

**Maryland General Assembly  
Department of Legislative Services**

**Emergency/Proposed Regulation  
State Board of Education  
(DLS Control No. 20-044)**

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**Overview and Legal and Fiscal Impact**

This regulation authorizes the State Superintendent of Schools, during a declared state of emergency, to issue a temporary, nonrenewable emergency certificate to specified individuals employed by a local school system, state institution, or nonpublic school. Applicants for an emergency certificate must meet specified requirements.

This regulation presents no legal issue of concern.

There is no fiscal impact on State or local agencies.

**Regulation of COMAR Affected**

**State Board of Education:**

Certification: General Provisions: COMAR 13A.12.01.14

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**Legal Analysis**

**Background**

On March 5, 2020, Governor Larry Hogan issued a proclamation declaring a state of emergency and a catastrophic health emergency in Maryland regarding the novel coronavirus pandemic. In keeping with federal and global health expert guidance, the Governor's related actions included issuing executive orders requiring social distancing and prohibitions on gatherings of more than 10 people. The Governor also ordered the closure of all nonessential businesses, including institutions of higher education, school buildings, and testing centers.

Given the uncertainty regarding in-person gatherings of more than 10 people for the foreseeable future, many government agencies and other organizations canceled the 2020 administration of assessments and examinations for students in K-12 and higher education (e.g., SATs, licensing examinations). Many students in teacher preparation programs were unable to finish the required teacher practicum or take the State certification examinations.

## **Summary of Regulation**

The regulation authorizes the State Superintendent, during a declared state of emergency, to issue an emergency certificate to an individual employed by a local school system, state institution, or nonpublic school. An applicant for an emergency certificate must (1) be enrolled, in good standing, in a Maryland teacher preparation program and have completed all program requirements except for the teacher practicum and the certification assessments, or (2) hold a conditional degree or conditional nondegree certificate and have completed specified requirements. The emergency certificate is nonrenewable and valid until 6 months after the date the state of emergency is declared over.

## **Legal Issues**

This regulation presents no legal issue of concern.

## **Statutory Authority and Legislative Intent**

The State Department of Education cites §§ 2-205, 2-303(g), and 6-701 through 6-706 of the Education Article and § 10-119.3 of the Family Law Article as statutory authority for this regulation. More specifically, §§ 2-205, 2-303(g), and 6-704(a) are relevant authority.

Section 2-205 requires the State Board of Education to adopt bylaws, rules, and regulations for the administration of public schools in the State. Section 2-303(g) requires the State Superintendent to certify the professional personnel in each public school in accordance with the provisions of the Education Article and subject to the bylaws, rules, and regulations of the Professional Standards and Teacher Education Board (PSTEB). Section 6-704(a) requires, in accordance with Title 10, Subtitle 1 of the State Government Article, the State board and PSTEB to develop for consideration rules and regulations, in relevant part, for the certification of teachers and other professional personnel in accordance with the Education Article.

Section 6-704(a)(2), (4), (6), and (7), requires any rules and regulations initiated by the State Board to be reviewed by PSTEB within 60 days of receipt by PSTEB. The regulations are required to be implemented unless disapproved by PSTEB, and if disapproved, may be implemented if the vote of the State board for the proposed regulation is three-fourths. Under COMAR 13A.12.06.01C, PSTEB's 60-day review period for the State board's initiated regulation begins 10 days after initial publication in the Maryland Register. Although there is no initial publication for an emergency regulation, the department has proposed a permanent regulation concurrently with the emergency regulation and, therefore, PSTEB will have the opportunity to provide feedback and comment through that process.

The relevant cited authority is correct and complete. The regulation complies with the legislative intent of the law.

## **Emergency Status**

The department requests emergency status beginning May 26, 2020 and expiring November 20, 2020. This emergency period is within the normal time frames approved by the Joint Committee on Administrative, Executive, and Legislative Review. The department indicates the emergency status is necessary to prevent the worsening of an existing teacher shortage. The 2020 administration of teacher certification assessments has been cancelled due to the closure of testing centers under the Governor’s executive orders regarding the state of emergency for the novel coronavirus pandemic. This regulation will authorize the hiring of eligible individuals by local schools systems, states institutions, or nonpublic schools on a temporary basis until the individual may complete the required certification assessments.

## **Technical Corrections**

The Department of Legislative Services has advised staff for the State board that there is a typographical error in proposed COMAR 13A.12.01.14C(1)(b), which says “renewal” instead of “renewable”.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

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

The department advises that the regulation has no fiscal impact on State or local governments; however, local school systems may have greater flexibility in hiring teachers who have not yet taken certification assessments under specified conditions during and directly after a state of emergency. The Department of Legislative Services concurs.

## **Impact on Budget**

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

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

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

## **Contact Information**

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