



Lillian M. Lowery, Ed.D.
State Superintendent of Schools

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TO: Members of the State Board of Education
FROM: Lillian M. Lowery, Ed.D. *Lillian M. Lowery*
DATE: August 18, 2014
SUBJECT: COMAR 13A.07.09 Evaluation of Teachers and Principals

PURPOSE:

To seek approval from the Board for certain decisions of the Executive Committee concerning the proposed teacher and principal evaluation regulation.

BACKGROUND:

At the Board meeting on July 22, 2014, you approved for publication the proposed Evaluation of Teachers and Principals regulation. The publication date was set as August 8, 2014. As you know, prior to publication in the Maryland Register, the proposed regulation by law is sent to the AELR Committee for a 15-day review period. During this time, we also shared the proposed regulation with the Governor's Office.

During the review period, much discussion took place with staff of both the Executive and Legislative branches. Suggestions were made to make several changes to the regulation before publication. Because those changes were arguably substantive, I discussed them with counsel and the Executive Committee explaining that making the changes before publication in the Maryland Register would allow us to stay on track to have a final regulation in place on our projected timeline. If we were to wait to accept changes after the regulation was published, we would need to begin the publication process anew. That would pose a significant delay in the timeline for approval.

EXECUTIVE SUMMARY:

Given our tight 15-day timeframe, I asked the Executive Committee to approve certain changes to the regulation prior to the August 8, 2014 publication date. They approved the following changes:

(1) Eliminating the reference to Race to the Top in COMAR 13A.07.09.01

This change is appropriate because Race to the Top is essentially over on September 30, 2014, except for a one year no-cost extension to complete several projects.

(2) A revision to COMAR 13A.07.09.04B(6) describing elements of “rigor” which originally stated “For school years 2014-2015 and 2015-2016 the use of student learning objectives (SLOs) based on and informed by the data resulting from State Assessments. Such SLO’s shall represent at least 20% of a teacher’s evaluation.”

That sentence was changed to: “For school years 2014-2015 and 2015-2016, the use of student learning objectives (SLOs) informed by the data resulting from the State assessments which shall be represented on a teacher’s evaluation...”

(3) In that change, the words “based on” were deleted because we agreed that they were redundant with “informed by.” We also deleted the sentence with the 20% requirement. We agreed to this change because these next two years are the transition years during which we will collect data to determine the appropriate course of action going forward. We, of course, retained the requirement that SLOs be informed by the State assessment data because the use of State assessment data is one of the key components of a rigorous evaluation system.

ACTION:

I request that you ratify and approve the decision of the Executive Committee to revise, as described above, the proposed teacher and principal evaluation regulation prior to publication.

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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 J. Michael Hopkins, Executive Director, Maryland Racing Commission, 300 East Towsontown Boulevard, Towson MD 21286, or call 410-296-9682, or email to mike.hopkins@maryland.gov, or fax to 410-296-9687. Comments will be accepted through September 10, 2014. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland Racing Commission during a public meeting to be held on October 21, 2014, at 12:30 p.m., at Laurel Park, Laurel MD 20725.

.07 Claiming.

A. — G. (text unchanged)

H. Except as provided in §H-1 or H-2 of this regulation, unless there is a violation of this regulation by the claimant, or the stewards determine that a horse was improperly entered:

(1) — (3) (text unchanged)

A-1. — H-1. (text unchanged)

H-2. A claim is voidable at the sole discretion of the new owner, for a period of one hour after the race is made official, for any horse that is vanned off the track after the race at the direction of the State Veterinarian.

I. — R. (text unchanged)

J. MICHAEL HOPKINS
Executive Director

**Title 13A
STATE BOARD OF
EDUCATION**

Subtitle 07 SCHOOL PERSONNEL

13A.07.09 Evaluation of Teachers and Principals

Authority: Education Article, §§2-205(b) and (g) and 6-202, Annotated Code of Maryland

Notice of Proposed Action

[14-231-P-1]

The Maryland State Board of Education proposes to repeal existing Regulations .01— .08 and adopt new Regulations .01— .08 under COMAR 13A.07.09 Evaluation of Teachers and Principals. This action was considered at the Maryland State Board of Education meeting held on June 27, 2014.

