph.D.  
**DATE:** May 24, 2016  
**SUBJECT:** Code of Maryland Regulations (COMAR) 13A.05.07 Programs for English Learners  
**PERMISSION TO PUBLISH**

---

**PURPOSE:**

The purpose of this action is to request that the State Board grant permission to publish amended regulations that govern the Programs for English Learners. The amended regulation incorporates new standards and new federal language and program requirements.

**REGULATION PROMULGATION PROCESS:**

Under Maryland law, a state agency, such as the State Board, may propose a new 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 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:**

Maryland is among 37 states that have joined the WIDA (World Class Instructional Design and Assessment) consortium which provides standards and assessments for English Learners.

Since Maryland joined the consortium in 2011, all local Maryland school systems have been using the WIDA standards to develop curricula and place English Learners in appropriate programs. The required assessment of English language proficiency, ACCESS 2.0, is aligned to the WIDA standards.

Members of the State Board of Education

May 24, 2016

Page 2

During the regulatory review process, it was evident that COMAR 13A.05.07 did not include current federal requirements for identification and assessment of English learners. The proposed revision incorporates the WIDA standards, includes federal program requirements, and updates definitions.

**EXECUTIVE SUMMARY:**

The adoption of these changes will align COMAR with federal requirements for programs for English Learners. Local school systems that receive state and federal funding for English Learner programs are already in compliance with the proposed revisions. MSDE provides support through monitoring, technical assistance, and professional learning activities.

**ACTION:**

To request permission to publish the changes to COMAR 13A.05.07 for public comment.

# **Title 13A STATE BOARD OF EDUCATION**

## **Subtitle 05 SPECIAL INSTRUCTIONAL PROGRAMS**

### **Chapter 07 Programs for [Non-English and Limited-English Proficient Students] *English Learners***

**Authority: Education Article, §5-203.1, Annotated Code of Maryland**

#### **.01 Scope.**

These regulations pertain to all programs for **[non-English and limited-English proficient (NEP/LEP) students]** *English Learners (ELs)* that provide instructional assistance and services to enable **[NEP/LEP students]** *ELs* to **[acquire and improve English language skills and cultural understandings and thus be able to participate successfully in the academic and social activities of their regularly assigned schools]** *attain English proficiency, develop high levels of academic language, and achieve at high levels in academic subjects so that all ELs can meet the same challenging Maryland College and Career Ready Standards that all students are expected to meet.*

#### **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

**[(1) "Bilingual education program" means one in which students receive instruction in their native language as well as in English.]**

**[(2) "English as a Second Language (ESL) program" or "English for Speakers of Other Languages (ESOL) program" means a program in which the students are instructed only by means of English using established methodologies for developing second language skills.]**

**[(3) 1) "Home language survey" means one or more questions posed to *all* parents and students upon entering a local school system in order to determine the language or languages spoken in the home.**

**[(4) "Interrupted schooling" means a student comes to a Maryland public school with an interruption of 6 or more months in schooling in the student's home country.]**

**[(5) 2] "English Learner" [or "Non-English or "Limited-English Proficient (NEP/LEP)" means a student [who]:**

**[(a) Was born outside the United States or whose native language is not English;] (a) Who communicates in a language other than English; or**

**[(b) Comes from an environment where a language other than English is dominant;] (b) Whose family uses a primary language other than English in the home; and**

**[(c) Is an American Indian or Alaskan Native and comes from an environment where a language other than English has had a significant impact on the student's level of English language proficiency.] Whose English language proficiency falls within the range established by the State for an English language development program.**

### **03 Programs for [Non-English and Limited-English Proficient Students] *English Learners.***

A. Each local school system shall establish **[ESL or bilingual education]** *an English language development program* for those students who have been identified as **[NEP/LEP] ELs** by means of a home language survey as well as *the State-approved English language proficiency placement* **[an] assessment [of English listening, speaking, reading, and writing skills that is considered reliable by the Maryland State Department of Education].**

B. The **[ESL or bilingual education]** *English language development* programs shall contain the following components:

(1) Goals;

(2) Student identification;

(3) Student placement;

(4) Curriculum and instruction;

(5) **[Personnel]** *Certified English for Speakers of Other Languages (ESOL) teachers;*

(6) Materials of instruction;

(7) Facilities;

(8) Program *delivery models* **[organization];**

(9) Parent and community involvement;

(10) Support services; **[and]**

(11) *Exit criteria; and*

(11) 12) Program evaluation.

C. A student who has been identified as [NEP/LEP] *an EL* shall:

(1) [Receive appropriate ESL or bilingual services] *Be placed in an English language development program; and*

(2) *Be evaluated each year on the State-approved summative English language proficiency assessment in listening, speaking, reading, and writing [English] to determine [LEP] EL status.*

D. *The English language development program shall include the following standards:*

(1) *English language learners communicate for Social and Instructional purposes within the school setting.*

(2) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Language Arts.*

(3) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Mathematics.*

(4) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Science.*

(5) *English language learners communicate information, ideas, and concepts necessary for academic success in the content area of Social Studies.*

[D.] E. Local school systems shall adopt policies and procedures to ensure that there is an [ESL or bilingual education] *English language development* program and that the program meets the requirements of this chapter.

#### **.04 Funding.**

A. The amount of State funding shall be determined annually on the basis of the number of [NEP/LEP students] *ELs* who are reported *on the Enrollment Survey as of October 31 [as having been in the local school system for a period of 2 years or less as of May 15 of the second preceding school year].*

[B. Funds may be used for items such as:

(1) Teachers;

(2) Aides;

- (3) Tutors;**
- (4) Materials of instruction;**
- (5) Translation and interpreting services;**
- (6) Counseling services;**
- (7) Teacher in-service;**
- (8) Summer programs;**
- (9) Curriculum development; and**
- (10) Logistical support for instructional programs.]**

**[C. Local school systems are eligible to receive State funding for a period of up to 5 years for NEP/LEP students who:**

- (1) Are determined to be illiterate in their native language;**
- (2) Come from backgrounds of interrupted schooling; or**
- (3) Are special needs students with disabilities with an Individualized Education Program (IEP).]**

**.05 Reporting Requirements[; Local School System Responsibilities].**

**[Each July 15, each local school system shall:**

- A. Report to the State Department of Education an itemization of expenditures; and**
- B. Complete annually the Maryland LEP Data Survey which shall include the number of years that each NEP/LEP student has been receiving ESL or bilingual education services.]**

*Local school systems shall annually report to the State Department of Education their goals, objectives, and strategies regarding the performance of English learners along with timelines for implementation and methods for measuring progress.*