

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	09/15/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 10/17/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

19A	03	01	01 - .04
19A	03	02	01
19A	03	03	01 - .02
19A	03	04	01 - .04

3. Name of Promulgating Authority

State Ethics Commission

4. Name of Regulations Coordinator

Jennifer K Allgair

Telephone Number

410-260-7770

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5. Name of Person to Call About this Document

Jennifer Allgair

Telephone No.

410-260-7770

Email Address

jennifer.allgair@maryland.gov

6. Check applicable items:

- New Regulations

- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: April 11, 2014.

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 Jennifer Allgair, General Counsel, (telephone #410-260-7770) on September 8, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Michael Lord

Title

Telephone No.

Executive Director

410-260-7770

Date

September 8, 2014

Title 19A
A STATE ETHICS COMMISSION

Subtitle 03 FINANCIAL DISCLOSURE

19A.03.01 Disclosure Required by Members of Boards and Commissions

Subtitle 03 FINANCIAL DISCLOSURE

19A.03.02 Disclosure by Faculty Members at State Institutions of Higher Education

Subtitle 03 FINANCIAL DISCLOSURE

19A.03.03 Disclosure by Public Officials, State Officials, and Candidates to Be State Officials

Subtitle 03 FINANCIAL DISCLOSURE

19A.03.04 Electronic Filing

Authority: General Provisions Article, §§ 5-101, 5-103, 5-206, and 5-208, and Title 5, Subtitle 6, Annotated Code of Maryland

Notice of Proposed Action

[]

The State Ethics Commission proposes to amend existing COMAR 19A.03.01.01 - .04, COMAR 19A.03.02.01, and COMAR 19A.03.02.01.02 and to adopt 19A.03.04.01 - .04.

Statement of Purpose

The purpose of this action is to require individuals who are required to file financial disclosure statement to file those statements using the Ethics Commission's electronic filing system. The proposed regulations provide exemptions under certain circumstances and authorize the Executive Director of the Commission to grant an exemption under certain circumstances. In addition, the proposed regulations correct statutory cross-references.

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 Jennifer Allgair, General Counsel, State Ethics Commission, 45 Calvert Street, 3rd Floor, Annapolis, MD 21401, or call 410-260-7770, or email to jennifer.allgair@maryland.gov, or fax to 410-260-7746. Comments will be accepted through November 17, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 15

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

The Commission already administers and electronic filing program and can process exemption requests using existing resources.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

There is no cost associated with using the electronic filing system.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

Only individuals file financial disclosure statements; no small businesses are required to file.

G. Small Business Worksheet:

1a. The intended beneficiaries of these regulations include State employees, officials and candidates who are required to file financial disclosure statements with the State Ethics Commission. The beneficiaries do not include households or businesses.

1b. Households are not the intended beneficiaries of these regulations.

1c. Businesses are not the intended beneficiaries of these regulations.

2a. The proposed regulations do not have any indirect impact on businesses and will not require businesses to respond in any fashion that would incur additional work-time costs or monetary costs.

2b. The proposed regulations will not have any benefit or positive impact on businesses.

3. The long-term economic impact effect from these proposed regulations does not differ significantly from the immediate impact.

4. The proposed regulations do not create any economic impact on the cost of providing goods and services; the effect on the work force; the effect on the cost of housing; the efficiency in production and marketing; capital investment, taxation, competition, and economic development or consumer choice.

Attached Document:

Copied 4/11/14

Title 19A STATE ETHICS COMMISSION

Subtitle 03 FINANCIAL DISCLOSURE

Chapter 01 Disclosure Required by Members of Boards and Commissions

Authority: [State Government] *General Provisions* Article, §§[15] 5-206 and [15] 5-208 and Title [15] 5, Subtitle 6, Annotated Code of Maryland

.01 Application.

A. Except as provided in §B of this regulation, this chapter applies to members of State boards and commissions:

(1) Who the Commission determines are public officials;

(2) Whom the Commission has not exempted from financial disclosure requirements under Regulation .03 of this chapter; and

(3) Who receive as annual compensation less than 25 percent of the annual salary of an employee classified as a grade 16, base level, of the State standard salary schedule.

