

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
Independent Agencies**  
(DLS Control No. 23-331)

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

These regulations repeal and replace the current regulations that pertain to the State Higher Education Labor Relations Board. The regulations establish a new regulatory framework under the Public Employee Relations Board and provides new definitions and clarifies procedures, filing requirements, and jurisdictional issues for the newly established board.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

## **Regulations of COMAR Affected**

### **Independent Agencies:**

Public Employee Relations Board: Definitions: COMAR 14.30.01.01  
Board Policy: COMAR 14.30.02.01  
General Course and Method of Operation: COMAR 14.30.03.01 and .02  
Filing: COMAR 14.30.04.01 and .02  
Computation of Time Periods: COMAR 14.30.05.01 through .04  
Requests for and Inspection of Board Documents: COMAR 14.30.06.01 and .02  
Petition for Adoption of Regulation: COMAR 14.30.07.01 and .02  
Procedures Applicable to All Proceedings: COMAR 14.30.08.01 through .26  
Unfair Labor Practice Proceedings: COMAR 14.30.09.01 and .02  
Representation Elections: COMAR 14.30.10.01 through .24  
Decertification Elections: COMAR 14.30.11.01 through .05  
Petitions for Unit Clarification: COMAR 14.30.12.01 through .05  
Collective Bargaining: COMAR 14.30.13.01  
Impasse Procedures for Collective Bargaining: COMAR 14.30.14.01 through .05  
Negotiability Disputes: COMAR 14.30.15.01 and .02

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## **Legal Analysis**

### **Background**

Chapter 114 of 2023 restructured the rules, procedures, processes, rights, and prohibitions regarding collective bargaining by public employees. More specifically, the legislation (1) consolidated different collective bargaining laws that apply for different employees into one

set of rules and procedures for public employees; (2) repealed the State Labor Relations Board, the State Higher Education Labor Relations Board, and the Public School Labor Relations Board, and instead established the Public Employee Relations Board (board) to oversee collective bargaining for all public employees; and (3) made several significant and/or substantive changes to the existing collective bargaining processes and requirements.

## **Summary of Regulations**

The regulations repeal the existing Chapter 14.30 and replace those provisions with a new Chapter 14.30.

### **Definitions**

Chapter 14.30.01 defines certain terms, including “Board”, “Chair”, “Deputy Director”, “Executive Director”, and “election period”.

### **Board Policy**

Chapter 14.30.02 specifies that it is the board’s policy to encourage parties to voluntarily settle or adjust disputes so that such efforts at a resolution are consistent with State law.

### **General Course and Method of Operation**

Chapter 14.30.03 sets forth the procedure for processing and assigning petitions and charges filed with the board, including screening the petitions or charges to ensure proper jurisdiction. The Executive Director, with approval of the board, may dismiss a case for lack of jurisdiction.

### **Filing**

Chapter 14.30.04 specifies when a document is considered filed with the board and to whom all filings and communications must be addressed.

### **Computation of Time Periods**

Chapter 14.30.05 provides for the computation of various time periods and authorize the enlargement of time periods as well as specifying the manner for enlarging the time periods.

### **Requests for and Inspection of Board Documents**

Chapter 14.30.06 provides the general rules regarding requests for, and the inspection of, board documents.

### **Petition for Adoption of Regulations**

Chapter 14.30.07 authorizes an interested person to petition the board for adoption of a regulation and specifies how to petition for the adoption of regulations.

### **Procedures Applicable to All Proceedings**

Chapter 14.30.08 provides the procedures applicable to all proceedings before the board. The regulations set forth hearing procedures, including motions, rules of conduct and evidence, subpoenas, certain sanctions, case consolidation, briefs and oral arguments, and board decisions. The regulations also provide for informal resolution with parties; voluntarily approved settlements, withdrawal charges, expedited proceedings, and judicial review.