Statement of Purpose

The purpose of this action is to establish standards of performance evaluations for teachers and principals which include a default evaluation model.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed regulation will have a minimal additional fiscal impact on local education agencies and on the Maryland State Department of Education (MSDE) because the majority of the costs will be covered from funds that are already allocated. Funds will come from Maryland's Race to the Top grant for both the State and the Local Education Agencies (LEAs) and from the LEA's local funding for Professional Development. Federal Title II, Part A funding is also available that LEAs could use for Professional Development. Failure to adopt the proposed regulation could have negative additional fiscal impact on both MSDE and the LEAs. After the full implementation of RTTT, the sustainability for this Teacher/Principal Evaluation Program will require use of LEA's Professional Development funds.

II. Types of Economic Impact	Revenue (R+/R-)	Expenditure (E+/E-) Magnitude
	A. On issuing agency:	NONE
B. On other State agencies:	(E+)	Minimal
C. On local governments:	(E+)	Minimal
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

B. With the sunset of the current regulations, MSDE must implement a Teacher/Principal Evaluation System as well as a default evaluation model as required by the Education Reform Act of 2010, as amended. Nonimplementation could result in a significant fiscal impact on the State. Additionally, Maryland has agreed in its Race to the Top Application and in its request for ESRA Flexibility that it would implement the Teacher/Principal Evaluation System. Noncompliance could hinder the granting of the ESRA Flexibility and/or cause the loss of Race to the Top funding.

MSDE has allocated some Race to the Top funds to the continued development of the Teacher/Principal Evaluation System. Although not all funding has been accounted for, the impact on MSDE funds is anticipated to be minimal.

C. Twenty-two of the 24 LEAs accepted Race to the Top funding. Their funding could also be impacted if they did not implement a Teacher/Principal Evaluation model. The main costs of the new model will be associated with Professional Development on using the model and around Student Learning Objectives (SLOs). Many LEAs already have funds that are allocated for professional development.

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 Dr. Jack R. Smith, Chief Academic Officer, Maryland State Department of Education, Office of the Deputy for Teaching and Learning, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-3646 (TTY 410-333-6442), or email to jrsmith@msde.state.md.us, or fax to 410-333-2275. Comments will be accepted through September 8, 2014. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on September 23, 2014, at 9 a.m., at 200 West Baltimore Street, Baltimore, Maryland 21201.

Editor's Note on Incorporation by Reference

Pursuant to State Government Article, §7-207, Annotated Code of Maryland, (1) Maryland Instructional Leadership Framework, February 2005; (2) Educational Leadership Policy Standards: ISLLC 2008; and (3) InTASC Model Core Teaching Standards: A Resource for State Dialogue, April 2011, have been declared documents generally available to the public and appropriate for incorporation by reference. For this reason, they will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of these documents are filed in special public depositories located throughout the State. A list of these depositories was published in 41:1 Md. R. 9 (January 10, 2014), and is available online at www.dsd.state.md.us. These documents may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.01 Applicability.

The minimum general standards set forth in Regulation .04 of this chapter shall apply to evaluations of all teachers and principals.

.02 Definitions.

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

B. Terms Defined.

- (1) "Evaluation" means an appraisal of professional performance for a school year based on written criteria and procedures that result in a written evaluation report.
- (2) "Principal" means an individual who serves in the position as a principal and who is certificated under COMAR 13A.12.04.04 or certificated as a resident principal under COMAR 13A.12.04.05.
- (3) "State assessments" means the tests in mathematics and English/language arts developed or adopted by the Department that are aligned with the Maryland College and Career Ready standards and measure a student's skills and knowledge as set forth in the content standards for those subjects.
- (4) "Student growth" means student progress assessed by multiple measures and from a clearly articulated baseline to one or more points in time.
- (5) Teacher.
 - (a) "Teacher" means any individual certificated under COMAR 13A.12.02 as a teacher and who delivers instruction and is responsible for a student's or group of students' academic progress in a Pre-K-12 public school setting, subject to local school system interpretation.
 - (b) "Teacher" may include an individual certificated by the Maryland State Department of Education (MSDE) under COMAR 13A.12.03 if the individual delivers instruction and is responsible for a group of students' academic progress in a Pre-K-12 public school setting, subject to local school system interpretation.

.03 Incorporation by Reference.

In this chapter, the following documents are incorporated by reference:

- A. Maryland Instructional Leadership Framework, February 2005;
- B. Educational Leadership Policy Standards: ISLLC 2008; and
- C. InTASC Model Core Teaching Standards: A Resource for State Dialogue, April 2011.

.04 Local Education Agency Evaluation System.

A. An evaluation system for teachers and principals developed by a local education agency in mutual agreement with the exclusive employee representatives shall include performance evaluation criteria, at a minimum, based on multiple measures, and on the general standards set forth in §§B and C of this regulation.

