

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Education**
(DLS Control No. 19-226)

Overview and Legal and Fiscal Impact

The regulations establish the process through which a certified teacher who is actively teaching may be elected to serve on the State Board of Education.

The regulations present no legal issues of concern.

General fund expenditures increase by approximately \$22,600 per teacher election beyond the amount estimated in the fiscal and policy note for House Bill 87 and Senate Bill 529 of 2019 (enacted as Chapters 576 and 577 of 2019). There is no fiscal impact on local agencies.

Regulations of COMAR Affected

State Board of Education:

School Personnel: State Board of Education Teacher Member Election:
COMAR 13A.07.13.01 through .07

Legal Analysis

Background

Chapters 576 and 577 of 2019 (State Board of Education – Membership – Teacher and Parent Members) became law without the Governor’s signature and went into effect on June 1, 2019. This legislation increased the membership of the State board from 12 members to 14 members by adding to the State board a certified teacher who is actively teaching and a parent of a student enrolled in a public school in the State. Chapters 576 and 577 also required the State Department of Education to adopt regulations that govern the election of the teacher member of the State board.

The State board submitted a request for approval of emergency status for substantially similar regulations on September 13, 2019 (see DLS Control No. 19–169E). The Joint Committee on Administrative, Executive, and Legislative Review held a public hearing on those regulations on October 24, 2019 and heard from representatives of the State board, the department, and other interested parties. The committee approved the requested emergency status at the hearing, to begin that day and expire on April 21, 2020.

Summary of Regulations

The regulations establish the process through which a certified teacher who is actively teaching may be elected to serve on the State board. “Actively teaching” is defined as a teacher who is employed full-time, is not employed as a substitute, is not on extended leave, and teaches for at least 30 percent of the work week. The department must provide notice of vacancies, eligibility requirements, and information on how to vote for a candidate, as well as prepare and disseminate a schedule for conducting the election. The schedule must include the time period during which a nomination form can be obtained, the date by which a teacher must be certified to qualify as a candidate or as a voter in the election, the date by which nomination forms are due, the date by which candidates’ names will be certified for the ballot, and the date on which election results will be announced publicly. This schedule must be posted online and transmitted by email to all certified teachers in the State.

In order to be placed on a ballot, teachers must meet specified eligibility requirements. In addition to the requirement to be actively teaching in a public or nonpublic school in Maryland for at least five years, candidates must be a Maryland resident, be certified to teach in Maryland, be current on all debts, and complete an ethics disclosure form. Further, a candidate may not have been convicted of specified crimes or have ever had a certificate suspended or revoked by the department. Teachers must nominate themselves, and must submit for consideration: name, school, and assignment area; mailing address, email address, and phone number; a brief biography and a resume; a personal statement of not more than 500 words; verification from the human resources director or equivalent position that the candidate is actively teaching and has completed a criminal background check; three letters of support from individuals who are not immediate family members; documentation that proves that the candidate informed the local superintendent or head of the nonpublic school of the intent to nominate himself or herself; and a completed ethics disclosure form. The department must accept, or reject, the nomination of the teacher, as specified. The department must provide the reasons for rejection upon request of the teacher, and the department’s determination in this regard is final.

The regulations specify different procedures dependent upon how many teachers are eligible for the ballot. If no teachers are eligible, the department will cancel the election and prepare a new election schedule. If only one teacher is eligible, the department will cancel the election and forward the name of that teacher to the Governor for appointment to the State board. If more than 25 teachers are eligible, the department must schedule two rounds of voting. In these two rounds, the first round will include all eligible candidates, and the second round will include the five candidates who receive the most votes in the first round. The winner of the second round wins the election and will be forwarded to the Governor for appointment to the State board. The regulations also authorize a run-off election in the event that the final two candidates receive the same number of votes.

The election will be conducted online and each certified teacher in the State may cast one vote. The ballot will list the candidates’ names in alphabetical order, will include the school and teaching assignment of each candidate, and may also include relevant biographical information, the candidate’s personal statement, the candidate’s resume, and other information submitted on the nomination form. Voting will take place during a one week time period, with the exception of

the necessity of a second round of voting or a run-off election. Within 30 days after the end of the voting period, the department will report to the public the total number of votes received by each candidate and the winner of the election. The regulations also provide a means for a challenge of the results of an election.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The State board cites § 2-202 of the Education Article as statutory authority for the regulations. Section 2-202 specifies the composition of the State board. Of the 13 regular members, one must be a certified teacher who is actively teaching. The Governor must appoint the teacher who receives the highest number of votes after an election by teachers in the State, subject to the advice and consent of the Senate.

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

Fiscal Analysis

General fund expenditures increase by approximately \$22,600 per teacher election beyond the amount estimated in the fiscal and policy note for House Bill 87 and Senate Bill 529 of 2019 (enacted as Chapters 576 and 577 of 2019). There is no fiscal impact on local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations implement the provision of Chapters 576 and 577 of 2019 that adds one certified teacher who is actively teaching to the State Board of Education. The fiscal and policy note for that legislation assumed that general fund expenditures would increase by at least \$7,400 per election for each teacher election. The initial teacher elections will be in fiscal 2020 and 2022; thereafter, elections will be held every four years beginning in fiscal 2026 unless there is a vacancy in the teacher member sooner. At the time the fiscal and policy note was written, the department advised that election costs would be significantly higher: more than \$400,000 in the first year and \$60,000 annually thereafter to properly notify teachers and conduct elections. The Department of Legislative Services disagreed that the cost would be that high. In the economic impact statement for the regulations, the department now indicates that each election will cost approximately \$30,000. The Department of Legislative Services concurs with the department's later estimate of \$30,000; thus, general fund expenditures increase by approximately \$22,600 per teacher election beyond that estimated in the fiscal and policy note for House Bill 87 and Senate Bill 529 of 2019.

Local school systems can confirm information about teachers nominated to stand for election to the department using existing resources. The fiscal and policy note for House Bill 87

and Senate Bill 529 advised that any operational changes associated with having public school teachers serve on the State board could be handled with existing resources.

Impact on Budget

There is no material impact on the State operating or capital budget. Currently budgeted general funds will be allocated for this purpose.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have a potential minimal economic impact on small businesses in the State because the department may hire a small business to conduct the teacher elections. The Department of Legislative Services concurs that any such impact will likely be minimal.

Contact Information

Legal Analysis: Jeremy D. Baker – (410) 946/(301) 970-5350

Fiscal Analysis: Caroline L. Boice – (410) 946/(301) 970-5510