

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
State Board of Education**
(DLS Control No. 19-130)

Overview and Legal and Fiscal Impact

The regulation requires a local school system to disqualify a substitute teacher under specified circumstances, and requires the Maryland State Department of Education to create and maintain an electronic database of disqualified substitute teachers.

The regulation presents no legal issues of concern.

There is no material fiscal impact on State or local agencies.

Regulation of COMAR Affected

State Board of Education:

School Personnel: Disqualification Criteria for Substitute Teachers:
COMAR 13A.07.12.01

Legal Analysis

Background

In March 2018, the State Superintendent of Schools convened a workgroup to review regulations that relate to the reporting of specified misconduct of certificated individuals. The workgroup included representation from seven counties, met seven times, and submitted recommendations to the department. In particular, the workgroup identified a need for a statewide database to house the names of disqualified substitute teachers since substitute teachers are not required to be certificated and therefore do not come under existing reporting requirements. The regulation being proposed implements the recommendations of the workgroup and of the department.

Summary of Regulation

The regulation requires a local school system to disqualify a substitute teacher from employment in any local school system if the individual:

- pleads guilty or nolo contendere or receives probation before judgment with respect to, or is convicted of, a crime involving contributing to the delinquency of a minor,

moral turpitude, a controlled dangerous substance offense under specified circumstances, child abuse or neglect, a crime of violence, sexual solicitation of a minor, or possession, distribution, or production of child pornography;

- knowingly fails to report suspected child abuse; or
- is dismissed or resigns after notice of allegations of misconduct or child sexual abuse.

Before disqualifying a substitute teacher, a local school system must send the individual notice of the proposed action, including the cause for disqualification, and provide the individual with an opportunity to challenge the disqualification. After disqualification, within 10 days, a local school system must notify the department of the disqualification. Further, the regulation requires the department to create and maintain an electronic database of disqualified substitute teachers. An individual remains in the database pending a challenge or an appeal regarding inclusion of the individual in the database. A list of disqualified individuals must be provided to each local school system on a monthly basis, and a local school system must check the list prior to employing an individual as a substitute teacher.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The State Board of Education cites § 2-205 of the Education Article as statutory authority for the regulation. Section 2-205 requires the State board to determine the elementary and secondary educational policies of the State and to adopt regulations for the administration of the public schools.

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

Technical Corrections

The department has submitted a replacement page to correct typographical errors in the document.

Fiscal Analysis

There is no material fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the database required by the regulation is part of the scope of work for a new Educator Information System, which is being developed in fiscal year 2020 and 2021. No funding beyond that already identified for the project is required. The Department of Legislative Services concurs. This analysis assumes that there is no material impact from the appeals process or the local school systems determining that an individual must be disqualified from substitute teaching.

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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