



Mohammed Choudhury
State Superintendent of Schools

To: Members of the State Board of Education
From: Mohammed Choudhury, State Superintendent of Schools
Date: June 27, 2023
Subject: COMAR 13A.01.09
Correction or Amendment of Public Records
Adoption

Purpose

The purpose of this item is to request adoption of an amendment to COMAR 13A.01.09 *Correction or Amendment of Public Records*.

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, Maryland State Department of Education (MSDE) staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board of Education 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

Maryland's Public Information Act (PIA) grants the people of this State a broad right of access to public records while protecting legitimate governmental interests and the privacy rights of individual citizens. A public record is defined as the original copy of any documentary materials in any form, to include written materials, books, photographs, photocopies, films, microfilms, records, tapes, computerized records, maps, and drawings created or received by the department in connection with the transaction of public business.

Executive Summary

The proposed regulation establishes processes and procedures for a public request for a correction or amendment of public records of MSDE. A person in interest may make a request for correction or amendment for any public

record that MSDE keeps and the person in interest is authorized to inspect. Within 30 days after receiving the request, MSDE shall make the requested correction or amendment and inform the requester of the action, or inform the requester in writing that the Department will not make the requested correction or amendment and the reason why.

If the person in interest disagrees with the decision made by MSDE, a request for review may be filed with the State Superintendent within 30 days after the requester is advised of the initial action.

This regulation came before the State Board on December 6, 2022, requesting permission to publish. Permission was granted and the regulation was published in the Maryland Register from April 7, 2023, to May 8, 2023. No comments were received.

Action

Request permission to adopt the proposed amendment to COMAR 13A.01.09 *Correction or Amendment of Public Records*.

Attachments

COMAR 13A.01.09 *Correction or Amendment of Public Records*

Title 13A

STATE BOARD OF EDUCATION

Subtitle 01 STATE SCHOOL ADMINISTRATION

13A.01.09 Correction or Amendment of Public Records

Authority: General Provisions Article, §4-502, Annotated Code of Maryland

Notice of Proposed Action

[23-017-P]

.01 Scope.

This chapter sets out procedures under which a person in interest may request the correction or amendment of public records of the State Department of Education.

.02 Definitions.

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

B. Terms Defined.

- (1) "Act" means the Public Information Act, General Provisions Article, §§4-101—4-601, Annotated Code of Maryland.*
- (2) "Custodian" has the meaning stated in General Provisions Article, §4-101(d), Annotated Code of Maryland.*
- (3) "Department" means the State Department of Education.*
- (4) "Person in interest" has the meaning stated in General Provisions Article, §4-101(g), Annotated Code of Maryland.*
- (5) "Public record" has the meaning stated in General Provisions Article, §4-101(k), Annotated Code of Maryland.*

.03 Who May Request.

A person in interest may request that the Department correct or amend any public record that:

- A. The Department keeps; and*
- B. The person in interest is authorized to inspect.*

.04 Contents of Request.

A. A person in interest shall make a request to correct or amend a public record in writing.

B. The request shall:

- (1) Identify the public record to be corrected or amended;*
- (2) State the precise correction or amendment requested;*
- (3) State the reason for the correction or amendment; and*
- (4) Include a statement that, to the best of the requester's belief, the public record is inaccurate or incomplete.*

.05 Addressee.

A request to correct or amend a public record shall be addressed to the custodian of the record. If the custodian is unknown, the request may be addressed to the State Superintendent.

.06 Return of Nonconforming Request.

A. The Department shall accept a request to correct or amend a public record when it is received if it reasonably complies with Regulations .04 and .05 of this chapter.

B. If the request does not reasonably comply with Regulations .04 and .05 of this chapter, the Department shall return the request to the requester with:

- (1) An explanation of the reason for the return; and*
- (2) A statement that, on receipt of a request that reasonably complies with Regulations .04 and .05 of this chapter, the request will be accepted.*

.07 Response to Request.

Within 30 days after the Department receives a request for correction or amendment that reasonably complies with Regulations .04 and .05 of this chapter, the custodian shall:

A. Make the requested correction or amendment, and inform the requester in writing of the action; or

B. Inform the requester in writing that the Department will not:

- (1) Make the requested correction or amendment, and the reason for the refusal; or*
- (2) Act on the request:
 - (a) Because the requester is not a person in interest;*
 - (b) Because the requester is not authorized to inspect the record; or*
 - (c) For any other reason authorized by law.**

.08 Response to Refusal of Request—Statement of Disagreement.

If the Department refuses to make a requested correction or amendment, a person in interest may file with the Department a concise statement of the reasons for:

A. The requested correction or amendment; and

B. The person's disagreement with the refusal of the Department to make the correction or amendment.

.09 Requirements for Statement of Disagreement.

The statement submitted under Regulation .08 of this chapter shall:

- A. Be on pages not larger than 8-1/2 by 11 inches;*
- B. Use only one side of each page; and*
- C. Consist of not more than five pages.*

.10 Disclosure of Statement of Disagreement.

If a person in interest files a statement of disagreement concerning a public record under Regulations .08 and .09 of this chapter, the Department shall provide a copy of the statement whenever the Department discloses the public record to a third party.

.11 Administrative Review.

A. A person may request administrative review under this regulation if the Department:

- (1) Has refused the person's request to correct or amend a public record under Regulation .07 of this chapter;*
- (2) Has rejected the person's statement of disagreement under Regulation .08 of this chapter; or*
- (3) Has not provided a statement of disagreement to a third party under Regulation .10 of this chapter.*

B. A request for review shall be filed with the State Superintendent within 30 days after the requester is advised of the Department's action.

C. The review proceedings shall be conducted in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

*MOHAMMED CHOUDHURY
State Superintendent of Schools*