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**TO:** Members of the State Board of Education

**FROM:** Carey M. Wright, Ed.D., State Superintendent of Schools 

**DATE:** June 24, 2025

**SUBJECT:** COMAR 13A.01.05.12 *Appeals to the State Board* (Permission to Publish)

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### **Purpose**

To review draft amendments to COMAR 13A.01.05.12 *Appeals to the State Board* that add a process for request of interim relief during the period in between an individual's submission of a request for the State Board to issue charges for removal of a local member of a board of education and when the State Board makes a decision on issuing charges.

### **Executive Summary**

The proposed amendments to this regulation outline a process before the State Board decides whether to issue charges to remove a local board member that would allow the party seeking removal to file a motion requesting interim relief. This motion can be submitted because the board member's continued service is likely to cause serious harm to the school system's operations, the safety or well-being of students or staff, or the integrity of board governance. The motion must include a summary of the facts so far, a description of the alleged harm and urgency, a request for specific restrictions on the board member's involvement (up to suspension), and a sworn statement affirming the truth of the information provided.

After the motion is submitted, the State Board President or designee has five days to review it. If the motion meets all legal and factual requirements, it is forwarded to the Office of Administrative Hearings (OAH), which must schedule a hearing within 20 days. The board member is also given a chance to submit a written response. Within five days after the hearing, an administrative law judge will issue final findings and determine if interim relief is warranted, based on whether the harm would be irreparable and whether granting relief serves the public interest. If approved, the interim relief stays in place until the State Board issues a final decision on the removal request, but it does not reflect the final outcome of the case.

### **Action**

Request that the State Board grant permission to publish amendments to COMAR 13A.01.05.12 *Appeals to the State Board*.

### **Attachments**

COMAR 13A.01.05.12 *Appeals to the State Board* Draft Regulation

# **Title 13A STATE BOARD OF EDUCATION**

## **Subtitle 01 STATE SCHOOL ADMINISTRATION**

### **Chapter 05 Appeals to the State Board of Education**

Authority: Education Article, §§2-205, 4-205, 6-202, and 7-305; State Government Article, §§10-122 and 10-201 et seq., Annotated Code of Maryland

#### **.12 Procedures Applicable to Requests to Remove a Local Board Member.**

A. Request to Issue Charges. A request to issue charges against a local board member may be filed with the State Board by the local board or by a resident of the county in which the school system is located, if removal by the State Board is permitted by the statute governing removal of members of that local board.

##### **B. Content of the Request.**

###### **(1) The request to issue charges shall:**

- (a) Set forth in a detailed affidavit, with all supporting documentation, the factual basis to support a statutory ground for removal; and
- (b) Be signed with a statement submitting the affidavit under penalties of perjury by including the following language: "I solemnly affirm under the penalties of perjury that the contents of the foregoing are true to the best of my knowledge, information, and belief."

###### **(2) Grounds for removal are those set forth by the statute governing removal of members of that local board and may include:**

- (a) Misconduct in office;
- (b) Immorality;
- (c) Incompetency;
- (d) Willful neglect of duty; or
- (e) Failure to attend a required number of scheduled board meetings.

##### **C. Method of Submission.**

- (1) The request shall be filed with the State Board in the manner prescribed in Regulation .01B(5)(a) of this chapter.
- (2) Repetitive, redundant, or duplicative submissions will not be accepted.
- (3) The State Board may consolidate multiple requests for removal.

D. Time of Submission. From the date the first request to issue charges was filed, the record shall remain open to file additional requests for 30 calendar days. The record shall close at the end of the 30-day period, unless the State Board extends that time period.

##### **E. Factual and Legal Sufficiency of the Request.**

- (1) The State Board shall assess the factual and legal sufficiency of the request to issue charges.
- (2) In doing so, it shall notify the local board member of the request and may provide the local board member an opportunity to respond to the request to issue charges.
- (3) A factually sufficient request shall:
  - (a) Be made by a person who has personal knowledge of the facts supporting the request and reason to believe in its truth; and
  - (b) State the act or acts complained of in concise language, with a detailed description of the date, location, and nature of each act.
- (4) A legally sufficient request shall create a reasonable belief that the actions committed could constitute a ground for removal from office.
- (5) The State Board shall dismiss a request that is not factually or legally sufficient, or otherwise fails to meet the requirements of this regulation.

