



Karen B. Salmon, Ph.D.
State Superintendent of Schools

TO: Members of the State Board of Education

FROM: Karen B. Salmon, Ph.D.

DATE: May 27, 2020

SUBJECT: COMAR 13A.08.01.03
Lawful Absence
ADOPTION

PURPOSE:

The purpose of this item is to request adoption of the amendments to COMAR 13A.08.01.03 *Lawful Absence*.

REGULATION PROMULGATION PROCESS:

Under Maryland law, a state agency, such as the State Board, may propose a new or amended regulation whenever the circumstances arise to do so. After the State Board votes to propose such a regulation, the proposed regulation is sent to the Administrative, Executive, and Legislative Review (AELR) Committee for a 15-day review period. If the AELR Committee does not hold up the proposed regulation for further review, it is published in the Maryland Register for a 30-day public comment period. At the end of the comment period, the Maryland State Department of Education (MSDE) staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because the suggested revision is not a substantive change; or (3) revise the regulation and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may recommend to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

BACKGROUND/HISTORICAL PERSPECTIVE:

In 2017, the Maryland legislature approved Education Article §2-205 and §7-301 allowing student absences due to pregnancy or parenting related conditions to be counted as lawful absences. Each county board was required to develop a written attendance policy for pregnant and parenting students that excused all absences due to pregnancy or parenting related conditions including labor, delivery, recovery, and prenatal and postnatal medical appointments. The policy was to be written to allow for at least 10 days of excused absences for a parenting student after the birth of the student's child, and excuse any parenting related absences due to an illness or medical appointment of the student's child,

including up to four days of absences per school year for which the school could not require a note from a physician. Other stipulations included excusing any absence due to a legal appointment involving pregnant or parenting students that was related to a family law proceeding, including adoption, custody, and visitation. Direction regarding making up missed work was also included in the legislation. The Governor signed the legislation on May 25, 2017. All local school systems were informed of the legislative mandates and made the appropriate adjustments to their lawful absence policies. The MSDE provided guidance related to the use of appropriate lawful absence codes through a Frequently Asked Questions document, which was sent to all Directors of Student Services. Detail regarding absences is included in Maryland Student Records System Manual 2020, which is incorporated by reference in COMAR 13A.08.01.01(E) *Attendance* and COMAR 13A.08.02.01 *Student Records – Incorporation by Reference*.

Current COMAR regulation 13A.08.01.03 *Lawful Absence* did not include the changes provided for pregnant and parenting students in the statute. For this reason, we are asking to amend the current regulation to reflect these changes.

EXECUTIVE SUMMARY:

The proposed amendments to COMAR 13A.08.01.03 *Lawful Absence* defines, updates, and clarifies the requirements for lawful absence to include the legislative mandates of 2017 regarding lawful absences of pregnant and parenting students. The regulation update includes the specific conditions for the lawful absences.

The State Board reviewed the regulation and granted permission to publish at the December 3, 2020, State Board meeting. The regulation was published in the Maryland Register from March 27, 2020, to April 27, 2020. During the public comment period, the MSDE received no public comments.

ACTION:

Request adoption of amendments to COMAR 13A.08.01.03 *Lawful Absence*.

ATTACHMENT:

COMAR 13A.08.01.03 *Lawful Absence*.

Title 13A

STATE BOARD OF EDUCATION

Subtitle 08 STUDENTS

13A.08.01 General Regulations

Authority: Education Article, §§2-205, 7-101, 7-101.1, 7-301, 7-301.1,
7-303—7-305, 7-305.1, 7-307, 7-308, and 8-404, Annotated Code of Maryland; Ch. 273, Acts of 2016; Federal Statutory Reference:
20 U.S.C. §§1232g and 7912

Notice of Proposed Action

[20-074-P]

The Maryland State Board of Education proposes to amend Regulation .03 under **COMAR 13A.08.01 General Regulations**. This action was considered by the State Board of Education at their December 3, 2019, meeting.

Statement of Purpose

The purpose of this action is to define, update, and clarify the requirements for lawful absence to include the legislative mandates of 2017 regarding lawful absences of pregnant and parenting teens.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Walter J. Sallee, MPA, Director, Student Services and Strategic Planning, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-1407 (TTY 410-333-6442), or email to walter.sallee@maryland.gov, or fax to 410-333-0880. Comments will be accepted through April 27, 2020. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on May 27, 2020, 9 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

.03 Lawful Absence.

Students presently enrolled in public schools are considered lawfully absent from school, including absence for any portion of the day, only under the following conditions:

A.—B. (text unchanged)

C. *Pregnancy and parenting related conditions as determined by the local school system, including absences due to:*

(1) *Labor, delivery, recovery, and prenatal and postnatal medical appointments;*

(2) *Illness or a medical appointment of the student's child; and*

(3) *A legal appointment involving the pregnant or parenting student related to family law proceedings, including adoption, custody, and visitation.*

[C.] D.—[J.] K. (text unchanged)

KAREN B. SALMON, Ph.D.
State Superintendent of Schools