



Mohammed Choudhury
State Superintendent of Schools

To: Members of the State Board of Education
From: Mohammed Choudhury, State Superintendent of Schools
Date: December 6, 2022
Subject: Permission to publish COMAR 13A.08.01.03 *Lawful Absence*

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 2022, the Maryland legislature approved Education Article §7-301.3 requiring MSDE to adopt a policy for public school students that treats an absence due to a student’s behavioral health needs the same as an absence due to an illness or another somatic health need. For this reason, we are asking to amend the current regulation to reflect these changes.

Executive Summary

The proposed regulation updates the policy on lawful absences, treating an absence due to a student’s behavioral health needs the same as an absence due to an illness or another somatic health need. The regulation update also includes the requirement that a certificate from an appropriate health care provider license or certified under the Health Occupations Article be provided to the school for a student absent for a behavioral health need. If the

school is notified that a student's absence was due to a behavioral health need, the school shall provide information about school or community behavioral health resources that are available to the student.

Action

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

Attachments

Attachment: COMAR 13A.08.01.03 *Lawful Absence*.pdf

COMAR 13A.08.01.03

.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.]

(1) The principal or a school appointed designee shall require from the parent or guardian:

(a) A physician's certificate for a student reported continuously absent for a physical illness or somatic health need; or

(b) A certificate from an appropriate health care provider licensed or certified under the Health Occupations Article for a student reported continuously absent for a behavioral health need.

(2) If a student or the student's parent or guardian notifies a public school that the student's absence was due to a behavioral health need, the school shall provide information to the student or the student's parent or guardian about school or community behavioral health resources that are available to the student.

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.

D. Court summons.

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.

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.

G. Observance of a religious holiday.

H. State emergency.

I. Suspension.

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

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.
