MARYLAND STATE DEPARTMENT OF EDUCATION
Preparing World-Class Students

Bernard J. Sadusky, Ed.D.
Interim State Superintendent of Schools

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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.08.01.17 (AMENDED)
School Use of Reportable Offenses
ADOPTION

PURPOSE:

The purpose of this action is to seek adoption of the amended regulation COMAR 13A.08.01.17, School Use of Reportable Offenses, (ATTACHMENT).

BACKGROUND/HISTORICAL PERSPECTIVE:

In its 2010 session, the Maryland General Assembly passed House Bill 1160, Safe Schools Act of 2010 which was enrolled as Chapter 188, Safe Schools Act of 2010. One component of the law repealed and reenacted, with amendments, Education Article 7-303, Annotated Code, Arrest for Reportable Offenses. To meet the requirements of this component, it became necessary to amend COMAR 13A.08.01.17, School Use of Reportable Offenses, to include the required changes.

The additions to the existing regulation are as follows: **1.** adds violations of the Criminal Law Articles §3-203 (Assault), §6-301 (Willful and malicious destruction, injury or defacement of the real or personal property of another), §9-302, §9-303, or §9-305 (Threaten to harm another, or damage or destroy property with intent to influence a victim or witness to testify falsely or without testimony), and §7-105 (Knowingly and willfully take a motor vehicle out of the owner's lawful custody, control, or use without the owner's consent) as reportable offenses; **2.** defines school principal to mean the principal of the public or non-public school in which a student is enrolled, or a designee of the principal who is an administrator; **3.** defines school security officer to include a principal, other school administrator, a law enforcement officer, or other individual employed by a local school system or a local government who is designated by the county superintendent or a school principal to help maintain the security and safety of a school (school security officer does not include a teacher; other staff precluded from designation suggested by the workgroup were school counselors, school psychologists, or school social workers).

The amended regulation must also include provisions for ensuring that reportable offense information is transmitted only to the school personnel of the school in which the student is enrolled and is destroyed when the student graduates, otherwise permanently leaves school, or turns 22 years old. Other conditions recommended by the workgroup were if the criminal case involving the reportable offense is dismissed, if the student is found not guilty of the reportable offense, or if the student pleads to a lesser offense that is not a reportable offense.

Two other conditions were added which require specific responses from a superintendent and school principal: **1.** if a student is arrested for a reportable offense involving rape or a sexual offense, then the superintendent and principal shall consider prohibiting that student from attending the same school or riding the same bus as the alleged victim; and **2.** if a student is arrested for a reportable offense involving rape or a sexual offense and is convicted or adjudicated delinquent for the rape or sexual offense, then the student may not attend the same school or ride the same bus as the victim. Finally, each public school that enrolls students in grades six through twelve in the State shall designate at least one school security officer.

EXECUTIVE SUMMARY:

A committee convened on September 21, 2011 to develop recommendations for an amended COMAR regulation that was in compliance with the current law. This DRAFT COMAR regulation was also shared with all 24 local school system superintendents and directors of student services for their comment. COMAR 13A.08.01.17 contains the implementing State regulations for School Use of Reportable Offenses. The proposed amendments align the COMAR provisions with the requirements of Education Article 7-303, Annotated Code, Arrest for Reportable Offenses.

Opportunities for public comment were provided through publication of the proposed amended regulation in the Maryland Register, Volume 38, Issue 22, October 21, 2011. No comments were received.

ACTION:

Request the adoption of COMAR 13A.08.01.17, School Use of Reportable Offenses.

Attachment

Statement of Purpose

The purpose of this action is to protect employees of local educational agencies who raise concerns regarding suspected testing violations.

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 Dr. Tamara L. Lewis, Education Program Specialist/State Test Security Officer, Maryland State Department of Education, Division of Accountability, Assessment and Data Systems, 200 West Baltimore Street, or call 410-767-0074 TTY:410-333-6442, or email to tlewis@msde.state.md.us, or fax to 410-333-0052. Comments will be accepted through November 21, 2011. 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 December 6—7, 2011, at 200 West Baltimore Street, Baltimore, Maryland 21201.