B. General Standards: Teacher Evaluation System.

(1) An evaluation system shall be based on standards, such as the InTASC Model Core Teaching Standards or other Department-approved or nationally recognized standards for teaching, and those standards shall be explained to teachers and communicated to the school community. The selected standards shall be used to evaluate the teacher's professional practice and student growth.

(2) A teacher's evaluation shall include at least five components:

- (a) Planning and preparation;
- (b) Classroom environment;
- (c) Instruction;
- (d) Professional responsibility; and
- (e) Student growth.

(3) An evaluation system shall provide, at a minimum, for an overall rating of highly effective, effective, or ineffective.

(4) Classroom observations shall play a role in the evaluation system, at a minimum, in the following ways:

- (a) Classroom observations of teachers' professional practice shall be conducted by certificated individuals who have completed training that includes identification of teaching behaviors that result in student growth and the use of the selected standards in the observation;
- (b) An evaluation of a teacher's professional practice, including planning and preparation, classroom environment, and instruction shall be based on at least two observations during the school year;
- (c) An evaluation report that evaluates a teacher as ineffective shall include at least one observation by an individual other than the immediate supervisor;
- (d) An observation, announced or unannounced, shall be conducted with full knowledge of the teacher;
- (e) A written observation report shall be shared with the teacher and a copy provided to the teacher within a reasonable period of time;
- (f) A teacher shall sign the observation report to acknowledge receipt;
- (g) An observation shall provide for written comments and reactions by the teacher being observed, which shall be attached to the observation report; and
- (h) An observation shall provide specific guidance in areas needing improvement and supports as well as a reasonable timeline to demonstrate improvement in areas marked as ineffective.

(5) Claims and evidence of observed instruction that substantiate the observed behavior or behaviors in a classroom observation shall be a part of the teacher's evaluation and may be identified by either the teacher or the evaluator or both and may include:

- (a) Student work;
- (b) Teacher-developed initiatives;

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- (c) Portfolios;
- (d) Projects;
- (e) Student test data;
- (f) Artifacts; and
- (g) Other statements.

(6) A local education agency's evaluation system shall include rigor, which shall be demonstrated, in part, by:

(a) The establishment of student growth as a significant component of the evaluation;

(b) For the school years 2014—2015 and 2015—2016, the use of student learning objectives (SLOs) informed by the data resulting from the State assessments, which shall be represented on a teacher's evaluation; and

(c) The Department shall review and approve mutually agreed-on evaluation systems to ensure compliance with the minimum general standards.

(7) The Department's approval of an agreed-on evaluation system after the 2015—2016 school year will be based, in part, on the Department's analysis of the evaluation data obtained in the 2014—2015 and 2015—2016 school years, including an analysis of the use of State assessment data as a direct measure of student growth.

(8) The evaluation system shall provide focused professional development, resources, and a mentoring component for teachers who are evaluated as ineffective and for all nontenured teachers.

(9) Until school year 2016—2017, student growth data based on or derived from State assessments may not be used to make personnel decisions.

C. General Standards: Principal Evaluation System. A principal's evaluation system shall be based on:

(1) The outcomes contained in the Maryland Instructional Leadership Framework, February 2005, and in the Interstate Leadership Licensure Consortium; and

(2) The standards set forth in §B(3), (6)(a)—(b), and (9) of this regulation.

.05 Default Model.

A. If the school system and the exclusive employee representative do not reach agreement on an evaluation system, the default model shall be adopted by the school system.

B. The default model shall include:

(1) A student growth component that comprises at least 50 percent of the teacher's and principal's evaluation in the following ways:

(a) For school years 2014—2015 and 2015—2016, for elementary and middle school teachers providing instruction in State-assessed content areas, 20 percent of the evaluation shall be based on SLOs based on and informed by the data obtained from the State assessments and 30 percent on other SLOs or other locally determined measures;

(b) For school years after 2015—2016, for elementary and middle school teachers providing instruction in State-assessed content areas, based on an analysis conducted by the Department of evaluation data obtained in school years 2014—2015 and 2015—2016, including and analysis of the use of State Assessment data as a direct measure of student growth, aggregate class growth scores for State-assessed content areas being taught may comprise at least 20 percent of the teacher's evaluation;

(c) For school years 2014—2015 and 2015—2016, elementary and middle school teachers providing instruction in non-State-assessed grades or content areas, SLOs or other locally determined measures in the content areas being taught shall comprise 50 percent of the evaluation;

