



November 2, 2018

Dr. Justin M. Hartings, President
Maryland State Board of Education
200 West Baltimore Street
Baltimore, Maryland 21201

re: Proposed Amendments to
COMAR 13A.01.05, *Appeals to the State Board*

Dear Dr. Hartings:

The Maryland Association of Boards of Education (MABE), representing the 24 local boards of education, and the Public School Superintendents Association of Maryland (PSSAM), representing the 24 local superintendents of schools, jointly offer these comments on the amendments proposed by the Maryland State Board of Education to COMAR 13A.01.05, *Appeals to the State Board*. MABE and PSSAM appreciate the State Board's interests in streamlining and adding clarity to the appeal process for both appellants and local boards of education. However, the proposal recommends the deletion of a valuable and regularly used procedural vehicle, specifically the **Motion for Summary Affirmance** currently found in COMAR 13A.01.05.03D. This deletion is likely to cause uncertainty and confusion among stakeholders in the appeal process. The current provision concerning the filing of a **Motion for Summary Affirmance** should be retained.

As the State Board is aware, the majority of appeals are adjudicated through the filing of a **Motion for Summary Affirmance** by the local board in response to cases in which there are no genuine issues of material fact and the local board is entitled to affirmance as a matter of law. It is an effective and efficient process for resolving appeals, and there are no known complaints about the current process.


In deleting the **Motion for Summary Affirmance** provision, the proposed regulations substitute a broader process, termed a **Memorandum in Response to the Appeal**. In many cases the local board's response will argue that there are no genuine issues of material fact and that the local board is entitled to affirmance. However, the deletion of the provision expressly allowing for that answer to appeals will only lead to confusion. It is better to retain that process expressly.

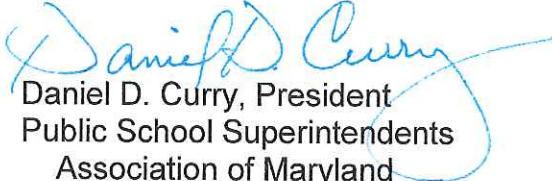
The summary affirmance process has existed for many years and has served the important interests of efficiency and effectiveness. Additionally, retaining the summary affirmance provision puts all parties on clear notice as to its legitimate use as a means of disposition. This transparency is especially important for parents and other unrepresented parties to an appeal. If the current section allowing a motion for summary affirmance is repealed and replaced with the more nondescript **Memorandum in Response to the Appeal**, but yet appeals continue to be decided

on the criteria for the current **Motion for Summary Affirmance**, the public is likely not to understand the State Board's appeal processes. They will be parties to appeals decided by a process not expressly provided for in the regulations. This confusion may cause distrust in the fairness and objectivity of the State Board of Education and may lead to further appeals of State Board decisions to the courts.

While overall the proposed amendments to the regulations importantly clarify the appeal process, both MABE and PSSAM urge that the express provision for a **Motion for Summary Affirmance** should be retained.

Sincerely,


C. Tolbert Rowe, President
Maryland Association of
Boards of Education


Daniel D. Curry, President
Public School Superintendents
Association of Maryland

CTR:DDC:kwb

Copy to:

Dr. Karen B. Salmon, State Superintendent of Schools
Ms. Frances Hughes Glendening, MABE Executive Director
Ms. Renee McGuirk Spence, PSSAM Executive Director