MARYLAND STATE DEPARTMENT OF EDUCATION
Preparing World-Class Students

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TO: Members of the State Board of Education

FROM: Bernard J. Sadusky, Ed.D.

DATE: June 26, 2012

SUBJECT: COMAR 13A.07.09
Evaluation of Teachers and Principals
ADOPTION

PURPOSE:

The purpose of this action is to seek adoption of the COMAR regulations applying to the Evaluation of Teachers and Principals. (Please see attached)

HISTORICAL BACKGROUND:

The Education Reform Act of 2010 calls for the State Board to adopt regulations to establish standards for performance evaluations for teachers and principals which include model performance evaluation criteria. This action would bring the Maryland State Department of Education's regulations into compliance with the Education Reform Act of 2010, signed by Governor O'Malley on May 3, 2010 and would meet the requirements of the Elementary and Secondary Education Act (ESEA) Flexibility Request requirements. The ESEA Flexibility Request submitted by Maryland on February 28, 2012 and accepted by the U.S. Department of Education on May 29, 2012 requires that all guidelines for teacher and principal evaluation and support systems must be adopted by the end of the 2011-2012 school year.

SUMMARY:

Both the Race to the Top Application and the ESEA Flexibility Request are aligned with the commitment to develop an evaluation system for both teachers and principals that will more consistently and fairly identify, support, and reward educators who are effective and highly effective and develop, support, or exit those who are ineffective. The evaluation systems will be supported and guided by professional development not only for the ineffective teacher or principal, but for all.

The proposed COMAR provides minimum general standards that apply to the evaluation of all teachers and principals; in addition, identifies criteria for local education agencies (LEAs) that signed on to Race to the Top; establishes Model State Performance Criteria if the LEA and the exclusive employee representative do not reach agreement; and provides a description of the Evaluation Cycle. No public comments were received.

ACTION:

I am recommending State Board adoption of the revised regulation COMAR 13A.07.09.

Attachment

10.45.05 Community Health Resources

Authority: Health-General Article, §§19-2107, 19-2109, and 19-2201, Annotated Code of Maryland

.04 Qualification under Health-General Article, §19-2101(c)(2), Annotated Code of Maryland — Designee Services.

A. To qualify as a community health resource designated pursuant to this regulation and Health-General Article, §19-2101(c)(2), Annotated Code of Maryland, a person shall establish that the person meets the definition in COMAR 10.45.01.02 of a:

(1)—(13) (text unchanged)

(14) Local health department; [or]

(15) Substance abuse treatment provider; *or*

(16) DDA licensee for FY 2012 and FY 2013.

B.—D. (text unchanged)

JOHN A. HURSON
Chair
Maryland Community Health Resources Commission

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

[12-118-P-I]

The Maryland State Board of Education proposes to adopt new Regulations **.01—.09** under a new chapter, **COMAR 13A.07.09 Evaluation of Teachers and Principals**. This action was considered by the Maryland State Board of Education at its March 27, 2012, meeting.

Statement of Purpose

The purpose of this action is to establish standards of performance evaluations for teachers and principals which include model performance evaluation criteria. This action would bring State Education regulations into compliance with the Maryland Education Reform Act of 2010 and would meet the requirements of the Elementary and Secondary Education Act Flexibility Request requirements and the Race to the Top (RTTT) grant award.

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 LEAs' 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 LEAs' 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 (+) 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.)

B. MSDE must implement a new Teacher/Principal Evaluation System as required by the Education Reform Act of 2010. Additionally, Maryland has agreed in their Race to the Top Application and in their request for ESEA Flexibility that they would implement the new Teacher/Principal Evaluation System. Noncompliance could hinder the granting of the ESEA Flexibility and/or cause loss of Race to the Top funding.

MSDE has allocated some Race to the Top funds to the development of the new 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 new 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 Mary Gable, Assistant State Superintendent, Division of Academic Policy, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0473 (TTY 410-333-6442), or email to mgable@msde.state.md.us, or fax to 410-333-2275. Comments will be accepted through June 18, 2012. 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 June 26—27, 2012, 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, the Maryland Instructional Leadership Framework, February 2005, has been declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Maryland Register or the Code of Maryland Regulations (COMAR). Copies of this document are filed in special public depositories located throughout the State. A list of these depositories was published in 39:2 Md. R. 104 (January 27, 2012), and is available online at www.dsd.state.md.us. The document may also be inspected at the office of the Division of State Documents, 16 Francis Street, Annapolis, Maryland 21401.

.01 Applicability.

A. Effective in school year 2013—2014, the minimum general standards set forth in Regulation .04A 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 criteria set forth in Regulation .05B(1)(a) of this chapter.

.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) "Student Growth" means student progress assessed by multiple measures and from a clearly articulated baseline to one or more points in time.

(4) 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.

The Maryland Instructional Leadership Framework, February 2005, is incorporated by reference.

.04 Local Education Agency Evaluation System.

A. An evaluation system for teachers and principals developed by an LEA in mutual agreement with the exclusive employee representative shall include General Standards and Performance Evaluation Criteria.

B. General Standards.

(1) 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.