(d) For school years after 2015—2016, for elementary and middle school teachers providing instruction in non-State-assessed grades or content areas, based on an analysis conducted by the Department of evaluation data obtained in school years 2014—2015

and 2015—2016, SLOs or other locally determined measures may comprise up to 30 percent of the evaluation and a school-wide index may comprise up to 20 percent; and

(e) For high school teachers, SLOs informed by the data obtained from the High School Assessments shall comprise 50 percent of the teacher's evaluation;

(2) A professional practice component that comprises at least 50 percent of the teacher's evaluation in the following ways:

(a) Planning and preparation — 12.5 percent;

(b) Classroom environment — 12.5 percent;

(c) Instruction — 12.5 percent; and

(d) Professional responsibility — 12.5 percent;

(3) Measures of student growth for principals as follows:

(a) For elementary and middle school principals, student growth shall be measured by SLOs, in part, based on and informed by State assessment data, aggregate school-wide growth scores in State-assessed content areas, and the school-wide index;

(b) For high school principals, student growth shall be measured by SLOs, in part, based on and informed by the high school assessment data and the school-wide index; and

(c) For principals of other types of schools, student growth shall be measured by SLOs and the school-wide index;

(4) A professional practice component for principals which:

(a) Shall count for 50 percent of a principal's evaluation; and

(b) Shall include, but not be limited to, the outcomes in the Maryland Instructional Leadership Framework, and other outcomes based on Interstate School Leaders and Licensure Consortium (ISLLC); and

(3) A provision that, until school year 2016—2017, student growth data based on or derived from State assessments may not be used to make personnel decisions.

.06 Evaluation Cycle.

A. Tenured Teachers. On the 3-year evaluation cycle, tenured teachers shall be evaluated once annually in the following ways:

(1) In the first year of the evaluation cycle conducted under these regulations, tenured teachers shall be evaluated on both professional practice and student growth;

(2) If in the first year of the evaluation cycle a tenured teacher is determined to be highly effective or effective, then in the second year of the evaluation cycle the tenured teacher shall be evaluated using the professional practice rating from the previous year and the student growth based on the most recent available data;

(3) If in the second year of the evaluation cycle a tenured teacher is determined to be highly effective or effective, then in the third year of the evaluation cycle the tenured teacher shall be evaluated using the professional practice rating from the previous year and student growth based on the most recent available data;

(4) At the beginning of the fourth year, the evaluation cycle shall begin again as described in §A(1)—(3) of this regulation; and

(5) In any year, a principal may determine or a tenured teacher may request that the evaluation be based on a new review of professional practice along with student growth.

B. Nontenured Teachers and Teachers Rated as Ineffective. All nontenured teachers and all teachers rated as ineffective shall be evaluated annually on student growth and professional practice.

C. Principals. Every principal shall be evaluated at least once annually based on all of the components set forth in Regulations .04 and .05 of this chapter.

.07 Evaluation Report.

A. The evaluation report shall be shared with the teacher or principal who is the subject of the evaluation.

B. The teacher or principal shall receive a copy of and sign the evaluation report.

C. The signature of the teacher or principal does not necessarily indicate agreement with the evaluation report.

D. An evaluation report shall provide for written comments and reactions by the individual being evaluated, which shall be attached to the evaluation report.

.08 Appeal of an Evaluation.

A. In the event of an overall rating of ineffective, the local school system shall, at a minimum, provide the teacher or principal with an opportunity to appeal in accordance with Education Article, §4-205(a)(4), Annotated Code of Maryland.

B. If an observation report is a component of an ineffective evaluation, the observation report may be appealed along with the ineffective evaluation.

C. The burden of proof is on the individual appealing an overall rating of ineffective to show that the rating was arbitrary, unreasonable, illegal, or not in compliance with the adopted evaluation system of the local school system.

LILLIAN M. LOWERY, Ed.D.
State Superintendent of Schools

**Title 22
STATE RETIREMENT AND
PENSION SYSTEM**

**Subtitle 07 COMPLIANCE WITH THE
INTERNAL REVENUE CODE**

22.07.02 Code Compliance

Authority: State Personnel and Pensions Article, §§21-110 and 21-603, Annotated Code of Maryland

**Notice of Proposed Action
[14-235-P]**

The Board of Trustees for the State Retirement and Pension System proposes to amend Regulation .04 under COMAR 22.07.02 Code Compliance. This action was considered at the June 17, 2014 Board of Trustees meeting for the State Retirement and Pension System.

