

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	12/07/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 1/20/2017

2. COMAR Codification

Title Subtitle Chapter Regulation
28 01 02 .01, .02, .03

3. Name of Promulgating Authority

Office of Administrative Hearings

4. Name of Regulations Coordinator Telephone Number
Denise O Shaffer 410-229-4174

Mailing Address

11101 Gilroy Road

City State Zip Code
Hunt Valley MD 21031

Email
denise.shaffer@maryland.gov

5. Name of Person to Call About this Document Telephone No.
Denise Oakes Shaffer 410-229-4174

Email Address
denise.shaffer@maryland.gov

6. Check applicable items:
 New Regulations

X- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: Not Applicable.

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 General Provisions Article, §3-302(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 Michele J. McDonald, Assistant Attorney General, (telephone #410-576-6576) on November 22, 2016. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Thomas Dewberry

Title

Chief Administrative Law Judge

Telephone No.

410-229-4105

Date

November 22, 2016

Title 28
OFFICE OF ADMINISTRATIVE HEARINGS

Subtitle 01 ADMINISTRATION

28.01.02 Security and Decorum

Authority: Authority: State Government Article, § 9-1604(b)(1)(v); General Provisions Article, §§ 4-101 to 4-601, Annotated Code of Maryland

Notice of Proposed Action

[]

The Office of Administrative Hearings proposes to adopt new and amend Regulation 28.01.02 under COMAR Title 28, Office of Administrative Hearings.

Statement of Purpose

The purpose of this action is to codify the existing weapons and decorum policy at the Office of Administrative Hearings. The adoption of this regulation will clarify the policy and further the safety and security of State Employees and members of the public who appear before the Office of Administrative Hearings.

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 Denise Shaffer, Deputy Director of Operations, Office of Administrative Hearings, 11101 Guilroy Road, Hunt Valley, MD 21031, or call 410-229-4174, or email to denise.shaffer@maryland.gov, or fax to 410-229-4100. Comments will be accepted through January 6, 2016. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2017

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:

No funds are necessary to implement this regulation.

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

These regulations will have no economic impact because the Office of Administrative Hearings is only proposing to codify the existing policy at the Office of Administrative Hearings. The adoption of this regulation will clarify the policy and further the safety and security of State Employees and members of the public who appear before the Office of Administrative Hearings.

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

These regulations will have no economic impact on small businesses because the Office of Administrative Hearings is only proposing to codify the existing policy at the Office of Administrative Hearings. The adoption of this regulation will clarify the policy and further the safety and security of State Employees and members of the public who appear before the Office of Administrative Hearings.

G. Small Business Worksheet:

(1) There is no anticipated effect on the cost of providing goods and services; (2) There is no anticipated effect on the work force; (3) There is no anticipated effect on the cost of housing; (4) There is no anticipated effect on efficiency in production and marketing; (5) There is no anticipated capital investment, taxation, competition, and economic development; and (6) There is no anticipated effect on consumer choice.

Attached Document:

Title 28 Office of Administrative Hearings

Subtitle 01 Administration

Chapter 02 Security and Decorum

Authority: State Government Article, § 9-1604(b)(1)(v); General Provisions Article, §§ 4-101 to 4-601, Annotated Code of Maryland

.01 Definitions

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

B. Terms Defined.

(1) Agency.

(a) "Agency" means any unit of government whose action gives rise to a contested case hearing under State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland; or

(b) "Agency" includes other units of government or private entities having a proceeding before the Office of Administrative Hearings to which the Chief Administrative Law Judge may assign a judge.

(2) "Firearm" means any device capable of propelling a missile by gunpowder or similar explosive, including but not limited to, any gun, rifle, shotgun, handgun, pistol, or revolver.

(3) "Office" means the Office of Administrative Hearings.

(4) "Office facility" means any facility where a hearing or mediation is scheduled.

(5) "Police Officer" means any State or local officer who is authorized to make arrests as part of the officer's official duty.

(6) Weapon.

(a) "Weapon" means a device capable of:

(i) Propelling a missile or substance at high velocity by mechanical means, explosion, or expanding gas; or

(ii) Inflicting death or bodily harm to any individual, maiming or destroying wildlife, or destroying property.

(b) "Weapon" includes, but is not limited to any firearm, longbow dirk knife, bowie knife, switchblade, club, metal knuckles, razor, box cutter, nunchaku, taser, or pepper spray/mace. "Weapon" also includes any other device or object designed to be used to inflict pain or cause injury.

(c) "Weapon" does not include a penknife without a switchblade.

.02 Weapons/Dangerous Items Policy

A. The Office does not permit weapons in any of its Office facilities. Individuals who legally possess the right to wear and carry firearms must secure the weapon in their vehicles prior to entering an Office facility.

B. Failure to secure the weapon in a vehicle prior to entering an Office facility may result in suspension of the hearing or mediation pursuant to the authority of the Administrative Law Judge to maintain order. COMAR 28.02.01.11.

C. Exceptions to the weapons policy are:

(1) A Police Officer in uniform, acting in his or her official capacity, who has been summonsed to appear as a witness for a hearing at a facility of the Office and/or who is on official duty and representing his or her Agency in an administrative hearing. Firearms may be carried as directed by the Police Officer's Agency's policy on wearing and carrying firearms while in uniform.

(2) A Police Officer not in uniform who is acting in his or her official capacity as a representative of his or her Agency in an administrative hearing, will display his or her badge of authority and conform to his or her Agency's policy on wearing and carrying firearms while not in uniform.

D. Dangerous or toxic items, including, but not limited to chemicals and sharp objects, that pose a threat to health or safety are prohibited by the Office. Any party who wants to offer such an item as evidence must file a motion and obtain the approval of the presiding Administrative Law Judge prior to the hearing before bringing the item to the Office.

E. Illegal drugs are prohibited at the Office and are subject to confiscation.

.03 Decorum/Security

A. All parties, their authorized representatives, witnesses, and other persons present at a hearing shall conduct themselves in a manner consistent with the standards of decorum commonly observed in any court.

B. An Administrative Law Judge has the power and duty pursuant to COMAR 28.02.01.11 to maintain order in the hearing.

C. Disrespectful, disorderly, disruptive, contemptuous, vulgar, or violent conduct or language, refusal to comply with directions, or continued use of dilatory tactics by any person constitutes grounds for immediate exclusion of such person from the hearing by the Administrative Law Judge.

D. Any person who presents a threat to safety or who is disrupting any Office operations or proceedings may be removed from the premises.