

MINUTES OF THE MARYLAND STATE BOARD OF EDUCATION

Tuesday, April 28, 2020
Maryland State Board of Education
200 W. Baltimore Street
Baltimore, Maryland 21201

The Maryland State Board of Education met via teleconference on Tuesday, April 28th, at 11:00 a.m. The following members participated on the conference call: Brigadier General (BG) Warner Sumpter (Ret.); Ms. Jean Halle; Ms. Gail Bates; Mr. Clarence Crawford; Mr. Charles R. Dashiell, Jr., Esq.; Dr. Vermelle D. Greene; Dr. Justin M. Hartings; Dr. Rose M. Li; Dr. Joan Mele-McCarthy; Ms. Rachel McCusker, Ms. Lori Morrow, Mr. Michael Phillips, Dr. David Steiner; Ms. Noureen Badwi, Student Representative; and State Superintendent Dr. Karen B. Salmon.

The following staff members also participated: Elliott L. Schoen, Assistant Attorney General; Dr. Sylvia Lawson, Deputy State Superintendent, Office of School Effectiveness; Amalie Brandenburg, Deputy State Superintendent, Office of Finance and Administration; Dr. Carol Williamson, Deputy State Superintendent, Office of Teaching and Learning; and Dr. Miya T. Simpson, Executive Director, Office of the State Board.

President Sumpter called the meeting to order and asked Dr. Simpson to conduct the roll call. Mr. Schoen declared the presence of a quorum.

President Sumpter explained the procedures for conducting the virtual meeting.

NEW BUSINESS

➤ *Approval of Consent Agenda*

President Sumpter called for a motion to approve the Consent Agenda, which included the following items:

- Approval of Meeting Minutes
- Personnel Actions
- Budget Adjustments, March 2020
- Ratification of Extended School Closure Decisions from March 27, 2020 through May 15, 2020

***ACTION:** Upon motion by Ms. Badwi and seconded by Ms. Bates, the State Board approved the consent agenda. (In Favor: 14; Opposed: 0; Abstained: 0)*

EXECUTIVE SESSION

Pursuant to § 3-305(b)(7) of the General Provisions Article, Annotated Code of Maryland, and upon motion of Ms. Halle, seconded by Ms. McCusker, and with unanimous approval, the Maryland State Board of Education met in closed session by conference call on Tuesday, April

28, 2020. All board members were present. Also in attendance were Dr. Sylvia Lawson, Chief Performance Officer, Amalie Brandenburg, Chief Operating Officer, Dr. Miya Simpson, Executive Director, Office of the State Board and Assistant Attorneys General, Elliott Schoen and Jackie La Fiandra. The Executive Session commenced at 11:10 a.m.

At that time, the State Board approved six Opinions and three Orders for publication.

- *K.W. v. Baltimore County Board of Education* – student discipline – Op. No. 20-14
- *Lisa B. v. Harford County Board of Education* – re-entry conditions after alternative school placement – Op. No. 20-15
- *James Hagerty v. Carroll County Board of Education* – termination/whistleblower – Op. No. 20-16
- *Vincent and Parul M. v. Charles County Board of Education* – student discipline – Op. No. 20-17
- *S.R. v. Montgomery County Board of Education* – discrimination at IEP meeting – Op. No. 20-18
- *Ellen Z. and Assya P. v. Montgomery County Board of Education* – data breach – Op. No. 20-19
- *Tyboia Brown v. Somerset County Board of Education* – motion to recuse – OR 20-08
- *Tyboia Brown v. Somerset County Board of Education* – request for reconsideration – OR20-09
- *Lorena Reyes-Harding v. Howard County Board of Education* – request for reconsideration – OR20-10

The State Board received legal advice regarding maintenance of effort legal requirements. COO Brandenburg shared budget information. Dr. Simpson provided information about online meeting platforms.

The Executive Session ended at 12:10 p.m.

RECONVENE

President Sumpter explained the procedures for conducting the virtual meeting.

STATE SUPERINTENDENT'S REPORT

➤ ***Updates on COVID-19***

Dr. Salmon provided brief updates regarding payments to childcare providers and the processing of invoices and grant payments. She shared that the department has doubled its processing staff to assist with these efforts and expedite payments. Additional grant payments are being processed for distribution and/or direct deposit later in the week. Dr. Salmon expressed her gratitude to staff and childcare providers for their service to the state.

Dr. Salmon also shared updates on the statewide student meal program, noting that 6.4 million meals have been served to students throughout the state since the statewide emergency closures began in March. The department has implemented all approved federal waivers to assist local systems as they continue to provide meal services to students during

the emergency school closures. Dr. Salmon thanked staff, school systems, and food services personnel for their work.