.07 Sanctions for Violations.

A. — D. (text unchanged)

E. Whistleblower Protection.

(1) The local school system shall not take any personnel action as retaliation against an employee who reports information that the employee reasonably believes involves a test security violation under this chapter.

(2) The local school system may take personnel action against an employee if the local school system investigates and concludes that the employee was involved in the reported test security violation.

BERNARD J. SADUSKY, Ed.D.
Interim State Superintendent of Schools

Subtitle 08 STUDENTS

13A.08.01 General Regulations

Authority: Education Article, §§2-205 and 7-303, Annotated Code of Maryland

Notice of Proposed Action

[11-304-P]

The Maryland State Board of Education proposes to amend Regulation .17 under **COMAR 13A.08.01 General Regulations.** This action was considered at the August 30, 2011 meeting of the Maryland State Board of Education.

Statement of Purpose

The purpose of this action is to bring COMAR 13A.08.01.17 in compliance with Education Article §7-303, Annotated Code of Maryland.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. Local governments may experience economic impact through their local school systems. The regulation requires each public school that enrolls students in grades 6 through 12 to designate at least one school security officer. If the security officer is a school staff member, then part of that person's time would be taken from the person's normal duties to attend to the added responsibilities of the security officer. Additionally, that person would have to receive specific training pertinent to the position's duties and its responsibilities related to the gang policy's implementation. If the school security officer is to be an actual School Resource Officer, then designated schools without a School Resource Officer would have to arrange with the local law enforcement agency to employ such an officer. The regulation also requires the removal of a student who is convicted or adjudicated delinquent for an arrest involving rape or a sexual offense to another school and/or bus other than the victim's. There may well be an unexpected cost to regularly transport this student to another school. Additionally, a few of the smaller school systems only have one high school or have a longer distance between schools. This requirement, in addition to fiscal impact, would place an inordinate burden on such a school system to have to provide appropriate educational programming for the convicted/adjudicated student.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	(E+)	Unknown
	Benefit (+) Cost (-)	Magnitude
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.)

C. There will be economic impact through the requirements placed on the local school systems. Actual costs would vary, depending on the jurisdiction.

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 Dominic Romano, School Safety Specialist, Division of Student, Family, and School Support, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0301 TTY:410-333-6442, or email to dromano@msde.state.md.us, or fax to 410-333-8148. Comments will be accepted through November 21, 2011. 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 December 6—7, 2011, at 200 West Baltimore Street, Baltimore, MD 21201.

.17 School Use of Reportable Offenses.

A. Terms Defined. In this regulation the following terms have the meanings indicated:

(1) (text unchanged)

(2) "Criminal gang" has the meaning stated in Criminal Law Article, §9-801, Annotated Code of Maryland.

(3) "Law enforcement agency" means the law enforcement agencies listed in Public Safety Article, § 3–101(e), Annotated Code of Maryland.

(4) "Local school system" means the schools and school programs under the supervision of the local superintendent.

(5) "Local superintendent" means the county superintendent, for the county in which a student is enrolled, or a designee of the superintendent, who is an administrator.

[(2)] *(6)* (text unchanged)

[(3)] *(7)* "Reportable offense" means:

(a)—(b) (text unchanged)

(c) A violation of Criminal Law Article [§]§4-101, 4-102, 4-203[,] or 4-204, Annotated Code of Maryland;

(d) A violation of Criminal Law Article, §§5-602—5-609, 5-612—5-614, 5-617, 5-618, 5-627[,] or 5-628, Annotated Code of Maryland; [or]

(e) A violation of Criminal Law Article, [§]§4-503, 9-504[,] or 9-505, Annotated Code of Maryland[.];

(f) A violation of Criminal Law Article §6-102, 6-103, 6-104 or 6-105, Annotated Code of Maryland;

(g) A violation of Criminal Law Article §9-802 or 9-803, Annotated Code of Maryland;

(h) A violation of Criminal Law Article §3-203, Annotated Code of Maryland;

(i) A violation of Criminal Law Article §6-301, Annotated Code of Maryland;

(j) A violation of Criminal Law Article §9-302, 9-303 or 9-305, Annotated Code of Maryland;

(k) A violation of Criminal Law Article §7-105, Annotated Code of Maryland; or

(l) An offense related to membership in a criminal gang.