B. This chapter does not apply to:

(1) A public official who:

(a) Files a financial disclosure statement for the reporting period required by COMAR 19A.03.03; and

(b) Discloses the public official's service on the board or commission on the financial disclosure statement for the reporting period; or

(2) A member of the Maryland-National Capital Park and Planning Commission, the Washington Suburban Sanitary Commission, the Washington Suburban Transit Commission, the Workers' Compensation Commission, the Injured Workers' Insurance Fund, the Parole Commission, or the Public Service Commission.

.02 Definitions.

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

B. Terms Defined.

(1) "Board or commission" includes any unit that is administered, governed, or subject to appellate review by the board or commission.

(2) "Doing business with" means being:

(a) A party to sales, purchases, leases, or contracts to, from, or with an entity involving consideration of \$5,000 or more during the reporting period;

(b) A registrant who lobbies on matters before the board or commission; or

(c) Regulated by the board or commission.

(3) "Regulated by" the member's board or commission does not include the mere act of approval or authorization of a corporate or business name by a board or commission.

(4) "Reporting period" means the period of time covered by a financial disclosure statement.

.03 Exemptions.

A. A board or commission may request in writing that the [Ethics] Commission grant the board or commission an exemption from the requirement that members of the board or commission file financial disclosure statements with the [Ethics] Commission.

B. The [Ethics] Commission may grant a board or commission an exemption requested under §A of this regulation if:

(1) The Commission finds that requiring members of the board or commission to file financial disclosure statements:

(a) Will constitute an unreasonable invasion of privacy;

(b) Will significantly reduce the availability of qualified individuals for public service; and

(c) Is not necessary to preserve the purposes of the Public Ethics Law; and

(2) For a board or commission in a cabinet department of the Executive Branch, the Secretary of the Department submits written documentation of the Secretary's support of the exemption request.

C. When considering an exemption request under this regulation, the Commission shall consider:

- (1) The duration of the board or commission;
- (2) Whether the board or commission is advisory only; and
- (3) Any other compelling reason that may require members to file financial disclosure statements.

D. The records of the [Ethics] Commission related to an exemption are public documents.

.04 Financial Disclosure Requirements.

A. An individual shall file a financial disclosure statement on a form or using the electronic filing system provided by the [Ethics] Commission.

B. Contents of Financial Disclosure Statements.

- (1) An individual shall report the information specified in this section, if known, for the reporting period.
- (2) An individual shall disclose the information specified in [State Government] *General Provisions* Article, §[15]5-607(b), Annotated Code of Maryland, for an interest the individual holds in real property that:
 - (a) Is subject to a lease or other contract with the individual's State board or commission;
 - (b) Is the subject of a lease or other contract with an entity that:
 - (i) Has a contract with the individual's board or commission;
 - (ii) Is regulated by the individual's board or commission; or
 - (iii) Is licensed by the individual's board or commission;
 - (c) Is co-owned by a person who:
 - (i) Has a contract with the individual's board or commission;
 - (ii) Is regulated by the individual's board or commission; or
 - (iii) Is licensed by the individual's board or commission;
 - (d) Was negotiated for sale or lease or was sold or leased to the individual's board or commission during the reporting period;
 - (e) The individual held during the reporting period and that the individual plans to offer for lease or sale to the individual's board or commission during the current calendar year;
 - (f) The individual purchased from a person that contracts with, is regulated by, or is licensed by the individual's board or commission; or
 - (g) Is regulated by the individual's board or commission.