F. Issuance of Charges. If the State Board determines that the request to issue charges is factually and legally sufficient, it shall send a notice of the charges to the local board member who may file a request for a hearing within 10 days of the date the notice of charges was issued.

G. Hearing. If a hearing is requested, the State Board shall transfer the case to the Office of Administrative Hearings to schedule and conduct the hearing and issue a proposed decision on whether or not the local board member should be removed from office.

##### **H. Interim Relief.**

*(1) A party who has filed a request for removal may bring a separate motion to the State Board for interim relief on the grounds that the continued service of the local board member is likely to result in substantial harm to the:*

- (a) Operations of the local school system;*
- (b) Safety or well-being of students or staff; or*
- (c) Integrity of local board governance.*

*(2) The motion shall include:*

- (a) A summary of the factual record to date;*

- (b) A statement describing the harm alleged and the urgency of the relief;
- (c) A request for specific limitations on the local board member's participation in local board activities up to and including suspension of service pending the State Board's decision on removal; and
- (d) A signed statement that includes the following language: "I solemnly affirm under the penalties of perjury that the contents of the foregoing are true to the best of my knowledge, information, and belief."
- (3) Within 5 days of receipt of the motion, the State Board President or designee shall:
  - (a) Review the motion and dismiss a motion that is not factually or legally sufficient, or otherwise fails to meet the requirements of this regulation; or
  - (b) Transmit the motion to the Office of Administrative Hearings and provide a copy of the motion to the local board member.
- (4) Within 5 days of receipt of the transmittal, the Office of Administrative Hearings shall:
  - (a) Schedule a hearing on the motion to occur within 20 days of the motion being filed; and
  - (b) Provide the local board member with an opportunity to respond in writing prior to the hearing.
- (5) Within 5 days of the hearing, the administrative law judge shall issue final findings of fact and conclusions of law on whether interim relief is warranted, applying a balancing test that considers:
  - (a) Whether the harm that would result without interim relief is irreparable; and
  - (b) The public interest served by granting interim relief.
- (6) The issuance of interim relief shall:
  - (a) Remain in effect until the State Board issues a final decision on the removal request;
  - (b) Not affect any compensation for which the local board member is eligible; and
  - (c) Not be construed as a determination on the merits of the removal request.
- [H.] **L.** Parties at the Hearing.
  - (1) If a local board has requested removal, it shall present the case for removal at the hearing through counsel.
  - (2) If a resident has requested removal, the resident shall present the case for removal through counsel or pro se.
  - (3) The local board member shall present the case against removal through counsel or pro se.
- [I.] **J.** Proposed Decision. The administrative law judge shall submit in writing to the State Board a proposed decision containing findings of fact, conclusions of law, and recommendations, and distribute a copy of the proposed decision to the parties.
- [J.] **K.** Hearing Record and Transcript. The administrative law judge and the parties shall prepare a record and transcript as provided in Regulation .08 of this chapter.
- [K.] **L.** Exceptions and Oral Argument.
  - (1) A party objecting to the administrative law judge's proposed decision may file exceptions with the State Board within 15 days of the date of the proposed decision.
  - (2) A party may respond within 15 days of the date the exceptions were filed.
  - (3) As appropriate, each party shall append to the party's exceptions or response to exceptions copies of the pages of the transcript that support the argument set forth in the party's exceptions or response to exceptions.
  - (4) If exceptions are filed, each side shall have the opportunity for oral argument before the State Board before the State Board issues a final decision.
  - (5) Oral argument before the State Board shall be limited to 10 minutes per side. The State Board, upon request or at its sole discretion, may shorten or lengthen the time period for oral argument.