Statement of Purpose

The purpose of this action is to remove obsolete language and clarify the administration of retirement benefits with respect to a same-gender spouse of a member, former member, or retiree.

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 Anne E. Gawthrop, Director, Legislative Affairs, State Retirement Agency, 120 East Baltimore Street, 16th Floor, Baltimore, Maryland 21202, or call 410-625-5602, or email to agawthrop@sra.state.md.us, or fax to 410-468-1710

Comments will be accepted through September 8, 2014. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Board of Trustees for the State Retirement and Pension System during a public meeting to be held on September 16, 2014, at 120 East Baltimore Street, 16th Floor Board Room, Baltimore, Maryland 21202.

.04 Administration of Benefits with Respect to the Same-Gender Spouse of a Member, Former Member, or Retiree.

[A. Except as provided in §B of this regulation, the] *The Retirement Agency shall administer benefits with respect to the same-gender spouse of a member, former member, or retiree from a lawfully recognized marriage in the same manner as an opposite-gender spouse, including the payment of any spousal death or survivor benefits.*

[B. The State system may not recognize a same-sex marriage in the administration of benefits to the extent that recognition is inconsistent with a requirement applicable to the State system as a qualified governmental defined benefit plan under the Internal Revenue Code, or when such recognition would violate any other federal or State law.]

R. DRAN KENDERDINE
Executive Director

**Title 33
STATE BOARD OF
ELECTIONS**

**Subtitle 14 ADMINISTRATION OF
PUBLIC FINANCING ACT**

33.14.02 Eligibility Requirements and Procedures

Authority: Election Law Article, §§2-102(b)(4) and 15-109(b), Annotated Code of Maryland

**Notice of Proposed Action
[14-230-P]**

The State Board of Elections proposes to amend Regulation .06 under COMAR 33.14.02 Eligibility Requirements and Procedures.

Statement of Purpose

The purpose of this action is to clarify the deadline to submit information for public financing.

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.

Title 13A

STATE BOARD OF EDUCATION

Subtitle 07 SCHOOL PERSONNEL

13A.07.09 Evaluation of Teachers and Principals

Authority: Education Article, §§2-205(b) and (g) and 6-202, Annotated Code of Maryland

.01 Applicability.

[A.] *The minimum general standards set forth in Regulation .04 of this chapter shall apply to evaluations of all teachers and principals.*

[B. *In addition, all local education agencies (LEAs) that signed on to the Race to the Top (RTTT) application must comply with the evaluation criteria set forth in the RTTT application and amendments approved by the United States Department of Education.*]

.04 Local Education Agency Evaluation System.

B. General Standards: Teacher Evaluation System.

(6) *A local education agency's evaluation system shall include rigor, which shall be demonstrated, in part, by:*

(a) *The establishment of student growth as a significant component of the evaluation;*

(b) *For the school years 2014—2015 and 2015—2016, the use of student learning objectives (SLO's) [based on and informed by the data resulting from the State assessments]. Such SLO's which shall be represented on a [at least 20 percent of a] teacher's evaluation[.]; and*

(c) *[Obtainment of] The Department shall review and approve mutually [approval of the] agreed-on evaluation systems to ensure compliance with the minimum general standards.*

.05 Default Model.

B. The default model shall include:

(2) *A professional practice component that comprises at least 50 percent of the teacher's evaluation in the following ways:*

(a) *Planning and preparation — 12.5 percent;*

(b) *Classroom environment — 12.5 percent;*

(c) *Instruction — 12.5 percent; and*

(d) *Professional responsibility — 12.5 percent[.];*

(3) *Measures of student growth for principals as follows:*

[(3)] (a) *For elementary and middle school principals, student growth shall be measured by SLO's, in part, based on and informed by State assessment data, aggregate school-wide growth scores in State-assessed content areas, and the school-wide index[.];*

[(4)] (b) *For high school principals, student growth shall be measured by SLO's, in part, based on and informed by the high school assessment data and the school-wide index[.]; and*

[(5)] (c) *For principals of other types of schools, student growth shall be measured by SLO's and the school-wide index[.];*

[(6)] (4) *[For all principals, professional practice] A professional practice component for principals which:*

(a) *Shall count for 50 percent of a principal's evaluation; and*

(b) *Shall include, but not be limited to, the outcomes in the Maryland Instructional Leadership Framework, and other outcomes based on Interstate School Leaders and Licensure Consortium (ISLLC)[.]; and*

[(7)] (5) *A provision that, until school year 2016—2017, student growth data based on or derived from State assessments may not be used to make personnel decisions.*