(3) An individual shall disclose the information specified in [State Government] *General Provisions* Article, §[15] 5-607(c), Annotated Code of Maryland, for an interest the individual holds in a corporation, partnership, limited liability partnership, or limited liability company if the interest:

(a) Is greater than a 1 percent ownership interest if the corporation, partnership, limited liability partnership, or limited liability company:

(i) Is regulated or licensed by the individual's board or commission; or

(ii) Is doing business with the individual's board or commission; or

(b) Is 20 percent or greater if:

(i) Another person owns an interest in the corporation, partnership, limited liability partnership, or limited liability company and the person is regulated by, licensed by, lobbies, or has a contract with an annual value of \$5,000 or more with the individual's board or commission; or

(ii) The corporation, partnership, limited liability partnership, or limited liability company owns a direct financial interest in another entity that is regulated by, licensed by, lobbies, or has a contract with an annual value of \$5,000 or more with the individual's board or commission.

(4) An individual shall disclose the information specified in [State Government] *General Provisions* Article, §[15]5-607(d), Annotated Code of Maryland, for an interest the individual holds in a business entity if the interest is not disclosed under §B(3) of this regulation and the interest:

(a) Is greater than a 1 percent ownership interest if the entity:

(i) Is regulated or licensed by the individual's board or commission; or

(ii) Is negotiating to do business with or is doing business with the individual's board or commission; or

(b) Is 20 percent or greater if:

(i) Another person owns an interest in the entity and the person is regulated by, licensed by, lobbies, or has a contract with an annual value of \$5,000 or more with the individual's board or commission; or

(ii) The entity owns a direct financial interest in another entity that is regulated by, licensed by, lobbies, or has a contract with an annual value of \$5,000 or more with the individual's board or commission.

(5) Gifts.

(a) Except as provided in §B(5)(b) of this regulation, an individual shall disclose the information specified in [State Government] *General Provisions* Article, §[15]5-607(e), Annotated Code of Maryland, for a gift in excess of \$50 in value and for any series of gifts totaling over \$100 in value in the reporting period from any person doing business with, regulated by, or registered as a lobbyist before the individual's board or commission.

(b) This subsection does not require an individual to report gifts from the individual's immediate family members, parents, or children.

(6) An individual shall disclose the information specified in [State Government] *General Provisions* Article, §[15]5-607(f), Annotated Code of Maryland, for any office, directorship, or salaried employment with any entity that does business with the individual's board or commission that was held by the individual or a member of the individual's immediate family during the reporting period.

(7) An individual shall disclose the information specified in [State Government] *General Provisions* Article, §[15]5-607(g), Annotated Code of Maryland, for a debt the individual owed at any point in the reporting period to any person

or entity that does business with the individual's board or commission or is under the authority of the individual's board or commission.

(8) For an immediate family member of the individual who was employed by the individual's board or commission during the reporting period, an individual shall report:

- (a) The name of the immediate family member;
- (b) The familial relationship between the individual and the immediate family member; and
- (c) The title of the position the immediate family member held with the board or commission.

(9) Salary or Business Ownership.

(a) An individual shall disclose the information specified in §B(9)(b) of this regulation for each:

(i) Place of salaried employment of the individual and each member of the individual's immediate family held at any time during the reporting period;

(ii) Business entity of which the individual or a member of the individual's immediate family was a sole owner and from which the individual or the member of the immediate family earned income during the reporting period; and

(iii) Business entity of which the individual or member of the individual's immediate family member was a partial owner, if the business entity did business with the individual's board or commission during the reporting period, and the individual or member of the individual's immediate family earned income during the reporting period.

(b) A disclosure required under this subsection shall include:

(i) The name and address of the place of salaried employment or business entity owned;

(ii) Whether the relationship is an employment or ownership interest; and

(iii) The identity of the holder of the interest or employment.

(10) An individual may disclose any other interests or information that has not been disclosed and that the individual chooses to disclose.

