

MARYLAND REGISTER

## Proposed Action on Regulations

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	07/03/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/8/2014

2. COMAR Codification

**Title Subtitle Chapter Regulation**

13A 07 09 01—.08

3. Name of Promulgating Authority

Maryland State Department of Education

**4. Name of Regulations Coordinator Telephone Number**  
Charlene L Necessary 410-767-0467

**Mailing Address**

200 W. Baltimore Street

**City State Zip Code**  
Baltimore MD 21201

**Email**  
cnecessary@msde.state.md.us

**5. Name of Person to Call About this Document Telephone No.**  
Dr. Jack R. Smith 410-767-3646

**Email Address**  
jrsmith@msde.state.md.us

6. Check applicable items:  
X- New Regulations

Amendments to Existing Regulations  
Date when existing text was downloaded from COMAR online: .  
 Repeal of Existing Regulations  
 Recodification  
 Incorporation by Reference of Documents Requiring DSD Approval  
 Reproposal of Substantively Different Text:  
: Md. R  
(vol.) (issue) (page nos) (date)  
Under Maryland Register docket no.: --P.

**7. Is there emergency text which is identical to this proposal:**

Yes  No

**8. Incorporation by Reference**

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Elizabeth M. Kameen, Assistant Attorney General, (telephone #410-576-6465) on July 3, 2014. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Charlene L. Necessary

**Title**

Regulations Coordinator

**Date**

July 3, 2014

**Telephone No.**

410-767-0467

**Title 13A**

# A STATE BOARD OF EDUCATION

## Subtitle 07 SCHOOL PERSONNEL

### 13A.07.09 Evaluation of Teachers and Principals

Authority: Education Article, §§2-205(b) and (g); and 6-202, Annotated Code of Maryland

#### Notice of Proposed Action

□

The Maryland State Board of Education proposes to repeal and replace Regulations .01—.08 under COMAR 13A.07.09 Evaluation of Teachers and Principals.

This action was considered at the Maryland State Board of Education meeting on June 27, 2014.

#### Statement of Purpose

The purpose of this action is to establish standards of performance evaluations for teachers and principals which include a default evaluation model.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

##### I. Summary of Economic Impact.

The proposed regulation will have a minimal additional fiscal impact on local education agencies and on the Maryland State Department of Education (MSDE) because the majority of the costs will be covered from funds that are already allocated. Funds will come from Maryland's Race to the Top grant for both the State and the Local Education Agencies (LEAs) and from the LEA's local funding for Professional Development. Federal Title II, Part A funding is also available that LEAs could use for Professional Development. Failure to adopt the proposed regulation could have negative additional fiscal impact on both MSDE and the LEAs. After the full implementation of RTTT, the sustainability for this Teacher/Principal Evaluation Program will require use of LEA's Professional Development funds.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	(E+)	Minimal
C. On local governments:	(E+)	Minimal

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

B. With the sunset of the current regulations, MSDE must implement a Teacher/Principal Evaluation System as well as a default evaluation model as required by the Education Reform Act of 2010, as amended. Non-implementation could result in a significant fiscal impact on the State. Additionally, Maryland has agreed in its Race to the Top Application and in its request for ESEA Flexibility that it would implement the Teacher/Principal Evaluation System. Non-compliance could hinder the granting of the ESEA Flexibility and/or cause the loss of Race to the Top funding.

MSDE has allocated some Race to the Top funds to the continued development of the Teacher/Principal Evaluation System. Although not all funding has been accounted for, the impact on MSDE funds is anticipated to be minimal.

C. Twenty-two of the 24 LEAs accepted Race to the Top funding. Their funding could also be impacted if they did not implement a Teacher/Principal Evaluation model. The main costs of the new model will be associated with Professional Development on using the model and around Student Learning Objectives (SLOs). Many LEAs already have funds that are allocated for professional development.

**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 Dr. Jack R. Smith, Chief Academic Officer, Maryland State Department of Education, Office of the Deputy for Teaching and Learning, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-3646 TTY: 410-333-6442, or email to [jrsmith@msde.state.md.us](mailto:jrsmith@msde.state.md.us), or fax to 410-333-2275. Comments will be accepted through September 8, 2014. 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 September 23, 2014 at 9:00 a.m., at 200 West Baltimore Street, Baltimore, Maryland 21201.

