



**Mohammed Choudhury**  
State Superintendent of Schools

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**To:** Members of the State Board of Education  
**From:** Mohammed Choudhury, State Superintendent of Schools  
**Date:** June 27, 2023  
**Subject:** COMAR 13A.08.01.03  
*Lawful Absence*  
Adoption

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### **Purpose**

The purpose of this item is to request adoption of an amendment 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, 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**

In 2022, the Maryland legislature approved Education Article §7-301.3 requiring MSDE to adopt a policy for public school students that treats an absence due to a student’s behavioral health needs the same as an absence due to an illness or another somatic health need. For this reason, MSDE requested an amendment to the current regulation to reflect these changes.

### **Executive Summary**

The proposed regulation updates the policy on lawful absences, treating an absence due to a student’s behavioral health needs the same as an absence due to an illness or another somatic health need. The regulation update also includes the requirement that a certificate from an appropriate health care provider licensed or certified under the

Health Occupations Article be provided to the school for a student absent for a behavioral health need. If the school is notified that a student's absence was due to a behavioral health need, the school shall provide information about school or community behavioral health resources that are available to the student. 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.08.01.03 *Lawful Attendance*.

**Attachments**

COMAR 13A.08.01.03 *Lawful Attendance*

# 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

[23-012-P]

#### .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. (text unchanged)

B. Illness of the student[. The principal or a pupil personnel worker shall require a physician's certificate from the parent or guardians of a student reported continuously absent for illness.] *as follows:*

(1) *The principal or a school appointed designee shall require from the parent or guardian:*

(a) *A physician's certificate for a student reported continuously absent for a physical illness or somatic health need; or*

(b) *A certificate from an appropriate health care provider licensed or certified under Health Occupations Article, Annotated Code of Maryland, for a student reported continuously absent for a behavioral health need.*

(2) *If a student or the student's parent or guardian notifies a public school that the student's absence was due to a behavioral health need, the school shall provide information to the student or the student's parent or guardian about school or community behavioral health resources that are available to the student.*

C.—K. (text unchanged)

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State Superintendent of Schools