MARYLAND STATE DEPARTMENT OF EDUCATION
Preparing World-Class Students

Bernard J. Sadusky, Ed.D.
Interim State Superintendent of Schools

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TO: Members of the Maryland State Board of Education

FROM: Bernard J. Sadusky, Ed.D

DATE: April 24, 2012

SUBJECT: COMAR 13A.05.09.02(AMEND)
Programs for Homeless Children
PERMISSION TO REPUBLISH

PURPOSE:

To obtain permission to republish COMAR 13A.05.09.02, **Programs for Homeless Children, (ATTACHMENT I).**

BACKGROUND/HISTORICAL PERSPECTIVE:

The McKinney-Vento Act of 2002 addresses the educational rights of homeless children/youth. The Act includes provisions for homeless children/youth to stay in their home school (school of origin) to ensure school stability if it is deemed to be in the child's best interest.

The McKinney-Vento Act is implemented in State regulations, COMAR 13A.05.09.01 - .07. Pursuant to COMAR 13A.05.09.02B(4), a "homeless student" includes a "child awaiting foster care placement."Currently, COMAR 13A.05.09.02B(2) only recognizes certain children committed to the care and custody of the Department of Social Services as a "child awaiting foster care placement". Yet the Juvenile Court also commits children to the care and custody of the Department of Juvenile Services (DJS) for placement in foster care homes and facilities. Such commitments do not include children in secure facilities. Currently, children/youth committed to DJS who are placed in foster care homes and facilities are not entitled to the same McKinney - Vento school stability provisions as children under the care and custody of DSS who are placed in foster homes or facilities.

EXECUTIVE SUMMARY:

The proposed amendment adds some children in the custody of the DJS to the definition of "child awaiting foster care placement" so that those children would be considered homeless students under COMAR 13A.05.09.02B(4). As such, these children/youths will be entitled to the same school stability provisions set forth in the McKinney-Vento Act as other homeless students.

In August 2011, we requested permission to publish a proposed amendment to the regulation for the same purposes described here. The proposed amendment was published in the November 4, 2011 issue of the Maryland Register (**ATTACHMENT II**). We received comments from the Public Justice Center and the Advocates for Children and Youth suggesting that the manner in which the proposed regulation was organized was susceptible to an interpretation that was not intended. Based on those comments, we have reorganized the regulation to clarify that there are three categories of children who come within the definition of a "child awaiting foster care placement". Although the reorganization of the regulation is a minor change, it is nonetheless a substantive one requiring republication of the proposed amendment.

ACTION:

Request permission to republish COMAR 13A.05.09.02, **Programs for Homeless Children.**

Maryland Register Issue Date	June 15, 2012
30 Day Open Comment Period Ends	July 15, 2012
Adoption	August 28-29, 2012
Tentative Effective Date	October 1, 2012

JMCG:jmcg

Attachments

.02 Definitions.

A. (originally proposed text unchanged)

B. Terms Defined.

(1) (originally proposed text unchanged)

(2) *Child Awaiting Foster Care Placement.*

(a) "Child awaiting foster care placement" means:

[(a)] *(i)* A child placed out of the child's home pursuant to a shelter care order [or a voluntary placement agreement documented] by the Department of Social Services *or the Department of Juvenile Services*; [[[or]]]

(ii) A child placed out of the child's home pursuant to a voluntary placement agreement documented by the Department of Social Services[[[.]]]***; or***

[[[(b)]]] [[[A]]]***(iii)*** [[[*"Child awaiting foster care placement" includes a*]]] ***A child committed to or*** *placed in* the care and custody of the Department of Social Services *or the Department of Juvenile Services,* ***and*** who is placed into a temporary, short-term placement of not longer than 90 school days, such as in [[[:]]]

[[[(i)]]] [A] ***a***n emergency or shelter facility[[[;]]]**,**

[[[(ii)]]] [A] ***a*** diagnostic center[[[;]]]**,**

[[[(iii)]]] [A] ***a*** psychiatric respite facility[[[;]]]**,**

[[[(iv)]]] [A] ***a***n emergency foster home[[[;]]], or

[[[(v)]]] [A] ***a***nother temporary, short-term placement[.] *not described in §B(2)(b) of this regulation.*

