

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
State Ethics Commission**  
(DLS Control No. 16-149)

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**Overview and Legal and Fiscal Impact**

The State Ethics Commission is amending the below-referenced regulations to specify the timeframe for the filing of specified motions, repeal provisions relating to excepted blind trusts, specify office hours and hours for copying of documents, repeal specified ethics provisions relating to participation in procurement, and correct or update statutory and regulatory cross references.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

**State Ethics Commission:**

Procedures: General Provisions: COMAR 19A.01.01.02 and .04

Advisory Opinions: COMAR 19A.01.02.02 and .05

Enforcement Procedures: COMAR 19A.01.03.02, .09, and .10

Local Government Ethics Law: Appendices A and B – Model Ethics Laws A and B:  
COMAR 19A.04.00.00

General Provisions: COMAR 19A.04.01.03

Review Criteria: COMAR 19A.04.02.04 and .05

Review Procedures: COMAR 19A.04.03.01

Board of Education Ethics Regulations: Appendices A and B – Model Board of Education  
Ethics Regulations: COMAR 19A.05.00.00

Review Criteria: COMAR 19A.05.02.04 and .06

Blind Trusts: General Provisions: COMAR 19A.06.01.03

Criteria for Certification and Exception: COMAR 19A.06.02.04 and .05

Procedural Requirements: COMAR 19A.06.03.05 and .07

Lobbying: General: COMAR 19A.07.01.04, .06, .07, and .08

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**Legal Analysis**

**Background**

Several of these regulations implement provisions of Chapter 615 of 2013, entitled “Public Ethics – Definition of “Interest” – Mutual Funds”. This Act excludes specified mutual funds from the definition of “interest” under the Maryland Public Ethics Law. The treatment of the excluded

mutual funds is made consistent with the treatment of other mutual funds or other interests in certain retirement accounts and college savings plans, which are also excluded from the definition of “interest”.

The regulations regarding the repeal of ethics provisions relating to procurement implement provisions of Chapter 271 of 2015, entitled “Jurisdiction of the State Ethics Commission and the Maryland State Board of Contract Appeals – Participation in Procurement”. This Act transferred to the Maryland State Board of Contract Appeals jurisdiction to hear and decide appeals arising from a final action of a State procurement unit related to violations of specified procurement ethics provisions and repealed the State Ethics Commission’s jurisdiction to hear those appeals.

## **Summary of Regulations**

The regulations amend COMAR 19A.01.01.02 to update the definition of “interest” to exclude specified mutual funds and qualified tuition plans.

The regulations also amend COMAR 19A.01.01.04 to specify the commission’s operating hours and the hours for copying documents at the commission and require the commission to provide notice of the estimated costs of copying commission records.

As amended, COMAR 19A.01.03.09 specifies that, during a prehearing process, a response to a motion is required to be filed with the commission within 10 working days after receiving a the initial motion, an increase from 5 days.

The regulations repeal provisions regarding participation in procurement under prohibited conflict of interest provisions under COMAR 19A.04 Appendices A and B (Model Ethics Laws), 19A.05 Appendices A and B (Model Board of Education Ethics Regulations), 19A.04.02.04, and 19A.05.02.04.

In addition, the regulations amend COMAR 19A.04 Appendix A (Model Ethics Law A) to increase a specified administrative fee and expand the applicability of specified financial disclosure requirements to include a relevant county, city, or town employee. The regulations also amend Appendix B (Model Ethics Law B) to increase fees for penalties imposed for violations of the ethics law.

The regulations amend various provisions regarding blind trusts to repeal all provisions relating to the limited category of excepted blind trusts. Excepted blind trusts are trusts created before October 1, 1995 by another individual who is not an official or employee for the benefit of an official or employee before the official or employee took a position with the State that may include interests that pose a conflict of interest for the official or employee that would likely not meet the criteria for a certified blind trust.

Lastly, the regulations update statutory and regulatory cross references and make clarifying changes in language.

## **Legal Issues**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The commission cites §§ 5-205 and 5-206 of the General Provisions Article as statutory authority for these regulations. Section 5-205 requires the commission to adopt by regulation model provisions for local governments and school boards on conflicts of interest, financial disclosure, and lobbying. Section 5-206 authorizes the commission to adopt regulations to implement the provisions in the Maryland Public Ethics Law.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

The commission advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs and notes that, in general, the regulations implement the provisions of Chapter 37 of 2014 (Senate Bill 129) relating to penalty fees for late ethics filings, Chapter 160 of 2015 (Senate Bill 343) relating to informal opinions by ethics counsel, and Chapter 271 of 2015 (House Bill 738) relating to which entity has jurisdiction over ethics in procurement. Any fiscal impacts expected from those changes have already been accounted for in the fiscal and policy notes for those bills.

## **Impact on Budget**

There is no impact on the State operating or capital budget.

## **Agency Estimate of Projected Small Business Impact**

The commission advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

## **Contact Information**

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