(8) "School principal" means the principal of the public or nonpublic school in which a student is enrolled, or a designee of the principal, who is an administrator.

(9) "School security officer" means an individual designated to maintain the security and safety of a school.

(a) School security officer includes:

(i) A school principal or other school administrator;

(ii) A law enforcement officer; or

(iii) Other individual employed by a local school system or a local government who is designated by the county superintendent or a school principal to help maintain the security and safety of a school.

(b) School security officer does not include:

(i) A teacher;

(ii) A school counselor;

(iii) A school psychologist; or

(iv) A school social worker.

[(4)] *(10)* (text unchanged)

B. Administrative Procedures.

(1) Promptly, upon receipt of information from a law enforcement agency of an arrest of a student for a reportable offense, the local [school] superintendent [or designee] shall provide the *school* principal of the school in which the student is enrolled with the arrest information, including the charges. If the student who has been arrested is an identified student with disabilities who has been enrolled by the public school system in a nonpublic school program, the local superintendent [or designee] shall provide the principal of the nonpublic school with the arrest information, including the charges.

(2) The school principal [or designee] with appropriate staff members shall immediately develop a plan that addresses appropriate educational programming and related services for the student and that maintains a safe and secure school environment for all students and school personnel. *The school principal shall request that the student's parent or guardian:*

(a) Participate in the development of the plan; and

(b) Submit information that is relevant to developing the plan.

(3) If the plan results in a change to the student's educational program, the school principal [or designee] shall promptly schedule a conference to inform the parent or guardian of the plan. The plan shall be implemented not later than 5 school days after receipt of the arrest information.

(4) The school principal [or designee] and appropriate staff shall review the plan and the student's status and make adjustments as appropriate:

(a) Immediately upon notification from the State's [attorney] *Attorney* of the disposition of the reportable offense; or

(b) Pending notification from the State's [attorney] *Attorney*, at a minimum on a quarterly basis.

(5)—(6) (text unchanged)

C. General Provisions.

(1) Except by order of a juvenile court or other court upon good cause shown or as provided in §C(2) of this regulation, the reportable [arrest] *offense* information is confidential and may not be redisclosed by subpoena or otherwise and may not be made part of the student's permanent educational record.

(2) If the disposition of the reportable offense was a conviction, an adjudication of delinquency, or the criminal charge or delinquency petition is still pending, a local [school] superintendent *or school principal* may transmit the information obtained under this regulation as a confidential file to the local [school] superintendent of another public school system *or to another nonpublic school* in the state in which the student has enrolled or *has* [been] transferred, to carry out the purposes of this regulation[;].

(3) A local [school] superintendent *or school principal* who transmits information about a student under *§C(2) of* this regulation shall include in the confidential transmittal information on any educational programming and related services provided to the student.

(4)—(6) (text unchanged)

(7) The reportable offense information obtained by a local superintendent, school principal or school security officer shall be:

(a) Transmitted only to school personnel of the school in which the student is enrolled as necessary to carry out the purposes set forth in this regulation; and

(b) Destroyed when the first of the following occurs:

(i) The student graduates;

(ii) The student otherwise permanently leaves school;

(iii) The student turns 22 years old;

(iv) The criminal case involving the reportable offense is dismissed;

(v) The student is found not guilty of the reportable offense; or

(vi) The student pleads to a lesser offense that is not a reportable offense.

(8) Reportable offense involving rape or a sexual offense.

(a) Except as otherwise provided in paragraph §C(8)(b) of this regulation, the local superintendent and the school principal shall consider prohibiting a student who is arrested for a reportable offense involving rape or a sexual offense from attending the same school or riding on the same school bus as the alleged victim of the reportable offense if such action is necessary or appropriate to protect the physical or psychological well-being of the alleged victim.