Dr. Salmon also addressed the remainder of the sports season for the 2019-20 school academic year reported that all athletic events for the rest of the school year. After careful review and consultation with the State Board and State Superintendent, the Maryland Public Secondary Schools Athletic Association (MPSSAA) has officially announced the cancellation of all athletic events and sports for the remainder of the 2019-20 school year. This includes the remainder of the 2020 boys and girls basketball state championships, all spring sports, and spring state championships. The MPSSAA will begin focusing its efforts on aligning the return of interscholastic athletics with the Maryland Strong Roadmap to Recovery and the multi-phased approach within each stage of the recovery alongside school systems throughout the state.

Dr. Salmon also reported that the department continues to work with local school systems on refining and improving their continuity of learning plans and updating information on the website. All school systems have updated and submitted their plans. The plans are under review by department staff.

The department continues to work on the framework for the recovery plan and will engage multiple stakeholders for input and support in finalizing a plan to bring back to the State Board.

BOARD MEMBER COMMENTS/UPDATES

Ms. Halle provided an update on the work of the Digital Learning Committee and the Advisory Group. The committee continues to operationalize the plan previously presented to and supported by the State Board. The committee has identified several priority areas to be explored by expanded workgroups/subcommittees to include access and equity, professional development needs and resources, and needs of special populations.

Board members inquired about similar efforts in other states and consideration of professional development credit being awarded to teachers who have been engaged in professional development opportunities during the current emergency situation. Ms. Halle said the committee will continue to explore and consider these areas.

REPORTS TO THE STATE BOARD FOR DISCUSSION AND/OR ACTION

- ***Request for Waivers Related to Teacher and Principal Evaluations***
(Presenter: Tiara Booker-Dwyer, Assistant State Superintendent Division of Career and College Readiness & Office of Leadership Development and School Improvement)

Ms. Booker-Dwyer reviewed waiver recommendations related to requirements for teacher and principal evaluations due to the COVID-19 pandemic and resulting school closures. Local school systems have modified assessment administration, instructional practices, and grading policies due to COVID-19 school closures. School systems have shifted to

distance learning and state assessments were waived for the 2019-2020 school year. These modifications impact student growth measures for teacher and principal evaluations. As a result, it is difficult to fully capture certain measures of student progress.

The department requested a waiver of student growth requirements for local evaluation models, the state (default) evaluation model, and for student growth requirements defined in the regulation associated with the evaluation cycle of tenured teachers. The waiver would only apply to 2019-2020 student growth measures for teacher and principal evaluations. As a result of reviewing the Maryland Annotated Code, COMAR, and other documents, and based on the authority of the State Board included in COMAR 13A.01.01.02-1 *Waiver from Regulations*, the following waivers were requested:

- Education Article Section 6-202 and COMAR 13A.07.09.04 (B) and (C) *Local Education Agency Evaluation System* - Request waiver of student growth component for teacher and principal evaluations.
- Education Article Section 6-202 and COMAR 13A.07.09.05 (B) *Default Model* - Request waiver of student growth component for teacher and principal evaluations.
- COMAR 13A.07.09.06 (A) and (C) *Evaluation Cycle* - Request waiver of annual student growth requirement for tenured teachers on a 3-year evaluation cycle and annual student growth requirement for principals for the 2019-2020 school year only.

ACTION: Upon motion by Ms. Badwi and seconded by Ms. Halle, the State Board approved the requested waivers. (In Favor: 14; Opposed: 0; Abstained: 0).

➤ ***Request for Waiver of Instructional Days for Nonpublic Schools Approved Under COMAR 13A.09.09***

(Presenter: Sarah Spross, Assistant State Superintendent, Division of Educator Certification and Program Approval)

Ms. Spross shared requested that the State Board grant the State Superintendent the authority to waive up to five days of student attendance for nonpublic schools approved under Code of Maryland Regulation (COMAR) 13A.09.09 for the 2019-2020 school year, upon the request of the nonpublic school, consistent with the decision of the Maryland State Board of Education on April 14, 2020, to waive up to five days of student attendance for Maryland public schools. Nonpublic schools approved under COMAR 13A.09.09 have a 170-day school year statutory requirement [COMAR 13A.09.09.10B. (2)]. given the parameters of current calendars, most nonpublic schools approved under COMAR 13A.09.09 will not be able to meet the minimum number of days as specified in regulation.

