

MARYLAND REGISTER

Emergency Action on Regulations

TO BE COMPLETED BY AELR COMMITTEE	EMERGENCY Transmittal Sheet	TO BE COMPLETED BY DSD
Date Received by AELR Committee		Date Filed with Division of State Documents
08/27/2021		Document Number
Emergency Status Approved		Date of Publication in MD Register
_ -Yes _ -No		
Emergency Status Begins On		
Emergency Status Ends On		
Name of AELR Committee Counsel		

1. COMAR Codification

Title Subtitle Chapter Regulation

13A 01 06 01—.04

2. Name of Promulgating Authority

Maryland State Department of Education

3. Name of Regulations Coordinator

Charlene L Necessary

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4. Name of Person to Call About this Document

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5. Check applicable items:

- New Regulations

- Amendments to Existing Regulations

- Repeal of Existing Regulations

- Incorporation by Reference of Documents Requiring DSD Approval

6. Date Requested for Emergency Status to Begin: 8/30/2021

Date Requested for Emergency Status to Expire: 2/25/2022

7. Agency Will Take the Following Action on These Regulations

- Promulgate them in accordance with State Government Article, §§ 10-101 -- 10-126

- Allow them to expire

8. Is there proposed text which is identical to emergency text:

- Yes - No

9. Check the following item if it is included in the attached document:

- 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.)

10. Reason for Request for Emergency Status

The regulations are necessary to mitigate the spread of COVID-19 in Maryland public schools, prevent public school closures, and limit the number of students required to quarantine out of the classroom during the 2021-2022 school year due to COVID-19. The adoption of standard regulations, which require a notice and comment period, could not be completed in the timeframe required to prevent public school closures and limit necessary quarantines during the 2021-2022 school year. Thus, emergency regulations are being proposed.

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 Elliott L. Schoen, Assistant Attorney General, (telephone #410-576-6465) on August 27, 2021. A signed copy of the approval is on file at this agency.

Name of Authorized Officer

Mohammed Choudhury

Title

State Superintendent of Schools

Telephone No.

410-767-0462

Date

August 27, 2021

Title 13A
A STATE BOARD OF EDUCATION
Subtitle 01 STATE SCHOOL ADMINISTRATION

13A.01.06 Face Coverings in School Facilities

Authority: Education Article, §§ 1-101, 2-205, and 2-303, Annotated Code of Maryland; Federal Statutory References: 20 U.S.C. §1400 et seq., 42 U.S.C. §12101 et seq., 29 U.S.C. § 794, et. seq.

Notice of Emergency Action

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The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to adopt new Regulations .01—.04 under 13A.01.06 Face Coverings in School Facilities.

Emergency status began:

Emergency status expires:

Comparison to Federal Standards

There is no corresponding federal standard to this emergency action.

Estimate of Economic Impact

The emergency action has no economic impact.

Economic Impact on Small Businesses

The emergency action has minimal or no economic impact on small businesses.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2022

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:
Federal relief funds, American Recovery Plan (ARP); Elementary and Secondary School Emergency Relief funds.

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

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

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

G. Response to small business worksheet:

Attached Document:

.01 Scope.

This chapter applies to county boards of education including Baltimore City and all public schools in Maryland.

.02 Definitions.

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

B. Terms Defined.

(1) "Face covering" means a material that covers the nose and mouth to prevent respiratory droplets from being expelled into the air and that:

(a) Is secured to the head, including with ties or ear loops;

(b) Fits snugly but comfortably against the side of the face; and

(c) Is either manufactured or homemade and is a solid piece of material without slits, exhalation valves, or punctures.

(2) "Person with a disability" means any individual with a disability pursuant to the Individuals with Disabilities Education Act 20 U.S.C. §1400, et. seq., the Americans with Disabilities Act 42 U.S.C. §12101, et. seq., or Section 504 of the Rehabilitation Act of 1973 29 U.S.C. §794 et seq.

(3) "Public School" means the schools in the public elementary and secondary education system of Maryland as defined in Education Article, §1-101(k), Annotated Code of Maryland.

(4) "School facility" means a building, enclosed structure, or school bus or vehicle that is owned, leased, or operated by an entity identified in Regulation .01 of this chapter.

.03 Face Covering Requirement.

A. All individuals, unless exempt under §B of this regulation, shall cover their nose and mouth with a face covering while inside a school facility.

B. The following individuals are exempt from the requirement to wear a face covering while inside a school facility:

(1) Children who are under age two (2);

(2) Any person with a disability whose disability prevents the person from wearing a face covering;

(3) Any person with a physical or mental impairment documented by a physician as preventing the person from safely wearing a face covering;

(4) Any person while communicating with a person who is hearing impaired when the ability to see the mouth is essential for communication;

(5) Any person for whom wearing a mask would create a risk to workplace health, safety, or job duty as determined by the relevant workplace safety guidelines or federal regulations;

(6) Any person who is seated and actively consuming food or beverage;

(7) Any person who is swimming in a swimming pool;

(8) Any person who is actively engaged in exercise;

(9) Any person who is actively playing a musical instrument requiring the removal of the face covering;

(10) Any student who is engaged in authorized sleep time;

(11) Any person who is required to temporarily remove the face covering to confirm their identity for security or screening purposes; and

(12) Any person who is receiving services requiring access to the face, mouth, or head.

.04 Implementation.

A. Entities identified in Regulation .01 of this chapter shall implement policies and procedures without delay to ensure face coverings are worn in school facilities as required by this regulation.

B. The State Superintendent of Schools is authorized to enforce this chapter consistent with Education Article, §2-303(b), Annotated Code of Maryland.

C. This chapter shall not prevent an entity identified in Regulation .01 of this chapter from establishing and implementing policies and procedures in addition to those set forth in this chapter.

MOHAMMED CHOUDHURY
State Superintendent of Schools