[[[*(c)*]]] ***(b)*** *"Child awaiting foster care placement" does not include a child* ***committed to or placed in the care and custody of the Department of Juvenile Services and who is*** *placed into* [[[*a*]]] ***any of the following*** *temporary, short-term placement****s*** [[[*such as in*]]]*:*

(i) A detention facility;

(ii) A forestry camp;

(iii) A training school;

(iv) Any State owned and operated facility accommodating more than 25 youth; or

(v) Any other facility operated primarily for the purpose of detaining youth who are determined to be delinquent and require secure custody in a physically restrictive setting.

(3) — (9) (originally proposed text unchanged)

BERNARD J. SADUSKY, Ed.D.
Interim State Superintendent of Schools

Title 13A
STATE BOARD OF EDUCATION

Subtitle 05 SPECIAL INSTRUCTIONAL PROGRAMS

13A.05.09 Programs for Homeless Children

Authority: Education Article, §§2-205 and 7-301, Annotated Code of Maryland

Notice of Proposed Action

[11-309-P]

The Maryland State Board of Education proposes to amend Regulation **.02** under **COMAR 13A.05.09 Programs for Homeless Children.**

Statement of Purpose

The purpose of this action is to add children in the custody of the Department of Juvenile Services to the definition of "child awaiting foster care placement" so that they will be considered homeless students and thus be entitled to the same school stability provisions set forth in the McKinney-Vento Act as other homeless children.

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 John McGinnis, Pupil Personnel/Social Work Specialist, Division of Student, Family and School Support, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0295 (TTY 410-333-6442), or email to jmcginnis@msde.state.md.us, or fax to 410-333-8148. Comments will be accepted through December 5, 2011. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on January 24—25, 2012, at 200 West Baltimore Street, Baltimore, MD 21201.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) *Child Awaiting Foster Care Placement.*

(a) "Child awaiting foster care placement" means:

[(a)] *(i)* A child placed out of the child's home pursuant to a shelter care order [or a voluntary placement agreement documented] by the Department of Social Services *or the Department of Juvenile Services*; or

(ii) A child placed out of the child's home pursuant to a voluntary placement agreement documented by the Department of Social Services.

(b) [A] *"Child awaiting foster care placement" includes a* child [committed to] *placed in* the care and custody of the Department of Social Services *or the Department of Juvenile Services* who is placed into a temporary, short-term placement of not longer than 90 school days, such as in:

(i) — (iv) (text unchanged)

(v) Another temporary, short-term placement[.] *not described in §B(2)(c) of this regulation.*

(c) "Child awaiting foster care placement" does not include a child placed into a temporary, short-term placement such as in:

(i) A detention facility;

(ii) A forestry camp;

(iii) A training school;

(iv) Any State owned and operated facility accommodating more than 25 youth; or

(v) Any other facility operated primarily for the purpose of detaining youth who are determined to be delinquent and require secure custody in a physically restrictive setting.

(3) — (9) (text unchanged)

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Title 14
INDEPENDENT AGENCIES

Subtitle 01 STATE LOTTERY AGENCY

Notice of Proposed Action

[11-319-P]

The Maryland State Lottery Agency proposes to:

(1) Amend Regulation **.04** under **COMAR 14.01.11 Video Lottery Facility Operation License**; and

(2) Amend Regulation **.03** under **COMAR 14.01.18 Violations, Civil Penalties, and Sanctions.**

This action was considered at the Maryland State Lottery Commission open meeting held on September 22, 2011, notice of which was given pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to update regulations to incorporate provisions required for the operation of the State's Video Lottery Terminal program and for the VLT Facilities which are now open and in the process of opening.

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 Robert W. Howells, Regulations Coordinator, Maryland State Lottery Agency, 1800 Washington Blvd, Suite 330, Baltimore, MD 21230, or call 410-230-8789, or email to rhowells@msla.state.md.us, or fax to 410-230-8727. Comments will be accepted through December 5, 2011. A public hearing has not been scheduled.