MARYLAND STATE DEPARTMENT OF EDUCATION
Preparing World-Class Students

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TO: Members of the Maryland State Board of Education

FROM: Bernard J. Sadusky, Ed.D.

DATE: December 6, 2011

SUBJECT: COMAR 13A.01.05.02 (AMEND)
Appeal Contents (Appeals to the State Board of Education)
PERMISSION TO PUBLISH

PURPOSE:

To obtain permission to publish COMAR 13A.01.05.02, **Appeal Contents, (ATTACHMENT I).**

BACKGROUND/HISTORICAL PERSPECTIVE:

COMAR 13A.01.05.02 is one of the procedural regulations governing appeals to the State Board of Education. The regulation provides a 30 day time frame within which an appellant may take an appeal of a local board decision to the State Board. COMAR 13A.01.05.02B(1). An appeal is deemed transmitted within the 30 day time period if it has been deposited in the United States mail, as registered or certified mail, or delivered to the State Board before the expiration of the time period. COMAR 13A.01.05.02B(3). Thus, for appeals transmitted by registered or certified mail, the State Board has consistently considered the postmark date to be the transmission (filing) date. For all other methods of transmitting an appeal, the State Board has consistently considered the date the appeal is delivered to the State Board to be the transmission date.

Members of the State Board of Education have expressed concerns regarding the regulation's limitation to depositing the appeal in the United States mail as registered or certified given that there are other reliable means of transmitting an appeal that allow verification of the deposit date.

EXECUTIVE SUMMARY:

The proposed amendment adds an additional mode of mailing (Express Mail) as a means of transmitting an appeal to the State Board. Express mail may be tracked from the point the item is accepted for mailing by the United States Postal Service. The proposed amendment also adds as acceptable modes of transmission delivery services that provide verifiable tracking of the item from the point of the item's entry into the delivery system, such as Fed Ex, UPS, and DHL. This will allow the State Board to use the postmark or send date as the date the appeal is "taken" for appeals transmitted in one of the designated manners.

ACTION:

I request permission to publish amendments to COMAR 13A.01.05.02 Appeal Contents with the following tentative timeline:

Maryland Register Issue Date: January 27, 2012
30- day open comment period ends: February 27, 2012
Adoption: March 27-28, 2012

Attachments

Proposed Amendment

COMAR 13A.01.05.02

.02 Appeal Contents

A. (Text Unchanged)

B. Deadlines

(1) – (2) (Text Unchanged)

(3) *For appeals taken on or after April 1, 2011,* [A] *a*n appeal shall be deemed to have been transmitted within the 30 day period of time permitted under §B(1) of this regulation if, before the expiration of the time, it has been:

(a) Delivered to the State Board; or

(b) Deposited in the United States mail, as registered or certified mail[.] *or Express Mail, or deposited with a delivery service, such as Fed Ex, UPS or DHL, that provides verifiable tracking of the item from the point of origin.*

(4) – (5) (Text Unchanged)

C – D (Text Unchanged)

Proposed Amendment

IMPACT STATEMENTS

Part A
(check one option)

Estimate of Economic Impact

☑ The proposed action has no economic impact.

or

☐ The proposed action has an economic impact. Complete the following form in its entirety.

I. Summary of Economic Impact.

II. Types of Economic Impacts.

Revenue (R+/R-)
Expenditure (E+/E-) Magnitude

A. On issuing agency:

B. On other State agencies:

C. On local governments:

Benefit (+)
Cost (-) Magnitude

D. On regulated industries or trade groups:

E. On other industries or trade groups:

F. Direct and indirect effects on public:

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

Part B
(check one option)

Economic Impact on Small Businesses

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

or

☐ The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows.

Impact on Individuals with Disabilities
(Check one option)

✓ The proposed action has no impact on individuals with disabilities.

or

☐ The proposed action has an impact on individuals with disabilities as follows:

Part C

(For legislative use only; not for publication.)

A. Fiscal Year in which regulations will become effective: **FY**

B. Does the budget for fiscal year in which regulations become effective contain funds to implement the regulations?

❑ Yes ❑ No ✓Not Applicable

C. If "yes," state whether general, special (exact name), or federal funds will be used:

D. If "no," identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

Comparison to Federal Standards
(Check one option)

✓ There is no corresponding federal standard to this proposed regulation.

or

☐ There is a corresponding federal standard to this proposed regulation. Please give corresponding federal standard and if the regulation is not more restrictive or stringent give justification.

or

☐ In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

(1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:

(2) Benefit to the public health, safety or welfare, or the environment:

(3) Analysis of additional burden or cost on the regulated person:

(4) Justification for the need for more restrictive standards: