



MLDS CENTER

Maryland Longitudinal Data System

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MEMORANDUM

TO: MLDS Governing Board
FROM: Ross Goldstein
DATE: March 1, 2024
SUBJECT: Regulatory Review and Evaluation - COMAR 14.36.01 - .06

In accordance with State Government Article, §§10-130—10-139, Annotated Code of Maryland, each State agency that adopts regulations must review those regulations every eight years. The purpose of the review is to determine whether the regulations are necessary for the public interest, continue to be supported by statutory authority and judicial opinion, or are appropriate for amendment or repeal.

There is a separate document for each of the six Chapters that make up the MLDS Center's Regulations. In all chapters there are updates to statutory citations where necessary and revisions for clarity.

Below is a summary of specific proposed changes.

14.36.01¹ - Inspection and copying of public records

- Regulation 01 - Adds clarification that this Chapter on inspection and copying of records does not apply to data requests. Chapter 04 covers those requests.
- Regulation 02 - Adds that the Center's policy is to make all public records accessible on the website
- Regulation 03 - Adds a new definition of "data partner" referring to all of the sources that provide data to the Center. In the definition of the "Center," the term "councils" is replaced by "boards" since the Center has advisory boards, not councils.
- Regulation 09 - Uses the newly defined "data partner" term to refer to the entities that provide data to the Center. Removes *Data Safeguarding and Security Plan* (DSSP) from the list of documents available for immediate inspection. The DSSP contains security information that should not be disclosed.
- Regulation 11 - Removes the provision regarding a record being "in the custody and control of the person to whom the application is made." The MLDS Center is a small agency and records and requests are all centrally managed, so there is no need for this distinction.
- Regulation 15 - Removes the reference in section A to "copying and certifying copies" of records since it is repeated in (3) in the same section.
- Regulation 15 - Adds a provision that clarifies that there is no charge for electronic records provided in an electronic format.
- Regulation 16 - Adds a requirement that applicants who want to inspect records in person must have an appointment. This is necessary since the MLDS Center staff are remote.

¹ Regulation Review style guidelines require that an indication of [text unchanged] if a regulation, section, or paragraph has not been changed. To see the full regulations (including what was not changed) use the link to each chapter.

- The term "custodian" is used instead of the "executive director" throughout.

14.36.02 - Corrections of Public Records

- References to the Center were changed to the Custodian.
- Regulation 09 - Amended for clarity and to add that requests can be submitted electronically.

14.36.03 - Meetings

- Regulation 01 - The definition of "Center" is amended to only mean the Center and not the Governing Board, committees, etc. The additional designations are not necessary and would result in RPB and Data GAB having to be open meetings.
- Throughout, references to the Center are replaced with references to the Governing Board since the Governing Board is the public body.
- In Regulation 02 - Section C is moved to Regulation 03.

14.36.04 - Data Requests

- This Chapter is renamed "Data Requests," instead of "Longitudinal Data Requests." The term longitudinal is not needed and does not clarify the type of data that can be requested. Instead, a definition of "data request" is added in Regulation 02 to clarify the type of data that can be requested.
- Regulation 02 - Adds two new definitions. First, "data partner" is defined to include all of the sources that provide data to the Center. Second, "data request" is defined and makes a distinction between what constitutes a data request and distinguishes data requests from research requests.
- Regulation 03 - Limits the required information collected for a data request. The regulation included information that is more appropriate for a project request.
- Regulation 06 - Adds a provision to clarify that the Center must use de-identified data and that data that may be identifiable based on the size and uniqueness of the population must be suppressed.
- Regulation 07 - Changes are made for clarity. Instead of defining "nonlongitudinal data requests" and then prohibiting such requests, the regulation simply states that requests that seek data from only one data partner shall be denied by the Center. The regulation also permits an exception in cases where the data partner requests (and the Center agrees) to have the Center fulfill the data request.

14.36.05 - Data Collection

- Regulation 01 - Adds the definition of "data partner" (see Chapter 01 and 04) and removes the definition of "state agencies," which is no longer needed.
- Regulation 02 - Includes a new provision that permits the Center to temporarily collect identity data for the purpose of determining if identity resolution is possible.
- Regulation 02 - Eliminates the requirement that removed data be reported in the Data Inventory. Instead, a new section D is created that requires the Center to annually report data removed from the Data Inventory.
- Regulation 05 - Changes the term "third party data" to "other data sources." The examples of "other data sources" are removed since they are not data that are included in the data inventory.
- Regulation 06 - This regulation is new and clarifies what constitutes a "medical and health record" (which are prohibited) and what information is not considered a medical or health record

(and is therefore permissible). This clarification is necessary since the Center receives information that has health implications, but has not been construed by counsel as a health record.

[14.36.06](#) - Center Staff

- Regulation 01 - Clarifies that researchers identified by the Research Branch Director can include staff and graduate students (not just faculty) from any public senior higher education institution (not only from the University System of Maryland). Changes are also made to include additional researchers who have applied for and received approval for a project under the *Project Approval and Management Procedures*.
- Regulation 03 - Adds to the documents that applicants for staff authorization are required to receive and review, including data sharing agreements, the Labor Confidentiality Certification, and other documents required by the Executive Director.

Board Action: *Approval of proposed changes to COMAR 14.36.01 - .06.*

Title 14 Independent Agencies

Subtitle 36 Maryland Longitudinal Data System Center

Chapter 01 Inspection and Copying of Public Records

Authority: Education Article, §§24-703 and 24-706; General Provisions Article, Title 4;
Annotated Code of Maryland

.01 [Purpose] Scope

A. This chapter sets forth procedures for the disclosure, inspection, or copying of public records maintained by the Maryland Longitudinal Data System Center.

B. This chapter does not apply to aggregate data requests. The procedures for aggregate data requests by the public from data maintained by the Maryland Longitudinal Data System Center are set forth in COMAR 14.36.04.

.02 Policy

A. It is the policy of the Maryland Longitudinal Data System Center to facilitate public access to the Center's public records when access is authorized by law.

B. The Center's policy is to make all public records easily accessible on the agency's website.

.03 Definitions

A. [text unchanged]

B. Terms Defined.

(1) [text unchanged]

(2) [text unchanged]

(3) "Center" means the Maryland Longitudinal Data System Center, its advisory [councils] boards, its committees, any other public bodies under the authority and acting on behalf of the Maryland Longitudinal Data System Center, and any employees, agents, or contractors acting on behalf of the Maryland Longitudinal Data System Center.

(4) [text unchanged]

(5) “Data partner” means a State agency, an industry certifier, or other entity that originally collects student and workforce data and provides that data to the Center under Education Article, § 24-707, Annotated Code of Maryland.

(5)– (8) [renumbered to (6) – (9); text unchanged]

[(9)] 10 “Public record” has the meaning stated in General Provisions Article, [§4-101(j)] §4-101(k), Annotated Code of Maryland.

[(10)] 11 [text unchanged]

.04 -.08 [text unchanged]

.09 Response to Request

A. [text unchanged]

B. The custodian shall designate the following public records for immediate inspection:
(1) [text unchanged]

(2) Minutes of the Governing Board; and

(3) Data sharing agreements entered into by the Center and data partners [the Maryland State Department of Education, the Maryland Higher Education Commission, and the Maryland Department of Labor; and

(4) The Data Safeguarding and Security Plan].

C. – F. [text unchanged]

.10 [text unchanged]

.11 Public Record Temporarily Unavailable

If a requested public record of the Center [is in the custody and control of the person to whom the application is made but] is not immediately available for inspection or copying, the custodian shall promptly:

A. [text unchanged]

B. [text unchanged]

.12 [text unchanged]

.13 Review of Denial

A. If the custodian denies a request to inspect or copy a public record of the [Office] Center, the applicant may file an action for judicial enforcement under General Provisions Article, §4-362, Annotated Code of Maryland, without pursuing the remedies set forth in §§B and C of this regulation.

B. - C. [text unchanged]

.14 Disclosure Against Public Interest

A. Denial Pending Court Order.

(1) If, in the opinion of the [Executive Director] custodian, disclosure of a public record of the Center otherwise subject to disclosure under the Act would do substantial injury to the public interest, the [Executive Director] custodian may temporarily deny the request to obtain a court order allowing nondisclosure.

(2) A temporary denial shall be in writing.

B. Circuit Court Review.

(1) Within 10 working days after the denial, the [Executive Director] custodian shall apply to the appropriate circuit court for an order permitting continued denial or restriction of access.

(2) Notice of the [Executive Director's] custodian's complaint, on behalf of the Center, shall be served on the applicant in the manner provided for service of process under the Maryland Rules.

.15 Fees.

A. Except as provided in §§B and C of this regulation, the fee schedule for [copying and certifying copies of] responding to public records requests of the Center is as follows:

(1) For each copy made by a photocopying machine within the Center, 25 cents per page;

(2) For each copy made other than by a photocopying machine within the Center, the actual cost of reproduction; [and]

(3) For certification as a true copy of a public record, an additional fee of \$1 per page, or if appropriate, per item; and

(4) For electronic records provided in an electronic format, no fee.

B. – J. [text unchanged]

.16 Time and Place of Inspection

- A. An applicant may inspect any public record of the Center that the applicant is entitled to inspect, by appointment, during the normal working hours of the Center.
- B. [text unchanged]

Title 14 Independent Agencies

Subtitle 36 Maryland Longitudinal Data System Center

Chapter 02 Correction of Public Records

Authority: Education Article, §24-706; [State Government Article, Title 10, Subtitle 2, and §§10-611—10-628] General Provisions Article §4-502; Annotated Code of Maryland

.01 [text unchanged]

.02 Definitions

A. [text unchanged]

B. Terms Defined

(1) [“Act” means the Public Information Act, State Government Article, §§10-611—10-628, Annotated Code of Maryland.

(2)] “Center” means the Maryland Longitudinal Data System Center.

[3)] (2) “Custodian” has the meaning stated in [State Government Article, §10-611(c)] General Provisions Article § 4-101(d), Annotated Code of Maryland.

(3) “Official custodian” has the meaning stated in General Provisions Article § 4-101(f), Annotated Code of Maryland.

(4) “Person in interest” has the meaning stated in [State Government Article, §10-611(f)] General Provisions Article § 4-101(g), Annotated Code of Maryland.

(5) “Public record” has the meaning stated in [State Government Article, §10-611(h)] General Provisions Article § 4-101(k), Annotated Code of Maryland.

.03-.04 [text unchanged]

.05 Addressee

A request to correct or amend a public record shall be addressed to the custodian of the record. If the custodian is unknown, the request shall be addressed to the [Executive Director] Official Custodian.

.06 Return of Nonconforming Request

A. The [Center] custodian shall accept a request to correct or amend a public record when it is received if it reasonably complies with Regulations .04 and .05 of this chapter.

B. If the request does not reasonably comply with Regulations .04 and .05 of this chapter, the [Center] custodian shall return the request to the requestor with:

(1) – (2) [text unchanged]

.07 Response to Request

A. [text unchanged]

B. Inform the requester in writing that the [Center] custodian will not:

(1) – (2) [text unchanged]

.08 Response to Refusal of Request – Statement of Disagreement

If the [Center] custodian refuses to make a requested correction or amendment, [a person in interest may] the requester may file with the [Center] custodian a concise statement of the reasons for:

A. [text unchanged]

B. The [person's] requester's disagreement with the refusal of the [Center] custodian to make the correction or amendment.

.09 Requirements for Statement of Disagreement

[The statement submitted under Regulation .08 of this chapter shall:

- A. Be on pages not larger than 8-1/2 x 11 inches;
- B. Use only one side of each page; and
- C. Consist of not more than five pages.]

The statement submitted under Regulation .08 of this chapter shall:

A. Not exceed 2,000 words; and

B. Be submitted electronically or by mail on single sided 8½ x 11 inch paper.

.10 Disclosure of Statement of Disagreement.

If a [person in interest] requester files a statement of disagreement concerning a public record under Regulations .08 and .09 of this chapter, the [Center] custodian shall provide a copy of the statement whenever the [Center] custodian discloses the public record to a third party.

.11 Administrative Review.

A. A person may request administrative review under this regulation if the [Center] custodian:

(1) - (3) [text unchanged]

B. A request for review shall be filed with the [Executive Director] Official Custodian of the Center within 30 days after the requester is advised of the [Center's] custodian's action.

C. The review proceedings shall be conducted in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

Title 14 Independent Agencies
Subtitle 36 Maryland Longitudinal Data System Center
Chapter 03 Meetings

Authority: Education Article, §§ 24-706; State Government Article, Title 10, Subtitle 5,
Annotated Code of Maryland

.01 Definitions.

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

B. Terms Defined.

(1) “Center” means the Maryland Longitudinal Data System Center[, its Governing Board, its committees, and any other public bodies under the authority and acting on behalf of the Maryland Longitudinal Data System Center].

(2) “Governing Board” has the meaning stated in Education Article, §24-701, Annotated Code of Maryland.

(3) “Open session” means a meeting of the Governing Board that is required to be open to the public pursuant to the Open Meetings Act, State Government Article, Title 10, Subtitle 5, Annotated Code of Maryland.

.02 Public Attendance.

A. The general public is invited to attend and observe any open sessions of the [Center] Governing Board.

B. Meetings shall be held in a manner or location that is reasonably accessible to individuals who would like to attend and observe an open session of the [Center] Governing Board.