**Economic Impact Statement Part C**

- A. Fiscal Year in which regulations will become effective: FY 2015
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
- Yes
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:  
Federal funds granted through Race to the Top will be used.
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
- G. Small Business Worksheet:

Attached Document:

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

## **Subtitle 07 SCHOOL PERSONNEL**

### **Chapter 09 Evaluation of Teachers and Principals**

Authority: Education Article, §§2-205(b) and (g); and 6-202, Annotated Code of Maryland

#### **.01 Applicability.**

A. *The minimum general standards set forth in Regulation .04 of this chapter shall apply to evaluations of all teachers and principals.*

B. *In addition, all local education agencies (LEAs) that signed on to the Race to the Top (RTTT) application must comply with the evaluation criteria set forth in the RTTT application and amendments approved by the United States Department of Education.*

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

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

B. *Terms Defined.*

(1) *“Evaluation” means an appraisal of professional performance for a school year based on written criteria and procedures that result in a written evaluation report.*

(2) *“State Assessments” means the tests in Mathematics and English/Language Arts developed or adopted by the Department that are aligned with the Maryland College and Career Ready standards and measure a student’s skills and knowledge as set forth in the content standards for those subjects.*

(3) *“Principal” means an individual who serves in the position as a principal and who is certificated under COMAR 13A12.04.04 or certificated as a resident principal under COMAR 13A.12.04.05.*

(4) *“Student Growth” means student progress assessed by multiple measures and from a clearly articulated baseline to one or more points in time.*

(5) *Teacher.*

(a) "Teacher" means any individual certificated under COMAR 13A.12.02 as a teacher and who delivers instruction and is responsible for a student's or group of students' academic progress in a Pre-K-12 public school setting, subject to local school system interpretation.

(b) "Teacher" may include an individual certificated by the Maryland State Department of Education (MSDE) under COMAR 13A.12.03 if the individual delivers instruction, and is responsible for a group of students' academic progress in a Pre-K-12 public school setting, subject to local school system interpretation.

**.03 Incorporation by Reference.**

In this chapter, the following documents are incorporated by reference:

A. Maryland Instructional Leadership Framework, February 2005;

B. Educational Leadership Policy Standards: ISLLC 2008; and

C. InTASC Model Core Teaching Standards: A Resource for State Dialogue, April 2011.

**.04 Local Education Agency Evaluation System.**

A. An evaluation system for teachers and principals developed by a local education agency in mutual agreement with the exclusive employee representatives shall include performance evaluation criteria, at minimum, based on multiple measures, and on the general standards set forth in §§B and C of this regulation.

B. General Standards: Teacher Evaluation System.

(1) An evaluation system shall be based on standards, such as the INTASC Model Core Teaching Standards or other Department approved or nationally-recognized standards for teaching and those standards shall be explained to teachers and communicated to the school community. The selected standards shall be used to evaluate the teacher's professional practice and student growth.

(2) A teacher's evaluation shall include at least five components:

(a) Planning and Preparation;

(b) Classroom Environment;

(c) Instruction;

(d) Professional Responsibility; and

(e) Student Growth.

(3) An evaluation system shall provide, at a minimum, for an overall rating of highly effective, effective, or ineffective.

(4) Classroom observations shall play a role in the evaluation system, at minimum, in the following ways:

(a) Classroom observations of teachers' professional practice shall be conducted by certificated individuals who have completed training that includes identification of teaching behaviors that result in student growth and the use of the selected standards in the observation;

(b) An evaluation of a teacher's professional practice, including planning and preparation, classroom environment, and instruction shall be based on at least two observations during the school year;

(c) An evaluation report that evaluates a teacher as ineffective shall include at least one observation by an individual other than the immediate supervisor;

(d) An observation, announced or unannounced, shall be conducted with full knowledge of the teacher;

(e) A written observation report shall be shared with the teacher and a copy provided to the teacher within a reasonable period of time;

(f) A teacher shall sign the observation report to acknowledge receipt;

(g) An observation shall provide for written comments and reactions by the teacher being observed, which shall be attached to the observation report; and

(h) An observation shall provide specific guidance in areas needing improvement and supports as well a reasonable timeline to demonstrate improvement in areas marked as ineffective.