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

(a) An evaluation of a teacher's professional practice shall be based on at least two observations during the school year;

(b) An evaluation report that evaluates a teacher as ineffective shall include at least one observation by an individual other than the immediate supervisor;

(c) An observation, announced or unannounced, shall be conducted with full knowledge of the teacher;

(d) A written observation report shall be shared with the teacher and a copy provided to the teacher within a reasonable period of time;

(e) A certificated individual shall sign the observation report to acknowledge receipt;

(f) An observation shall provide for written comments and reactions by the teacher being observed, which shall be attached to the observation report; and

(g) 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.

(3) Claims and evidence of observed instruction that substantiate the observed behavior or behaviors in a classroom observation and/or evaluation shall be included in the evaluation report. Such claims and evidence of observed instruction may be identified by either the teacher or the evaluator and may include such things as student work, teacher-developed initiatives, portfolios, projects, data, artifacts, and other statements.

(4) Clear standards, such as the INTASC standards, that are based on Department-approved or nationally recognized measurable components shall serve as the foundation of teaching and learning. The standards set forth in the LEA evaluation system shall be applicable to professional practice and student growth.

(5) Rigor. In order to ensure Statewide rigor in LEA evaluation systems:

(a) The LEA must submit its proposed evaluation system and any guidelines for its use to the Department for the purpose of ensuring compliance with the minimum general standards set forth in this chapter; and

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

(6) A professional development component for all teachers and principals and a focused professional development, resources, and mentoring component for teachers and principals who are evaluated as ineffective and for all nontenured teachers shall be included.

C. Performance Evaluation Criteria, of which no single performance evaluation criterion may account for more than 35 percent of the total performance evaluation criteria, shall:

(1) Be based on those measures mutually agreed to by an LEA and the exclusive employee representative;

(2) Yield, at a minimum, an evaluation of effective, highly effective, or ineffective;

(3) Be approved by MSDE;

(4) Address professional practice:

(a) For teachers, include, but not be limited to, planning, preparation, classroom environment, instruction, and professional responsibility; and

(b) For principals, include, but not be limited to, the eight outcomes in the Maryland Instructional Leadership Framework, consistent with Regulation .03 of this chapter; and

(5) Measure student growth, which for teachers and principals:

(a) Shall be a significant factor in the evaluation;

(b) Shall be based on multiple measures; and

(c) May not be based solely on an existing or newly created examination or assessment.

.05 Model State Performance Evaluation Criteria.

A. If the LEA and the exclusive employee representative do not reach agreement on an LEA Evaluation System, the Model State Performance Evaluation Criteria shall be adopted by the LEA.

B. The Model State Performance Evaluation Criteria include:

(1) Criteria for student growth that:

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

(b) May not be based solely on an existing or newly created examination or assessment; and

(c) Shall be based on multiple measures as follows:

(i) For elementary and middle school teachers providing instruction in State-assessed grades and content, aggregate class growth scores for State-assessed content areas being taught, student learning objectives in content areas being taught, and the school-wide index;

(ii) For elementary and middle school teachers providing instruction in non-State-assessed grades and content, student learning objectives in content areas being taught and the school-wide index;

(iii) For high school teachers, student learning objectives in content areas being taught and the school-wide index;

(iv) For elementary and middle school principals, student learning objectives, aggregate school-wide growth scores in State-assessed content areas, and the school-wide index;

(v) For high school principals, student learning objectives and the school-wide index; and

(vi) For principals of other types of schools, student learning objectives and the school-wide index; and

(2) Criteria for professional practice that:

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

(b) For teachers, shall include, but not be limited to, planning and preparation, classroom environment, instruction, and professional responsibility; and

(c) For principals, shall include, but not be limited to, the eight outcomes in the Maryland Instructional Leadership Framework, consistent with Regulation .03 of this chapter, and other outcomes based on Interstate School Leaders and Licensure Consortium (ISLLC).

.06 Evaluation Cycle.

A. Tenured Teachers. On a 3-year evaluation cycle, tenured teachers shall be evaluated at least 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 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 certificated individual who is the subject of the evaluation.

B. The certificated individual shall receive a copy of and sign the evaluation report.

C. The signature of the certificated individual 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 certificated individuals with an opportunity to appeal in accordance with Education Article, §4-205(c)(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 certificated 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 LEA.

.09 Review.

This chapter shall be in effect until September 30, 2014, at which time it shall automatically sunset, subject to review and repromulgation by the State Board.

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

Title 14
INDEPENDENT AGENCIES

Subtitle 09 WORKERS' COMPENSATION COMMISSION

14.09.01 Procedural Regulations

Authority: Health-General Article §4-303; Labor and Employment Article, §§9-307, 9-309, 9-310.2, 9-314, 9-404, 9-405, 9-410, 9-603, 9-625, 9-635, 9-689, 9-701, 9-709, 9-710, 9-711, 9-721, 9-731, 9-739, and 9-6A-07; Insurance Article, §§19-405 and 19-406; State Government Article, §10-1103; Annotated Code of Maryland

Notice of Proposed Action

[12-112-P]

The Workers' Compensation Commission proposes to amend Regulation .24 under **COMAR 14.09.01 Procedural Regulations**. This action was considered at a public meeting on March 22, 2012, notice of which was given by publication in 39:4 Md. R. 358 (February 24, 2012) pursuant to State Government Article §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to recodify and amend the requirement that an appellant's attorney send a copy of a petition for