[C. A member of the public attending an open session may not participate in the session except as provided in the bylaws of the Governing Board.]

.03 Public Participation Limited.

A member of the public attending an open session may not participate in the session [except to the extent] unless:

- A. The [Center] Governing Board expressly invites public testimony, questions, comments, or other forms of public participation; [or]
- B. As provided by the bylaws of the Governing Board, the individual has received prior approval from the Governing Board Chair to participate, subject to a time limit set by the Chair; or
- C. The person is entitled by law to participate.

.04 Disruptive Conduct.

- A. – C. [text unchanged]

.05 Recording, Photographing, and Broadcasting of Open Sessions.

- A. – D. [text unchanged]

.06 Recordings Not Part of Record.

[text unchanged]

Title 14 Independent Agencies
Subtitle 36 Maryland Longitudinal Data System Center
Chapter 04 [Longitudinal] Data Requests

Authority: Education Article, §§24-701, 24-703, and 24-706; General Provisions Article, Title 4; Labor and Employment Article, §8-625; Annotated Code of Maryland

.01 Scope.

A. - B. [text unchanged].

.02 [Definition] Definitions

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

B. Terms Defined

(1) “Center” means the Maryland Longitudinal Data System Center.

(2) “Data partner” means a State agency, an industry certifier, or other entity that originally collects student and workforce data and provides that data to the Center under Education Article, § 24-707, Annotated Code of Maryland.

(3) (a) “Data request” means a request for an aggregate data set created by linking two or more data tables.

(b) “Data Request” does not include a request that requires:

- (i) Analysis or the application of advanced statistical methods; or
- (ii) Creation of constructed variables.

.03 Applications – General

A. [text unchanged]

B. [text unchanged]

C. Options. The application form shall require at a minimum:

(1) The name, [title, mailing address,] phone number, and email address for [each] the requestor; and

- (2) The longitudinal data request. [The names, titles, mailing addresses, phone numbers, and email addresses for any researchers working with the requestor;
- (3) Disclosure of the title of the research project for which the data request is being made;
- (4) Disclosure of whether or not the applicable research project is funded;
- (5) A summary of the research project, including but not limited to the research questions presented for evaluation by the project; and
- (6) The target dates for data collection, data analysis, report writing, and report publication for the applicable research project.]

.04 Time for Applying, Responding

A. - B. [text unchanged]

.05 Fees

[text unchanged]

.06 Individual Records

A. The Center receives data from data partners [the Maryland State Department of Education, Maryland Higher Education Commission, and Maryland Department of Labor] in accordance with its mandated responsibilities as set forth in Education Article, §24-701, et seq., Annotated Code of Maryland.

B. Individual Student Records.

(1) [text unchanged]

(2) [The Center shall use only de-identified aggregate data in its research and reporting as] As set forth in Education Article, §24-703(f)(3) and (4) and [(g)(3)] (h)(3), Annotated Code of Maryland, the Center shall:

(a) Only use de-identified aggregate data in its research and reporting; and

(b) Suppress data that may be identifiable based on the size or uniqueness of the population under consideration.

(3) – (4) [text unchanged]

C. Individual Workforce Records.

(1) The Center [shall recognize] recognizes that workforce records incorporated into the Maryland Longitudinal Data System are protected under Labor and Employment Article, §8-625, Annotated Code of Maryland, and 20 CFR part 603, which are incorporated by reference, and other State and federal privacy laws.

(2) – (5) [text unchanged]

D. – E. [text unchanged]

.07 Requests for [Nonlongitudinal] Data Sets from a Single Data Partner

A. [For purposes of this regulation, a data set is non-longitudinal if it contains data provided by only one of the following agencies that contribute data to the Center:

- (1) Maryland State Department of Education;
- (2) Maryland Department of Labor; or
- (3) Maryland Higher Education Commission.

B. The Center shall deny a request for a nonlongitudinal data set and refer the requestor to the appropriate State agency.]

If the Center receives an aggregate data request that seeks data from only one data partner, the Center shall deny the request and refer the requester to the data partner that is the source of the data being requested.

B. Notwithstanding section A of this regulation, the Center may fulfill a data request that seeks data from only one data partner if:

1. The data partner requests that the Center complete the request; and
2. The Center agrees to fulfill the request.

Title 14 Independent Agencies

Subtitle 36 Maryland Longitudinal Data System Center

Chapter 05 Data Collection

Authority: Education Article, §§24-706 and 24-707, Annotated Code of Maryland

.01 Definitions.