C. An individual who files a financial disclosure statement using the electronic filing system of the Commission may disclose the following information in the ranges specified in the electronic filing system:

(1) For a real property interest:

(a) If the interest is held jointly with other persons, the percentage interest held by each owner;

(b) The consideration paid when the interest was acquired, the fair market value if acquired other than by purchase, or the annual rent if the individual rents the property; and

(c) If any portion of the interest was transferred in the reporting period, the percentage of the interest that was transferred and the amount of consideration received for the interest;

(2) For an interest in a corporation:

(a) The number of shares held or the value of the shares;

(b) If the interest is held jointly with other persons, the percentage interest held by each owner;

(c) If an interest was acquired during the reporting period in a manner other than by dividend or dividend reinvestment or over \$500 was acquired by dividend or dividend reinvestment, the dollar amount paid or, if acquired in a manner other than by purchase, the fair market value at the time of acquisition; and

(d) If an interest was transferred during the reporting period, the percentage of interest transferred and the amount of consideration received for the interest;

(3) For an interest in a noncorporate business entity doing business with the State:

(a) If the interest is jointly held with other persons, the percentage interest held by each owner;

(b) The value of the interest held by the individual;

(c) If the interest was acquired during the reporting period, the consideration paid or the fair market value if acquired other than by purchase; and

(d) If an interest was transferred during the reporting period, the percentage of interest transferred and the amount of consideration received for the interest; and

(4) For a debt owed to an entity doing business with the State:

(a) The interest rate;

(b) The amount of the debt at the end of the reporting period; and

(c) The amount by which the debt increased or decreased during the reporting period.

Chapter 02 Disclosure by Faculty Members at State Institutions of Higher Education

Authority: [State Government] *General Provisions Article, §[15]5-10[2(aa)(1)(iii)]3, Annotated Code of Maryland*

19A.03.02.01

.01 Faculty Members Required to Disclose.

A. Faculty members at State institutions of higher education who are, in their capacity as faculty members, public officials under COMAR 19A.01.01.02W and who are not also public officials due to their employment in another State position which comes under the definition of public official, are not public officials required to file financial disclosure unless they meet one or both of the criteria set forth in §§B and C of this regulation.

B. Direct Procurement.

(1) Faculty member's official responsibilities include the direct procurement of goods, services, real estate or other items, other than routine supplies and routine classroom or laboratory materials which are not reasonably expected to have an annual dollar volume in excess of \$2,000.

(2) For the purposes of §B(1) of this regulation, "direct procurement" includes but is not limited to placing an order with a vendor, approval of bills or invoices, signing of sales agreements, or selection of vendors.

C. Direct Influence.

(1) Faculty member's position, due to its responsibilities, nature, expertise or placement in the institution, involves some continuing likelihood (based on position description or actual past activities carried out in the position) of directly influencing or otherwise directly affecting the formation or execution of one or more State contracts, purchases or sales reasonably expected to have an annual dollar volume in excess of \$10,000.

(2) For the purposes of §C(1) of this regulation, "directly influencing or otherwise directly affecting" the formation or execution of a contract shall be deemed to include:

(a) Recommending a vendor;

(b) Providing the required signature, approval or other sign-off of a document relating to specifications, a purchase or a payment;

(c) Being involved in communications or conferences with potential contractors in an attempt to arrange the terms of a purchase, lease, or contract;

(d) Preparing specifications, being a principal advisor regarding specifications, or approving specifications which form the basis for part or all of a contract;

(e) Determining or being a principal advisor in determining terms acceptable to the State.

(3) As used in §C(1), of this regulation, "directly influencing or otherwise directly affecting" the formation or execution of a contract does not include the generic identification of the need for an item without any further activity to directly influence or otherwise directly affect the transaction.

Chapter 03 Disclosure by Public Officials, State Officials, and Candidates to Be State Officials

Authority: [State Government] *General Provisions* Article, §§[15]5-10[2]I, [15]5-206, [15]5-601, and [15]5-602, Annotated Code of Maryland

.01 Applicability.

A. This chapter applies to an official or a candidate to be a State official who is required to file a financial disclosure statement under [State Government] *General Provisions* Article, §§[15]5-601(a) and (e), [15]5-603, [15]5-604, or [15]5-605, Annotated Code of Maryland.

B. Scope.

(1) Except as provided in §B(2) of this regulation, this chapter does not apply to an individual who:

(a) Is a public official solely because of the individual's service on a State board, commission, or task force; or

(b) Is required to file a financial disclosure statement under COMAR 19A.03.01.

(2) This chapter applies to:

(a) A member of the Board of Directors of the Maryland Environmental Service;

(b) A member of the Parole Commission

(c) A member of the Board of Directors of the Injured Workers' Insurance Fund;

(d) A member of the Maryland-National Capital Park and Planning Commission;

(e) A member of the Washington Suburban Sanitary Commission;

(f) A member of the Washington Suburban Transit Commission;

(g) A member of the Public Service Commission;

(h) A member of the Workers' Compensation Commission; and

(i) A public official who is a member of a board or commission and who receives annual compensation that is equal to or exceeds 25 percent of the lowest annual compensation at State grade level 16.

.02 Disclosure Requirements.

A. An individual shall file the financial disclosure statement required by State Government Article, Title 15, Subtitle 6, Annotated Code of Maryland, on a form or the electronic filing system provided by the Commission.

B. An individual who files a financial disclosure statement using the electronic filing system of the Commission may disclose the following information in the ranges specified in the electronic filing system:

(1) For a real property interest:

(a) If the interest is held jointly with other persons, the percentage of interest held by each owner;

(b) The consideration paid when the interest was acquired, the fair market value if acquired other than by purchase, or the annual rent if the individual rents the property; and

(c) If any portion of the interest was transferred in the reporting period, the percentage of interest that was transferred and the amount of consideration received for the interest;

(2) For an interest in a corporation:

(a) The number of shares held or the value of the shares;

(b) If the interest is held jointly with other persons, the percentage of interest held by each owner;

(c) If an interest was acquired during the reporting period in a manner other than by dividend or dividend reinvestment or over \$500 was acquired by dividend or dividend reinvestment, the dollar amount paid or, if acquired in a manner other than by purchase, the fair market value at the time of acquisition; and

(d) If an interest was transferred during the reporting period, the percentage of interest transferred and the amount of consideration received for the interest;

(3) For an interest in a noncorporate business entity doing business with the State:

(a) If the interest is jointly held with other persons, the percentage of interest held by each owner;

(b) The value of the interest held by the individual;

(c) If the interest was acquired during the reporting period, the consideration paid or the fair market value if acquired other than by purchase; and

(d) If an interest was transferred during the reporting period, the percentage of interest transferred and the amount of consideration received for the interest; and

(4) For a debt owed to an entity doing business with the State:

(a) The interest rate;

(b) The amount of the debt at the end of the reporting period; and

(c) The amount by which the debt increased or decreased during the reporting period.

Authority: General Provisions Article, § 5-602, Annotated Code of Maryland

.01 Application.

Except as otherwise provided in Regulation .02 of this chapter, an individual required to file a financial disclosure statement under this subtitle shall file the financial disclosure statement using the electronic filing system provided by the Commission.

.02 Exemptions.

An individual may file a financial disclosure statement required under this subtitle on a paper form provided by the Commission if:

- A. The individual is identified as a financial disclosure filer prior to October 1, 2014;*
- B. The individual filed a financial disclosure statement prior to October 1, 2014; and*
- C. The individual's most recent financial disclosure statement filed with the Commission was filed using a paper form approved by the Commission.*

.03 Hardship Exemptions.

The Executive Director of the Commission may grant an exemption from the requirement of Regulation .01 of this chapter if the individual applies for an exemption using a form provided by the Commission; and

- A. The individual has a disability that prevents the individual from filing using the electronic filing system;*
- B. The individual does not have access to the technology necessary to use the electronic filing system; or*
- C. The individual is unable to use the electronic filing system due to other hardship.*

.04 Candidate Exemptions.

- A. An incumbent candidate for State office shall be governed by the provisions of Regulation .02 of this chapter with respect to eligibility for an exemption from filing a financial disclosure statement using the electronic filing system.*
- B. Non-incumbent candidates for State office may file a financial disclosure statement using a paper form approved by the Commission provided upon request by the Commission or the State Board of Elections.*
- C. An individual who qualifies for an exemption under §A or §B of this regulation may elect to file a financial disclosure statement using the Commission's electronic filing system.*

