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 State Board of Education

FROM: Bernard J. Sadusky, Ed.D. BJS

DATE: December 6, 2011

SUBJECT: COMAR 13A.03.04.07 (AMEND)
ADOPTION

PURPOSE:

The purpose of this action is to seek adoption of proposed amendments to regulations that will provide "Whistleblower Protection" for local school system employees who report suspected test security violations. (Attachment I)

HISTORICAL BACKGROUND:

The Maryland State Department of Education (MSDE) often receives correspondence from local school system employees wanting to raise concerns regarding suspected testing violations. However, they are hesitant in providing MSDE with details due to fear of some type of reprisal from their school and/or LEA. Without details from these employees, MSDE may not be able to request or conduct a full investigation into test security violations, which may impact the reliability of State assessments. As a result, the State Test Administration and Security Committee proposed adding language regarding "Whistleblower Protection" to COMAR as a means of helping to alleviate some of these fears.

SUMMARY:

On average, each year MSDE receives approximately 10-15 contacts (via telephone, e-mail, letter, fax) with a testing violation concern. Almost always, the contacts wish to remain anonymous. In collecting details of the report, it is often difficult for the details to be offered without the person revealing their identity. Once the contact realizes that he/she cannot remain anonymous, they usually decline to give further information for fear of reprisal from their school and/or LEA.

Currently, COMAR 13A.03.04 Test Administration and Data-Reporting Policies and Procedures addresses test security violations with regards to reporting violations and issuing sanctions. Local school systems are held accountable for reporting any suspected violations. However, there is no mention of protection of employees who wish to report allegations.

The proposed action would add the following new language to COMAR 13A.03.04.07 Sanctions for Violations:

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

Being able to cite "whistleblower" language in COMAR will hopefully allay some of the concerns of those individuals who are aware of suspected test violations and enable these individuals to freely come forth with their reports.

The proposed amendments to regulation were published in the Maryland Register on October 21, 2011. The closing date for receiving public comment o the proposal was November 21, 2011. No comments were received.

ACTION:

I request that you adopt an amendment to COMAR 13A.03.04.07.

BJS/RG

Attachment –The Proposed Regulations

Title 11
DEPARTMENT OF TRANSPORTATION

Subtitle 18 MOTOR VEHICLE ADMINISTRATION — FINANCIAL RESPONSIBILITY REQUIREMENTS

11.18.02 Self-Insurers

Authority: Transportation Article, §§12-104(b) [and], 17-103, *and 20-105.1*[; Article 48A, §§539, 540, and 542;], Annotated Code of Maryland

Notice of Proposed Action

[11-299-P]

The Administrator of the Motor Vehicle Administration proposes to amend Regulation **.01** and adopt new Regulation **.08** under **COMAR 11.18.02 Self-Insurers.**

Statement of Purpose

The purpose of this action is to amend regulations to clarify to whom the self-insurers regulations pertain and to adopt new regulations to establish procedures for the self-insurance card required for self-insurers. This action is pursuant to H.B. 125, Ch. 320, Acts of 2011.

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 Tracey C. Sheffield, Regulations Coordinator, MVA, 6601 Ritchie Highway N.E., Room 200, Glen Burnie, MD 21062, or call 410-768-7545, or email to tsheffield@mdot.state.md.us, or fax to 410-768-7506. Comments will be accepted through November 21, 2011. A public hearing has not been scheduled.

.01 Scope.

These regulations are designed to govern all self-insurers in the State, except [the State government and] the federal government *and the State government unless otherwise provided.*

.08 Self-Insurance Card.

A. For the purposes of this regulation, self-insurers include:

(1) The State Government;

(2) Class A self-insurers;

(3) Class B self-insurers;

(4) Class C self-insurers; and

(5) Class D self-insurers.

B. Upon approval in the program, or a change in the self-insurer's third-party administrator or third party-adjuster, each self-insurer shall provide the Administration the self-insurer's third-party administrator's or third-party adjuster's:

(1) Name;

(2) Address; and

(3) Telephone number.

C. The Administration shall provide to self-insurers, in a format determined by the Administration, self-insurance certification for each vehicle upon:

(1) Initial registration into the program;

(2) Renewal; and

(3) Additions to the self-insurer's vehicle fleet.

D. The self-insurer's insurance card shall include the self-insurer's:

(1) Name;

(2) Address;

(3) Certificate number;

(4) Self-insurer's third-party administrator's or third-party adjuster's:

(a) Name;

(b) Address;

(c) Telephone number;

(5) Vehicle identification number; and

(6) Any other relevant information.

E. Each self-insurer shall maintain, in each self-insured vehicle:

(1) A self-insurance card; or

(2) Evidence of self-insurance containing the information required by §D of this regulation, in a format approved by the Administration.

F. Each self-insurer shall have a 60-day grace period for newly acquired vehicles or vehicles for which there has been a change of self-insurer, allowing time for the Administration to provide the self-insurance card. During that time, for proof of self-insurance, the self-insurers shall maintain a copy of the self-insurer's certificate in the vehicle.

JOHN T. KUO
Administrator
Motor Vehicle Administration

Title 13A
STATE BOARD OF EDUCATION

Subtitle 03 GENERAL INSTRUCTIONAL PROGRAMS

13A.03.04 Test Administration and Data-Reporting Policies and Procedures

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

Notice of Proposed Action

[11-296-P]

The Maryland State Board of Education proposes to amend Regulation **.07** under **COMAR 13A.03.04 Test Administration and Data-Reporting Policies and Procedures**. 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 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.