(5) Claims and evidence of observed instruction that substantiate the observed behavior or behaviors in a classroom observation shall be a part of the teacher's evaluation and may be identified by either the teacher or the evaluator or both which may include:

(a) student work;

(b) teacher-developed initiatives;

(c) portfolios;

(d) projects;

(e) student test data;

(f) artifacts; and

(g) other statements.

(6) A local education agency's evaluation system shall include rigor which shall be demonstrated, in part, by:

(a) The establishment of student growth as a significant component of the evaluation;

(b) For the school years 2014-2015 and 2015-2016, the use of student learning objectives (SLOs) based on and informed by the data resulting from the State Assessments. Such SLOs shall represent at least 20 percent of a teacher's evaluation.

(c) Obtaining Department approval of the agreed-on evaluation system.

(7) The Department's approval of an agreed-upon evaluation system after the 2015-2016 school year will be based, in part, on the Department's analysis of the evaluation data obtained in the 2014-2015 and 2015-2016 school years, including an analysis of the use of State Assessment data as a direct measure of student growth.

(8) The evaluation system shall provide focused professional development, resources, and a mentoring component for teachers who are evaluated as ineffective and for all non-tenured teachers.

(9) Until school year 2016-2017, student growth data based on or derived from State Assessments may not be used to make personnel decisions.

**C. General Standards: Principal Evaluation System.**

(1) A principal's evaluation system shall be based on:

(a) The outcomes contained in the Maryland Instructional Leadership Framework, February 2005 and in the Interstate Leadership Licensure Consortium.

(b) The standards set forth in §§B(3), (6)(a)—(b), and (9) of this regulation.

**.05 Default Model.**

A. If the school system and the exclusive employee representative do not reach agreement on an Evaluation System, the Default Model shall be adopted by the school system.

B. The Default Model shall include:

(1) A student growth component that comprises at least 50 percent of the teacher's and principal's evaluation in the following ways:

(a) For school years 2014-2015 and 2015-2016, for elementary and middle school teachers providing instruction in State-assessed content areas, 20 percent of the evaluation shall be based on SLOs based on and informed by the data obtained from the State Assessments; 30 percent on other SLOs or other locally determined measures;

(b) For school years after 2015-2016, for elementary and middle school teachers providing instruction in State-assessed content areas, based on an analysis conducted by the Department of evaluation data obtained in school years 2014-2015 and 2015-2016, including and analysis of the use of State Assessment data as a direct measure of student growth, aggregate class growth scores for State-assessed content areas being taught may comprise at least 20 percent of the teacher's evaluation; and

(c) For school years 2014-2015 and 2015-2016, elementary and middle school teachers providing instruction in non-State-assessed grades or content areas, SLOs or other locally determined measures in the content areas being taught shall comprise 50% of the evaluation.

(d) For school years after 2015-2016, for elementary and middle school teachers providing instruction in non-State-assessed grades or content areas, based on an analysis conducted by the Department of evaluation data obtained in school years 2014-2015 and 2015-2016, SLOs or other locally determined measures may comprise up to 30% of the evaluation and a school-wide index may comprise up to 20%;

(e) For high school teachers, SLOs informed by the data obtained from the High School Assessments shall comprise 50% of the teacher's evaluation.

(2) A professional practice component that comprises at least 50 percent of the teacher's evaluation in the following ways:

(a) Planning and Preparation – 12.5 percent;

(b) Classroom Environment – 12.5 percent;

(c) Instruction – 12.5 percent; and

(d) Professional Responsibility – 12.5 percent.

(3) For elementary and middle school principals, student growth shall be measured by SLOs, in part, based on and informed by State Assessment data, aggregate school-wide growth scores in State-assessed content areas, and the school-wide index.