(b) If a student is arrested for a reportable offense involving rape or a sexual offense and is convicted of or adjudicated delinquent for the rape or sexual offense, the student may not attend the same school or ride on the same school bus as the victim.

(9) Nothing in this regulation is intended to limit the manner in which a local school obtains information or uses information obtained by any lawful means other than that set forth in §C(2) of this regulation.

(10) Each public school that enrolls students in grades six through 12 in the State shall designate at least one school security officer.

BERNARD J. SADUSKY, Ed.D.
Interim State Superintendent of Schools

Title 20
PUBLIC SERVICE COMMISSION

Subtitle 50 SERVICE SUPPLIED BY ELECTRIC COMPANIES

Notice of Proposed Action

[11-096-R]

The Public Service Commission proposes to:

(1) Amend Regulation **.03** and adopt new Regulation **.05** under **COMAR 20.50.01 General Provisions**; and

(2) Adopt new Regulation **.05** under **COMAR 20.50.10 Net Metering.**

Because substantive changes have been made to the original proposal as published in 38:5 Md. R. 332—334 (February 25, 2011), this action is being reproposed at this time.

This action was considered at a scheduled rule making meeting on August 16, 2011, notice of which was given under State Government Article, §10-506, Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to add new definitions; permit the waiver of regulations in the subtitle; and provide new regulations relating to the implementation of net metering for the purposes of utility billing.

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 David J. Collins, Executive Secretary, Public Service Commission, William Donald Schaefer Tower, 6 St. Paul Street, Baltimore, Maryland 21202-6806, or call 410-767-8067, or email to , or fax to . Comments will be accepted through November 21, 2011. A public hearing has not been scheduled.

Ed. Note: Pursuant to State Government Article, §10-113, Annotated Code of Maryland, if a promulgating agency substantively alters the text of regulations that have been previously proposed in the Maryland Register, the altered text must be published in the Maryland Register as though it were initially proposed. The text of regulations appearing immediately below has been altered substantively from the initially proposed text.

Symbols: Roman type indicates existing text of regulations. *Italic* type indicates initially proposed new text. ***Helvetica Bold Italic*** type indicates new text that substantively alters the text as initially proposed. [Single brackets] indicate existing text proposed for repeal. [[[Triple brackets]]] indicate text proposed for deletion which substantively alters the originally proposed text.

20.50.01 General *Provisions*

Authority: Public Utilities Article, §§2-113, 2-121, 5-101, 5-303, 7-203, *and 7-306*, Annotated Code of Maryland

.03 Definitions.

A. (originally proposed text unchanged)

B. Terms Defined.

(1) "Baseline annual usage" means:

(a) (originally proposed text unchanged)

(b)[[[*If an eligible customer-generator does not have 12 months of electric energy use in kilowatt hours at the time of the installation or upgrade of an eligible customer-generator's generating system, an estimate of 12 months electric use in kilowatt hours based on a methodology approved by the Commission.*]]] ***An estimate of 12 months electric use in kilowatt hours based on a methodology approved by the Commission for an eligible customer-generator that does not have 12 months of electric energy use in kilowatt hours at the time of the installation or upgrade of an eligible customer-generator's generating system.***

(1-1)—(7) (originally proposed text unchanged)

(7-1) ***"Net Excess*** *Generation* [[[*credit*]]]*" has the meaning stated in Public Utilities Article, §7-306, Annotated Code of Maryland.*

(8)—(25) (text unchanged)

.05 Waiver. (originally proposed text unchanged)

20.50.10 Net Metering

Authority: Public Utilities Article, §§2-113, 2-121, 5-101, 5-303, and 7-306, Annotated Code of Maryland

.01 General. (adopted in 38:18 Md. R. 1078 (August 26, 2011))

.02 Metering. (adopted in 38:18 Md. R. 1078 (August 26, 2011))

.03 Tariffs and Contracts. (adopted in 38:18 Md. R. 1078 (August 26, 2011))

.04 Calculation of Net Energy. (adopted in 38:18 Md. R. 1078 (August 26, 2011))