

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>
	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 01 03 11

**3. Name of Promulgating Authority**

State Ethics Commission

**4. Name of Regulations Coordinator**

Jenninfer K Allgair

**Telephone Number**

410-260-7770

**Mailing Address**

45 Calvert Street

**City State Zip Code**

Annapolis MD 21401

**Email**

jennifer.allgair@maryland.gov

**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: September 8, 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**

Executive Director

**Telephone No.**

410-260-7770

**Date**

September 8, 2014

**Title 19A**  
**A STATE ETHICS COMMISSION**

**Subtitle 01 PROCEDURES**

**19A.01.03 Enforcement Procedures**

Authority: General Provisions Article, §§ 5-206, 5-401- 5-408, and 5-901 – 5-904,  
Annotated Code of Maryland

**Notice of Proposed Action**

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The State Ethics Commission proposes to amend COMAR 19A.01.03.11.

**Statement of Purpose**

The purpose of this action is to corrects statutory references required as a result of legislation that moved the Public Ethics Law from the State Government Article to the General Provisions Article.

**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](mailto: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 proposed regulations simply correct cross references and make no substantive changes.

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

The proposed regulations simply correct cross references and make no substantive changes.

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

The proposed regulations simply correct cross references and make no substantive changes.

G. Small Business Worksheet:

1a. The intended beneficiaries of these regulations include State employees, officials and the general public. 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:

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19A.01.03.11 (copied 9/8/14)

**Title 19A**

**STATE ETHICS COMMISSION**

**Subtitle 01 PROCEDURES**

**Chapter 03 Enforcement Procedures**

Authority: [State Government Article, §§ 15-206, 15-401—15-408, and 15-901—15-904,] *General Provisions Article*, §§ 5-206, 5-401- 5-408, and 5-901 – 5-904, Annotated Code of Maryland

**.11 Commission Decision.**

A. A Commission decision following a hearing shall be:

- (1) Made in accordance with its regular procedures as set forth in COMAR 19A.01.01; and
- (2) Based on a preponderance of the evidence presented at the hearing as set forth in Regulation .10E of this chapter.

B. If, after a hearing, the Commission finds that a respondent has violated [State Government] *General Provisions Article*, Title [15] 5, Annotated Code of Maryland, the Commission shall issue a written report that:

- (1) Includes findings of facts and conclusions of law for each of the violations alleged in the hearing notice; and
- (2) Disposes of all disputed issues referenced in the hearing notice.

C. If the Commission finds that the respondent has not violated any of the provisions of [State Government] *General Provisions Article*, Title [15] 5, Annotated Code of Maryland, as alleged in the hearing notice, the Commission shall:

- (1) Issue an order dismissing the complaint; and
- (2) Promptly send a copy of the order to the complainant and the respondent.

D. Sanctions.

(1) If the Commission finds that the respondent has violated any of the provisions of [State Government] *General Provisions Article*, Title [15] 5, Annotated Code of Maryland, the Commission may take any action authorized in [State Government] *General Provisions Article*, [§15-405] §5-405 or Title [15] 5, Subtitle 9, Annotated Code of Maryland.

(2) In determining the sanctions to impose in a matter involving a finding of a violation of [State Government] *General Provisions Article*, Title [15] 5, Subtitle 7, Annotated Code of Maryland, the Commission may consider all relevant factors, including:

- (a) The extent to which the respondent derived financial benefit from the prohibited conduct;
- (b) The willfulness of the prohibited conduct;

(c) Any history of violations of the Public Ethics Law by the respondent;

(d) The severity of the violation;

(e) The cost of investigating and prosecuting the case against the respondent;

(f) The necessity to protect the public interest and the integrity of the governmental process; and

(g) Any conviction of the individual regulated lobbyist of bribery, theft, or other crime involving moral turpitude based on acts arising from lobbying activities.

E. If the Commission finds that the respondent has violated the financial disclosure or lobbying reporting provisions of [State Government] *General Provisions* Article, Title [15] 5, Subtitles 6 and 7, Annotated Code of Maryland, the Commission shall impose late fees as set forth in [State Government] *General Provisions* Article, [§15-405] §5-405, Annotated Code of Maryland.

F. An order issued by the Commission pursuant to this regulation shall be served on the parties as set forth in Regulation .02F of this chapter.

G. A final default order issued pursuant to Regulation .10A of this chapter shall be issued as a final decision consistent with this regulation.

H. The Commission may seek judicial enforcement of any order issued pursuant to this regulation, or any other relief as provided in [State Government] *General Provisions* Article, Title [15] 5, Subtitles 2, 3, 4, and 9, Annotated Code of Maryland.