

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	04	03	04
19A	05	03	02 and .03
19A	05	04	01 and .02

3. Name of Promulgating Authority

State Ethics Commission

4. Name of Regulations Coordinator

Jennifer 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: 4/9/14.

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 9, 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 9, 2014

Title 19A
A STATE ETHICS COMMISSION

Subtitle 04 LOCAL GOVERNMENT ETHICS LAW

19A.04.03 Review Procedures

Subtitle 05 BOARD OF EDUCATION ETHICS REGULATIONS

19A.05.03 Review Procedures

Subtitle 05 BOARD OF EDUCATION ETHICS REGULATIONS

19A.05.04 Model Regulations

Authority: General Provisions Article, §§ 5-205 and 5-206 and Title 5, Subtitle 8,
Annotated Code of Maryland

Notice of Proposed Action

[]

The State Ethics Commission proposes to amend COMAR 19A.04.03.04.

Statement of Purpose

The purpose of this action is to implement Chapter 20 of the Acts of the General Assembly of 2014. The regulations authorize the Ethics Commission to issue a public notice that a county, municipal corporation, or board of education has failed to comply with the requirement to adopt an ethics law, regulation, or policy that meets certain standards. The regulations also require the State Ethics Commission to adopt model ethics regulations for boards of education. Finally, the proposed regulations correct statutory 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:

Implementation of these regulations will not require the expenditure of funds by the State Ethics Commission.

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

The regulations only alters the duties of the State Ethics Commission and does not impose any additional duties on the public, small businesses, or local governments.

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 regulations only alters the duties of the State Ethics Commission and does not impose any additional duties on the public, small businesses, or local governments.

G. Small Business Worksheet:

1a. The intended beneficiaries of these regulations include the general public ,local governments and local boards of education. 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 4/9/14)

19A.04.03.04

Title 19A STATE ETHICS COMMISSION

Subtitle 04 LOCAL GOVERNMENT ETHICS LAW

Chapter 03 Review Procedures

Authority: [State Government] *General Provisions* Article, §§ [15]5-206 and Title [15] 5, Subtitle 8, Annotated Code of Maryland

.04 Enforcement.

A. The Commission and its staff [will] *shall* make reasonable efforts to assist counties and municipalities in developing local laws that reflect the intent of the Public Ethics Law and take account of local circumstances and needs in avoiding conflicts of interest within that jurisdiction.

B. Nonconformance Remedies.

(1) If the Commission determines that a county or municipality has not complied with and has not made good faith efforts toward compliance with the requirements of the Public Ethics Law, the Commission may issue a public notice:

a. Concerning the failure of compliance by the local jurisdiction; and

b. Listing the specific areas of noncompliance in the proposed or enacted local ethics law.

[1] (2) If the Commission determines that a county or municipality [does not conform to] *has not complied with* the requirements of the Public Ethics Law, the Commission may seek appropriate relief in a court exercising equity jurisdiction in the county or city having proper venue for the purposes of requiring compliance with the Public Ethics Law.

[(2)] (3) A court may grant any available equitable relief, including imposition of a model law developed by the Commission on the local jurisdiction.

(copied 4/9/14)

19A.05.03.02

Title 19A STATE ETHICS COMMISSION

Subtitle 05 BOARD OF EDUCATION ETHICS REGULATIONS

Chapter 03 Review Procedures

Authority: [State Government] *General Provisions* Article, §§[15-811—15-815] 5-811 – 5-819, Annotated Code of Maryland

.02 Commission Review of Board of Education Regulations.

A. Preliminary Review by Commission.

(1) A board of education may submit proposed new ethics regulations and amendments to the Commission for review prior to final adoption.

(2) The Commission may provide preliminary review and comment on proposed ethics regulations and amendments to a board of education.

B. The Commission shall review all enacted regulations and amendments and shall determine if the regulations or amendments meet the requirements of this subtitle and [State Government] *General Provisions* Article, [Title 15] *Title 5*, Subtitle 8, Part [II] *III*, Annotated Code of Maryland.

C. In determining whether a board of education's regulations or amendments meet the statutory requirements for members of school boards and for being similar to the Public Ethics Law, the Commission shall apply the criteria of COMAR 19A.05.02 and [State Government] *General Provisions* Article, [Title 15] *Title 5*, Subtitle 8, Part [II] *III*, Annotated Code of Maryland.

D. Disapproval by Commission.

(1) The Commission may disapprove a regulation or amendment adopted by a board of education:

(a) Within 60 days of submission by the board to the Commission; and

(b) Only if the Commission finds that the regulation or amendment is not in substantial compliance with this subtitle or [State Government] *General Provisions* Article, [Title 15] *Title 5*, Subtitle 8, Part [II] *III*, Annotated Code of Maryland.

(2) If the Commission determines that a board of education's regulations or amendments do not meet the requirements of this subtitle or [State Government] *General Provisions* Article, [Title 15] *Title 5*, Subtitle 8, Part [II] *III*, Annotated Code of Maryland, the Commission promptly shall notify the board of education of the determination, and Commission staff shall assist the board of education in developing regulations that comply with these requirements.

E. If the Commission does not disapprove a regulation or amendments to a regulation as provided in §D of this regulation, the regulation or amendment is deemed to have been approved.

F. Regulations and amendments adopted under this subtitle and [State Government] *General Provisions* Article, [Title 15] *Title 5*, Subtitle 8, Part [II] *III*, Annotated Code of Maryland, become effective 60 days after submission to the Commission unless the Commission disapproves the regulations as provided in §D of this regulation.

03. Enforcement.

A. The Commission and its staff shall make reasonable efforts to assist a board of education in developing ethics regulations that reflect the intent of the Public Ethics Law and take account of local circumstances and needs in avoiding conflicts of interest within that jurisdiction.

B. Nonconformance Remedies.

(1) If the Commission determines that a board of education has not complied with and has not made good faith efforts toward compliance with the requirements of the Public Ethics Law, the Commission may issue a public notice:

- a. Concerning the failure of compliance by the board of education; and*
- b. Listing the specific areas of noncompliance in the board of education's proposed or adopted ethics regulations.*

(2) If the Commission determines that a board of education has not complied with the requirements of the Public Ethics Law, the Commission may:

- (a) Issue an order providing that officials and employees of the board of education are subject to the ethics laws of the county in which the board of education is located; and*
- (b) Seek appropriate relief in a court exercising equity jurisdiction in the county or city having proper venue for the purposes of requiring compliance with the Public Ethics Law.*

[(2)] (3) A court may grant any available equitable relief, including imposition of a model regulations developed by the Commission on the board of education.

Title 19A STATE ETHICS COMMISSION

Subtitle 05 BOARD OF EDUCATION ETHICS REGULATIONS

Chapter 04 Model Regulations

Authority: General Provisions Article, §§5-205 and 5-206, and Title 5, Subtitle 8, Annotated Code of Maryland

.01 Model Regulations.

The model board of education ethics regulations in Appendices A and B to this subtitle are established as alternative model provisions developed by the Commission under General Provisions Article, §5-205, Annotated Code of Maryland.

.02 Effect of Models.

A. Status.

(1) The model board of education ethics regulations in Appendices A and B to this subtitle are informational and examples only.

(2) The Commission shall determine whether a board of education's ethics regulations comply with the requirements of General Provisions Article, Title 5, Subtitle 8, Annotated Code of Maryland, based on the criteria and guidelines set forth in COMAR 19A.05.02 and the Public Ethics Law.

B. Compliance with Public Ethics Law Requirements.

(1) The model regulations in Appendices A and B comply with the requirements of General Provisions Article, Title 5, Subtitle 8, Annotated Code of Maryland.

(2) The model conflict of interest and financial disclosure provisions for members of the school board in Appendices A and B are equivalent to the requirements of General Provisions Article, Title 5, Subtitles 5 and 6, Annotated Code of Maryland.

C. Applicability.

(1) The model regulations in Appendix A may be viewed as a guide for boards of education located in larger counties.