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State Superintendent of Schools

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TO: Members of the State Board of Education

FROM: Karen B. Salmon, Ph.D.

DATE: December 3, 2019

SUBJECT: COMAR 13A.08.01.03
Lawful Absences
PERMISSION TO PUBLISH

PURPOSE:

The purpose of this item is to request permission to publish amendments to COMAR 13A.08.01.03–*Lawful Absence*.

REGULATION PROMULGATION PROCESS:

Under Maryland law, a state agency, such as the State Board, may propose a new or amended regulation whenever the circumstances arise to do so. After the State Board votes to propose such a regulation, the proposed regulation is sent to the Administrative, Executive, and Legislative Review (AELR) Committee for a 15-day review period. If the AELR Committee does not hold up the proposed regulation for further review, it is published in the Maryland Register for a 30-day public comment period. At the end of the comment period, Maryland State Department of Education (MSDE) staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board of Education to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because the suggested revision is not a substantive change; or (3) revise the regulation and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may recommend to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

BACKGROUND/HISTORICAL PERSPECTIVE:

In 2017, the Maryland legislature approved Education Article §2-205 and §7-301 allowing student absences due to pregnancy or parenting related conditions to be counted as lawful absences. Each county board was required to develop a written attendance policy for pregnant and parenting students that excused all absences due to pregnancy or parenting related conditions including labor, delivery, recovery, and prenatal and postnatal medical appointments. The policy was to be written to allow for at least 10 days of excused absences for a parenting student after the birth of the student's child, and excuse any parenting related absences due to an illness or medical appointment of the student's child, including up to four days of absences per school year

for which the school could not require a note from a physician. Other stipulations included excusing any absence due to a legal appointment involving pregnant or parenting students that was related to a family law proceeding, including adoption, custody, and visitation. Direction regarding making up missed work was also included in the legislation. The Governor signed the legislation on May 25, 2017. All local school systems were informed of the legislative mandates and made the appropriate adjustments to their lawful absence policies. The MSDE provided guidance related to the use of appropriate lawful absence codes through a Frequently Asked Questions Document, which was sent to all Directors of Student Services.

However, current COMAR regulation 13A.08.01.03–*Lawful Absence* does not include the changes provided for pregnant and parenting teens in the statute. For this reason, we are asking to amend the current regulation to reflect these changes.

EXECUTIVE SUMMARY:

The proposed amendments to COMAR 13A.08.01.03 *Lawful Absences* defines, updates, and clarifies the requirements for lawful absence to include the legislative mandates of 2017 regarding lawful absences of pregnant and parenting teens. The regulation update includes the specific conditions for the lawful absences.

ACTION:

Request permission to publish proposed amendments to COMAR 13A.08.01.03–*Lawful Absences*.

ATTACHMENT:

COMAR 13A.08.01.03–*Lawful Absences*.

Title 13A STATE BOARD OF EDUCATION

Subtitle 08 STUDENTS

Chapter 01 General Regulations

Authority: Education Article, §§2-205, 7-101, 7-101.1, 7-301, 7-301.1, 7-303—7-305, 7-305.1, 7-307, 7-308, and 8-404, Annotated Code of Maryland; Ch. 273, Acts of 2016; Federal Statutory Reference: 20 U.S.C. §§1232g and 7912,

.03 Lawful Absence.

Students presently enrolled in public schools are considered lawfully absent from school, including absence for any portion of the day, only under the following conditions:

A. Death in the immediate family. The local school system shall determine what relationships constitute the immediate family.

B. Illness of the student. The principal or a pupil personnel worker shall require a physician's certificate from the parent or guardians of a student reported continuously absent for illness.

C. *Pregnancy and parenting related conditions as determined by the local school system, including absences due to:*

(1) *Labor, delivery, recovery, and prenatal and postnatal medical appointments;*

(2) *Illness or a medical appointment of the student's child; and*

(3) *A legal appointment involving the pregnant or parenting student related to family law proceedings, including adoption, custody, and visitation.*

[C.] D. Court summons.

[D] E. Hazardous weather conditions. Hazardous weather conditions shall be interpreted to mean weather conditions which would endanger the health or safety of the student when in transit to and from school.

[E.] F. Work approved or sponsored by the school, the local school system, or the State Department of Education, accepted by the local superintendent of schools or the school principal, or their designees as reason for excusing the students.

[F.] G. Observance of a religious holiday.

[G.] H. State emergency.

[H.] I. Suspension.

[I] J. Lack of authorized transportation. This does not include students denied authorized transportation for disciplinary reasons.

[J] K. Other emergency or set of circumstances which, in the judgment of the superintendent or designee, constitutes a good and sufficient cause for absence from school.