

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Independent Agencies**  
(DLS Control No. 22-279)

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## **Overview and Legal and Fiscal Impact**

These regulations amend State Higher Education Labor Relations Board procedures to account for changes in technology, create procedures with respect to negotiations that reach an impasse, and alter language to reflect more gender-inclusive references to certain individuals.

The regulations present no legal issues of concern.

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

## **Regulations of COMAR Affected**

### **Independent Agencies:**

State Higher Education Labor Relations Board: Definitions: COMAR 14.30.01.01  
General: COMAR 14.30.02.03  
Executive Director: COMAR 14.30.03.01  
Petitions: COMAR 14.30.04.03 and .04  
Elections: COMAR 14.30.05.17  
Unfair Labor Practices: COMAR 14.30.07.04  
Collective Bargaining: COMAR 14.30.09.01 and .02  
Impasse Procedures: COMAR 14.30.10.02  
Hearings: COMAR 14.30.11.05  
Hearings: COMAR 14.30.11.07  
Hearings: COMAR 14.30.11.14  
Hearings: COMAR 14.30.11.22  
Hearings: COMAR 14.30.11.23

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## **Legal Analysis**

### **Background**

The State Higher Education Labor Relations Board (board) is responsible for enforcing collective bargaining laws with respect to employees of the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College.

The State and its officers, employees, agents, or representatives are prohibited from engaging in unfair labor practices, such as refusing to bargain in good faith. The board may investigate and take appropriate action in response to complaints of unfair labor practices and lockouts.

## **Summary of Regulations**

### Definitions

The regulations amend certain definitions, including: (1) updating statutory references in the definitions of “bargaining unit,” “collective bargaining law,” and “exclusive representative”; (2) updating “employer” to include the Board of Community College Trustees for a community college and the Board of Trustees of Baltimore City Community College; and (3) redefining the term “labor organization.”

### Document Retention

The regulations clarify that board certification of election results shall be retained indefinitely by the Executive Director of the board and certified petitions shall be retained for three years.

### Filing Requirements

The regulations repeal the requirement for a filer who submits a document to the board by electronic mail to also provide a hard copy of the document to the Executive Director or the Executive Director’s designee.

Additionally, the regulations update requirements for filing certain petitions and amended petitions, including the number of copies and certain required contents, and certain contact information requirements.

### Memorandum of Understanding (MOU)

The regulations clarify that negotiations for a MOU must address hours of work, other terms and conditions of employment, and any matter required by law. Also, the regulations update the persons required to sign the MOU and provide that a MOU may not be implemented unless all parties agree in writing and the provision to be implemented has been ratified by the institution’s governing board and a majority of votes cast by the employees in the bargaining unit.

### Collective Bargaining under Title 16, Subtitle 7 of the Education Article

The regulations amend various sections to apply the provisions to collective bargaining conducted under Title 16, Subtitle 7 of the Education Article (relating to community colleges), including (1) petitions for relief from unfair labor practices; (2) negotiations between representatives of the employer and the exclusive representative; and (3) MOU requirements.

Additionally, the regulations add provisions related to impasse procedures for community colleges, including voluntary, non-binding mediation, fact-finding, and resolution of an impasse by the board or binding arbitration under certain circumstances.

### Hearings, Orders, Decisions, and Appeals

The regulations update the required contact information on a request for a hearing to include an email address for the person filing the request and their representative, permit service of certain documents to be made by email, and authorize certain hearings to be conducted by telephone, video conferencing, or other electronic means.

### Clarifying Language

The regulations also update certain outdated terms and alter language to be gender neutral.

### **Legal Issues**

The regulations present no legal issues of concern.

### **Statutory Authority and Legislative Intent**

The board cites §§ 3-2A-05 through 3-2A-07 of the State Personnel and Pensions Article and §§ 10-122, 10-123, and 10-304 of the State Government Article as statutory authority for the regulations.

More specifically, § 3-2A-05 of the State Personnel and Pensions Article establishes the broad authority of the board to administer and enforce provisions of the article with respect to employees of the University System of Maryland, Morgan State University, St. Mary's College of Maryland, Baltimore City Community College, and certain other community colleges. Section 3-2A-05 additionally authorizes the board to establish procedures for, supervise the conduct of, and resolve election disputes for exclusive representatives as well as investigate and take action in response to complaints of unfair labor practices and lockouts and resolve certain matters through mediation in accordance with a certain provision of law. Section 3-2A-06 of the State Personnel and Pensions Article requires the board to adopt and enforce regulations, guidelines, and policies to carry out certain provisions related to collective bargaining, including establishing permissible labor-related activities on the work site. Lastly, § 3-2A-07 of the State Personnel and Pensions Article authorizes the board to investigate certain possible violations and hold hearings in accordance with certain provisions of law when necessary for a fair determination of certain issues or complaints.

The rest of the cited authority is not relevant to these regulations.

Additional authority is found at § 16-715 of the Education Article, which authorizes the board to adopt regulations to carry out that subtitle and requires the board to adopt regulations in accordance with Title 3, Subtitle 6 of the State Personnel and Pensions Article that address ratification, duration, and enforcement of an agreement under this subtitle. However, Title

16, Subtitle 7 of the Education Article does not take effect until September 1, 2022, so technically speaking, the cited statutory authority is complete as of April 2022 (the month in which this analysis was prepared).

The regulations reflect the statutory authority as enacted by Chapters 16 and 27 of the 2021 Special Session.

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

## **Fiscal Analysis**

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

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

The regulations: (1) streamline filing and record keeping requirements; (2) implement provisions of Chapters 16 and 27 of the 2021 special session, which establish a collective bargaining process for local community college employees, including full-time faculty, part-time faculty, and specified staff; and (3) make existing regulations more gender inclusive. The board advises that the changes have no fiscal impact. The Department of Legislative Services advises that any fiscal impact from streamlining filing and record keeping requirements is not material and any fiscal impacts from implementing Chapters 16 and 27 were already accounted for in the fiscal and policy notes for Senate Bill 746 and House Bill 894 of 2021, respectively. The fiscal and policy notes advised that the board's reimbursable revenues and expenditures and community college expenditures, including for Baltimore City Community College, may increase minimally for collective bargaining expenses. There is no fiscal impact to provide gender inclusivity in the language.

### **Impact on Budget**

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

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

The board advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

## **Contact Information**

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