### **Unfair Labor Practice Proceedings**

Chapter 14.30.09 concerns proceedings related to charges of unfair labor practices. The regulations specify the procedures for investigating a charge of unfair labor practices and deciding whether to issue a complaint or dismiss the charge,

### **Representation Elections**

Chapter 14.30.10 governs elections to select exclusive representatives, including the filing of petitions, which employees are eligible to vote, showing of interest forms, certification of exclusive representative without an election, the methods and time periods for voting, the conduct of elections, type of ballots, results and post-election procedures.

### **Decertification Elections**

Chapter 14.30.11 governs the process for decertifying elections, which are petitions and elections to determine whether an exclusive representative should no longer represent a bargaining unit.

### **Petitions for Unit Clarification**

Chapter 14.30.12 governs petitions for unit clarification. A petition for unit clarification seeks clarification of the placement of certain employees in a bargaining unit. The regulations provide for petitions, investigations, hearings, and determinations.

### **Collective Bargaining**

Chapter 14.30.13 governs the responsibilities of the designated representatives of the employer and of the exclusive representative regarding negotiations.

## **Impasse Procedures for Collective Bargaining**

Chapter 14.30.14 governs impasse procedures, including mediation, for State government employees, public school employees, State higher education employees, and community college faculty.

## **Negotiability Disputes**

Chapter 14.30.15 governs petitions to the board for expedited resolution of negotiability disputes between the employer and exclusive representative.

## **Legal Issues**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The board cites §§ 22-306(e) and 22-205(e) of the State Government Article as statutory authority for the regulations. This provision requires the board to adopt and enforce regulations, guidelines, and policies to carry out the requirements for the Public Employee Relations Board. This provision also prohibits the board from adopting “any regulation, guideline, or policy that unnecessarily delays the resolution of disputes over elections, unfair labor practices, or any other matter under this title; or restricts or weakens the protections provided to public employees and employee organizations under this title or under regulations”. The remaining cited authority is not relevant to these regulations.

Although not cited by the board, § 22-306(a) through (d) of the State Government Article also provides statutory authority for the regulations. Section 22-306(a) authorizes the board to administer and enforce the laws pertaining to the Public Employee Relations Board. Subsection (b) provides additional authorizations for the board, including authorizing the board to establish specified procedures, including those related to elections for exclusive representation, petitions for bargaining unit clarification, petitions, and elections for decertification of an exclusive representative, negotiability of bargaining subjects, conduct certain investigations, and make specified determinations. Subsection (c) authorizes the board to take certain actions when the board finds that a party has committed an unfair labor practice. Lastly, subsection (d) authorizes the board to enforce the law by issuing subpoenas and administering oaths and affirmations, examine witnesses, and to receive evidence.

With the addition § 22-306(a) through (d) of the State Government Article, this authority is correct and complete. The regulations comply with the legislative intent of the law.

## **Technical Corrections and Special Notes**

The Department of Legislative Services notified board staff that regulation 14.30.08.18(G) contains a reference to COMAR 14.30.08(B)(4), which appears to be incorrect. Board staff clarified that the referenced provision is incorrect and the board has agreed to update the cited

provision to COMAR 28.02.01.21. The board also agreed to accept the department's suggested edit to regulation 14.30.08.17(C)(1) and clarify that only one of "the attending Board members should be the Chair" of a hearing. As drafted, the regulation is ambiguous as to how many board members could be chair. In addition, the board has agreed to delete the reference to § 22-205(e) of the State Government Article as statutory authority for the regulations because it is not relevant to these regulations.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

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

Among other things, the Public Employee Relations Act repeals the State Labor Relations Board, the State Higher Education Labor Relations Board, and the Public School Labor Relations Board, and instead establishes the Public Employee Relations Board to oversee collective bargaining for all public employees. The newly established board advises that the regulations have no fiscal impact. The Department of Legislative Services concurs and advises that any costs are due to the Public Employee Relations Act (House Bill 984, enacted as Chapter 114) and there are no fiscal impacts beyond those estimated in the fiscal and policy note for the legislation. More specifically, the fiscal and policy note for House Bill 984 accounts for six additional full-time employees, stipends for board members, and operating costs, increasing expenditures by at least \$642,600 annually beginning in fiscal 2024.

### **Impact on Budget**

There is no fiscal impact on State or local agencies.

### **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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