



Karen B. Salmon, Ph.D.
State Superintendent of Schools

TO: Members of the State Board of Education
FROM: Karen B. Salmon, Ph.D.
DATE: July 23, 2019
RE: Disqualification Criteria For Substitute Teachers
COMAR 13A.07.12 PERMISSION TO PUBLISH

PURPOSE:

The purpose of this item is to request permission to publish a new regulation regarding the disqualification criteria for substitute teachers when a local school system (LSS) has been informed that a substitute has been identified for possible involvement in child abuse, neglect, failure to report suspected child abuse or neglect, or is found guilty of specific crimes.

HISTORICAL BACKGROUND:

In 2017, the Maryland State Department of Education (MSDE) revised its policies and procedures surrounding suspensions and revocations of professional certificates of individuals who violate one of the causes identified in the Code of Maryland Regulations (COMAR) 13A.12.05 *Suspensions and Revocations*. Revisions were made in an effort to streamline existing processes to ensure the safety of Maryland students. During this revision, it became apparent that MSDE should collaborate with local superintendents to determine if the current reporting procedures surrounding the notification of the MSDE when a local school system (LSS) has been informed that an employee has been identified for possible involvement in child abuse, neglect, or the failure to report suspected child abuse or neglect, require revisions.

In March 2018, the State Superintendent charged a new workgroup with reviewing COMAR 13A.12.05.03 *Reporting Procedures* to determine if the regulation requires amendments, as well as, to determine how the policies and procedures pertaining to this regulation can be improved to ensure the safety of students in Maryland. The workgroup, facilitated by MSDE, convened seven times and was comprised of representatives/designees from the following local school systems:

- Dr. Kimberly Hill, Charles County Public Schools
- Mr. Brian Johnson, Charles County Public Schools
- Dr. Andrea Kane, Queen Anne's County Public Schools
- Dr. John Mayo, Baltimore County Public Schools
- Ms. Christina Byers, Baltimore County Public Schools
- Ms. Erica Cook, Wicomico County Board of Education
- Ms. Linda Johnson, Montgomery County Public Schools
- Ms. Donna Hollingshead, Montgomery County Public Schools

- Ms. Robin Welsh, Prince George's County Public Schools
- Ms. Deirdria Hudness, Prince George's County Public Schools

To facilitate the work, the initial meeting focused on the current regulatory requirements outlining reporting procedures, local school system hiring and reporting procedures, and current local and state-level issues surrounding the current process. In the beginning, the workgroup identified the need for a statewide database to house the names of disqualified substitute teachers, as substitutes do not require a Maryland Educator Certificate and therefore are not covered under the reporting procedures outlined in COMAR 13A.12.05.03. The workgroup spent subsequent meetings drafting regulatory language.

PROPOSED REGULATION:

The proposed regulation outlines the following with respect to disqualification criteria for substitute teachers:

- Causes of Disqualification
- Notice of Disqualification and Right to Appeal
- Disqualified Substitute Teacher Database
- Disqualification of a Substitute who holds a Maryland Educator Certificate

SUMMARY:

A workgroup comprised of multiple constituent organizations is recommending a new regulation be established regarding disqualification criteria for substitute teachers who engage in certain behavior.

ACTION:

Request permission to publish regulation COMAR 13A.07.12.

Attachment

Disqualification Criteria for Substitute Teachers



STATE BOARD MEETING

July 23, 2019

Disqualification Criteria for Substitutes: Background

State Superintendent identified the need to collaborate with Local School Systems to develop standard reporting procedures regarding the notification of child abuse, neglect, or failure to report child abuse/neglect and requested the formation of a workgroup

- Determine if existing regulation pertaining to reporting possible child abuse/neglect and failure to report child abuse/neglect remains appropriate and make recommendations regarding regulatory language, if required
- Develop policies and procedures that improve the process of taking action on an educator certificate

Simultaneously, the Maryland State Department of Education (MSDE) streamlined existing processes to ensure student safety

- Revised its policies and procedures surrounding suspensions and revocations of educator certificates and
- Formalized a process for notifying the Local School Systems when the MSDE becomes aware of disciplinary action taken on an educator's out-of-state certificate.

Child Abuse Notification Workgroup

14 members Convened bi-monthly for 3 months

- 7 Local School Systems represented
 - Baltimore County, Charles County, Montgomery County, Prince George's County, Queen Anne's County, Wicomico County
- 2 MSDE Staff
- MSDE Legal Counsel

Workgroup Charge

- Determine if existing regulation pertaining to reporting possible child abuse/neglect and failure to report child abuse/neglect remains appropriate and make recommendations regarding regulatory language, if required
- Develop policies and procedures that improve the process of taking action on an educator certificate

Additional Focus of Workgroup

- Members identified the need to expand the focus to include the creation of a statewide disqualified substitute database

Recommendations for Licensed Educators

Work Group Recommendations

Current COMAR language (13A.12.05.03) outlining reporting procedures remains appropriate.