(4) For high school principals, student growth shall be measured by SLOs, in part, based on and informed by the High School Assessment data and the school-wide index.

(5) For principals of other types of schools, student growth shall be measured by SLOs and the school-wide index.

(6) For all principals, professional practice:

(a) Shall count for 50 percent of a principal's evaluation; and

(b) Shall include, but not be limited to, the outcomes in the Maryland Instructional Leadership Framework, and other outcomes based on Interstate School Leaders and Licensure Consortium (ISLLC).

(7) Until school year 2016-2017, student growth data based on or derived from State Assessments may not be used to make personnel decisions.

**.06 Evaluation Cycle.**

A. Tenured Teachers. On the 3-year evaluation cycle, tenured teachers shall be evaluated once annually in the following ways:

(1) In the first year of the evaluation cycle conducted under these regulations, tenured teachers shall be evaluated on both professional practice and student growth;

(2) If in the first year of the evaluation cycle a tenured teacher is determined to be highly effective or effective then in the second year of the evaluation cycle, the tenured teacher shall be evaluated using the professional practice rating from the previous year and the student growth based on the most recent available data;

(3) *If in the second year of the evaluation cycle a tenured teacher is determined to be highly effective or effective then in the third year of the evaluation cycle, then tenured teacher shall be evaluated using the professional practice rating from the previous year and student growth based on the most recent available data;*

(4) *At the beginning of the fourth year, the evaluation cycle shall begin again as described in §A(1)-(3) of this regulation; and*

(5) *In any year, a principal may determine or a tenured teacher may request that the evaluation be based on a new review of professional practice along with student growth.*

*B. Nontenured Teachers and Teachers Rated as Ineffective. All nontenured teachers and all teachers rated as ineffective shall be evaluated annually on student growth and professional practice.*

*C. Principals. Every principal shall be evaluated at least once annually based on all of the components set forth in Regulations .04 and .05 of this chapter.*

**.07 Evaluation Report.**

*A. The evaluation report shall be shared with the teacher or principal who is the subject of the evaluation.*

*B. The teacher or principal shall receive a copy of and sign the evaluation report.*

*C. The signature of the teacher or principal does not necessarily indicate agreement with the evaluation report.*

*D. An evaluation report shall provide for written comments and reactions by the individual being evaluated, which shall be attached to the evaluation report.*

**.08 Appeal of an Evaluation.**

*A. In the event of an overall rating of ineffective, the local school system shall, at a minimum, provide the teacher or principal with an opportunity to appeal in accordance with Education Article, §4-205(c)(4), Annotated Code of Maryland.*

*B. If an observation report is a component of an ineffective evaluation, the observation report may be appealed along with the ineffective evaluation.*

*C. The burden of proof is on the individual appealing an overall rating of ineffective to show that the rating was arbitrary, unreasonable, illegal, or not in compliance with the adopted evaluation system of the local school system.*

LILLIAN M. LOWERY, Ed.D.  
State Superintendent of Schools

Incorporation by Reference  
APPROVAL FORM

Date: July 2, 2014

COMAR: 13A.07.09.03A, B, C

Charlene L. Necessary  
Maryland State Department of Education  
200 West Baltimore Street, 7<sup>th</sup> Floor  
Baltimore, MD 20201

Dear Charlene:

The following documents are approved for incorporation by reference:

1. Maryland Instructional Leadership Framework, February 2005;
2. Educational Leadership Policy Standards: ISLLC 2008; and
3. InTASC Model Core Teaching Standards: A Resource for State Dialogue, April 2011.

Please note the following special instructions: None

Attach a copy of this approval form when submitting an emergency or proposed regulation to the AELR Committee and when submitting a proposed

regulation to DSD for publication in the Maryland Register. If submitting through ELF, include as part of the attachment.

Any future changes to the incorporated documents do not automatically become part of the regulation. If there are subsequent changes to the incorporated documents, and the agency wishes those changes to become a part of its regulations, the agency must amend the regulation incorporating the documents.

Please call us if you have any questions.

Sincerely,  
Gail S. Klakring  
Senior Editor