A.[text unchanged]

B. Terms Defined

(1) [text unchanged]

(2) [text unchanged]

(3) “Data partner” means a State agency, an industry certifier, or other entity that originally collects student and workforce data and provides that data to the Center under Education Article, § 24-707, Annotated Code of Maryland.

(4) “Governing Board” has the meaning stated in Education Article, § 24-701, Annotated Code of Maryland.

[(4)[“State agencies” means the:

(a) Maryland State Department of Education;

(b) Maryland Higher Education Commission; and

(c) Maryland Department of Labor.]

.02 Data Inventory

A. General. (1) Except as provided in subsection (2) of this section, [The] the Center may not collect, use, or warehouse data that is not listed in a data inventory approved by the Governing Board.

(2) The Center may temporarily collect limited data elements from a data partner for the purpose of determining if identity resolution is possible.

B. Data Inventory Requirements. The data inventory shall specify:

(1) [text unchanged]

(2) The data partner [source of the data]; and

- (3) The date range for the data [; and
- (4) Any data element that has been removed upon determination that it is no longer necessary to carry out the mission of the Center].

C. [text unchanged]

D. The MLDS Center shall annually report any data element that has been removed upon determination that it is no longer necessary to carry out the mission of the Center.

.03 Data Collection Schedule

The Governing Board shall approve a data collection schedule that establishes deadlines for each [data source] data partner to transfer its data to the Center.

.04 Data Transmission

The Center shall establish a data transmission method that each [entity providing data to the Center] data partner shall follow when transferring data to the Center.

.05 Data Source

A. – C. [text unchanged]

D. [Third-Party] Other Data Sources.

[(1)] The Center may collect and incorporate data from an entity other than a State or local agency, if the data collected by that entity:

- (1) [(a)] Is permissible student data or workforce data;
- (2) [(b)] Is determined to be accurate and reliable; and
- (3) [(c)] Is approved for inclusion by the Governing Board.

[(2)] Examples of permissible third-party data include data from:

- (a) The Integrated Postsecondary Education Data System (IPEDS) from the U.S. Department of Education, National Center for Education Statistics;
- (b) The National Student Clearinghouse; and
- (c) The U.S. Census.]

.06 Medical and Health Records – Prohibited.

A. Definition.

(1) For purposes of this regulation, the following term has the meaning indicated.

(2) "Medical and health records" means records created by a health care provider for the purpose of providing care and treatment to an individual.

(3) "Medical and health records" does not include information about a student that is:

(i) Collected by a data partner that provides data to the MLDS under this subtitle; and

(ii) Used solely to determine eligibility for, or administer educational services and programs to students.

B. (1) Under Education Article, §24-701(l)(3), Annotated Code of Maryland, medical and health records are not student data.

(2) The MLDS Center may not collect medical and health records.

Title 14 Independent Agencies

Subtitle 36 Maryland Longitudinal Data System Center

Chapter 06 Center Staff

Authority: Education Article, §§24-703[(g)](h) and 24-706, Annotated Code of Maryland

.01 Authorized Staff.

A. [Purpose] Scope. Education Article, §24-703[(g)](h), Annotated Code of Maryland, restricts access to data in the Maryland Longitudinal Data System to authorized staff of the Center. This regulation sets out a procedure for authorizing Center staff.

B. [text unchanged]

C. Authorization by Executive Director.

(1) [text unchanged]

(2) The Executive Director may designate the following individuals as authorized staff of the Center:

(a) Researchers, including:

(i) Faculty, staff, and graduate students, [within the University System of Maryland who are] from a public senior higher education institution who are identified by the Director of the Research Services Branch to provide research and analysis as part of [assigned to] the Research Services Branch of the Center [through an interagency agreement];

[(ii) Doctoral students working with faculty assigned to the Center;] and

(ii) [(iii)] Additional researchers, [identified by the Director of the Research Services Branch] who have applied for and received approval, under the MLDS Center's Project Approval and Management Procedures, to conduct a project using the MLDS data consistent with [to provide additional analysis in furtherance of the Center's functions and duties as specified in] Education Article, §24-703(f)(4) and (5), Annotated Code of Maryland;

(b) - (c) [text unchanged]

(c) A State agency employee or contractor as needed to provide information technology expertise to assist with data sharing or system administration.

.02 Background Investigations

A. - C. [text unchanged]

.03 Security Requirements.

A. General. The Center's Executive Director shall require all authorized staff of the Center to:

(1) [text unchanged]

(2) Receive and review the MLDS Center's Data Security and Safeguarding Plan, data sharing agreements, the Maryland Department of Labor – Confidentiality Certification Form, and other documents required by the Executive Director; and

(3) [text unchanged]

B. [text unchanged]