MSDE should provide a template letter for LSSs to use when reporting a charge/requesting action on a certificate.

MSDE Recommendations

Concur

Concur. The template drafted by the work group and vetted by legal counsel is recommended.

Recommendations for Substitutes

Work Group Recommendations

MSDE should provide a template letter for LSSs to use when reporting a substitute who should be placed on the disqualified list.

Monitor the usage of the disqualified substitute database to determine if additional groups of individuals should be added (e.g., coaches, paraprofessionals).

Promulgate a regulation identifying disqualification criteria for substitute teachers.

Establish and maintain a database of disqualified substitutes.

MSDE Recommendations

Concur. The template drafted by the work group and vetted by legal counsel is recommended.

Concur

Concur. MSDE is requesting permission to publish new regulations regarding the disqualification of substitutes.

Concur. The proposed regulation includes maintenance of a disqualified substitute teacher database.

Proposed Regulation

- **Causes of Disqualification**
 1. **Pleads guilty, receives probation before judgement, or is convicted of:**
 - Contributing to the delinquency of a minor
 - Moral turpitude (must bear directly on fitness for employment in education)
 - Controlled dangerous substance as defined in law and imposed in accordance with Criminal Law Article §5-810
 - Child abuse or neglect
 - Crime of violence as defined in law
 2. **Failure to report suspected child abuse**
 3. **Terminated or resigns after notice of allegations of sexual child abuse**
- **Notice of Disqualification and Right to Appeal**
- **Disqualified Substitute Teacher Database**



Questions

COMAR 13A.07.12

Disqualification Criteria for Substitute Teachers

A. Disqualification Causes.

(1) A local school system shall disqualify a substitute teacher from employment in any local school system if the individual:

(a) Pleads guilty or nolo contendere with respect to, receives probation before judgment with respect to, or is convicted of, a crime involving:

(i) Contributing to the delinquency of a minor;

(ii) Moral turpitude if the offense bears directly on the individual's fitness for employment in education;

(iii) A controlled dangerous substance offense as defined in federal or State law, and the sanction for this offense committed in Maryland shall be imposed in accordance with Article 41, §§1-501—1-507, and Criminal Law Article, §5-810, Annotated Code of Maryland;

(iv) Child abuse or neglect as defined in Criminal Law Article, §§3-601—3-603, Annotated Code of Maryland, or a comparable crime in another state; or

(v) A crime of violence as defined in Criminal Law Article, §14-101, Annotated Code of Maryland, or a comparable crime in another state.

(b) Knowingly fails to report suspected child abuse in violation of Family Law Article, §5-701, Annotated Code of Maryland;

(c) Is dismissed or resigns after notice of allegation of misconduct involving a student in any school system or any minor; or

(d) Is dismissed or resigns after notice of allegations of sexual child abuse.

(2) This regulation does not prevent a local school system from terminating, declining to hire, or declining to use the services of a substitute teacher based on any of the disqualifying causes or for any other lawful reason not listed as a disqualifying cause.

B. Notice of Disqualification and Right to Appeal.

(1) Prior to disqualifying a substitute teacher, a local school system shall send the individual notice of the proposed action, including the specific cause or causes for disqualification, and provide an opportunity to challenge the disqualification.

(2) A challenge to disqualification is limited to whether a substitute should be added to the Disqualified Substitute Teacher Database.

(3) An individual may appeal the disqualification in writing to the State Superintendent of Schools within 30 days of the final decision of the local school system. An individual shall remain on the disqualified list while an appeal to the State Superintendent of Schools is pending.

C. Disqualified Substitute Teacher Database.

(1) The Maryland State Department of Education shall maintain an electronic database of substitute teachers who have been disqualified by a local school system under §A—B of this regulation.

(2) The local school system shall notify the Maryland State Department of Education of a substitute teacher's disqualification within 10 days of the final action.

(3) The notification to the Maryland State Department of Education shall be in the format prescribed by the Department.

(4) Within 10 days of receipt of notification, the Maryland State Department of Education shall enter the individual into an electronic database established under this regulation.

(5) Prior to employing an individual as a teacher, a local school system shall check whether the individual is listed in the Disqualified Substitute Teacher Database.

(6) The Maryland State Department of Education shall provide a list of those individuals in the Disqualified Substitute Teachers Database to each local school system on a monthly basis.

D. If a decision to disqualify an individual from being able to serve as a substitute is based on §A (1)(a) of this regulation and if the plea, probation before judgment, or conviction is overturned or expunged and there is no subsequent proceeding leading to a plea, probation before judgment, or conviction, the individual who has been disqualified may file a written request with the Maryland State Department of Education to be removed from the Disqualified Substitute Teacher Database.

E. If an individual who is disqualified from being able to serve as a substitute in Maryland based on §A of this regulation holds a valid Maryland Educator Certificate, the local superintendent of schools shall notify the State Superintendent of Schools in writing of charges against the certificate holder pursuant to COMAR 13A.12.05.02.