***ACTION:** Upon motion by Mr. Dashiell and seconded by Ms. Bates, the State Board granted the requested authority to the State Superintendent. (In Favor: 14; Opposed: 0; Abstained: 0).*

➤ **Code of Maryland Regulations (COMAR)**

(Presenter: Mary Gable, Assistant State Superintendent, Division of Student, Family, and School Support; Sarah Spross, Assistant State Superintendent, Division of Educator Certification and Program Approval)

• **COMAR 13a.12.01.14 Waivers and Special Certification Provisions (PERMISSION TO PUBLISH – EMERGENCY REGULATIONS)**

Request for permission to publish amendments to Regulation .14 *Waivers and Special Certification Provisions* under COMAR 13A.12.01, on an emergency basis. The proposed regulation outlines the conditions of an emergency certificate, established to be issued during a state of emergency at the authorization of the State Superintendent, to those who meet the outlined criteria. The purpose of this certificate is to allow those educator candidates who have completed all of the requirements of certification with the exception of assessments and/or clinical experiences, the ability to accept a position with a Maryland local school system, state institution, or nonpublic school approved under COMAR 13A.09.10, as they complete the remainder of the professional certification requirements.

***ACTION:** Upon motion by Dr. Greene and seconded by Dr. Mele-McCarthy, the State Board granted permission to publish the regulation. (In Favor: 14; Opposed: 0; Abstained: 0).*

• **Request for a Waiver Related to COMAR 13A.03.02.08 Grading and Reporting**

Request for approval of the waiver request from the 24 local school superintendents for COMAR 13A.03.02.08 *Grading and Reporting*, which requires each local school system to develop a policy of grading and reporting that complies with the COMAR regulation. Contained in the regulation is a requirement that the local policy include grade change procedures that are described in COMAR 13A.03.02.08B(5) and C. The regulation requires: “a timeline for final grade changes that cannot exceed 45 school days following the last day of the grading period. Given the implementation of distance learning, the commitment of teachers and school administrators to work with students, and the desire to give students as many opportunities as possible to complete work, the 24 local school superintendents have submitted a single waiver request on behalf of all 24 local school systems of the “45-day Grade Change Rule as required in COMAR 13A.02.02.08 *Grading and Reporting*.” The superintendents are: “seeking the Board’s approval to waive these grading change requirements until January 1, 2021, so we are able to more thoughtfully address the new grading policies and changes for the end of the school year that are still being determined by most local systems.”

***ACTION:** Upon motion by Ms. Morrow and seconded by Ms. Badwi, the State Board approved the waiver request. (In Favor: 14; Opposed: 0; Abstained: 0).*

- **COMAR 13A.05.13 State-Aided Educational Institutions (ADOPTION)**
Request to adopt the regulation, which outlines the process for non-profit organizations to qualify and apply as a State-Aided Educational Institution. COMAR 13A.05.13 *State-Aided Educational Institutions* requires non-profit organizations that are interested in qualifying as a State-Aided Educational Institution (SAI) to apply annually to the MSDE by providing information as outlined in the regulation. The program was established in 1998 in the Annotated Code of Maryland §5-501 *Qualifications for State-Aided Educational Institutions*. This regulation will add a new chapter to COMAR 13A Subtitle .05 *Special Instructional Programs*. The State Board granted permission to publish this regulation at the September 24, 2019 State Board meeting. The regulation was published in the Maryland Register from December 20, 2019, through January 21, 2020.

***ACTION:** Upon motion by Ms. Halle and seconded by Dr. Mele-McCarthy, the State Board adopted the regulation. (In Favor: 14; Opposed: 0; Abstained: 0)*

- **COMAR 13A.08.01.01E Attendance and COMAR 13A.08.02.01 Incorporation by Reference (PERMISSION TO PUBLISH)**
Request for permission to publish proposed amendments to COMAR 13A.08.01.01 E *Attendance*, and COMAR 13A.08.02.01 *Incorporation by Reference*. These regulations incorporate by reference the Maryland State Department of Education (MSDE) *Maryland Student Records System Manual* (MSRSM) (2016). The MSRSM has been updated, necessitating that the reference to the Manual be updated in COMAR. The MSRSM defines and clarifies the requirements for the concise and comprehensive maintenance of student records in public schools in the State of Maryland. The proposed amendments to the COMAR 13A.08.01.01 E *Attendance*, and COMAR 13A.08.02.01 *Incorporation by Reference* will change the reference to the Maryland State Department of Education Maryland Student Records System Manual to its current revision, dated September 2020.

***ACTION:** Upon motion by Mr. Dashiell and seconded by Ms. Bates, the State Board granted permission to publish the regulations. (In Favor: 14; Opposed: 0; Abstained: 0)*

➤ ***Calendar Modification Requests***
(Presenter: Teresa Dantzler, Ombudsman)

Approved calendar modification requests from 1) Calvert County Public Schools to open school on June 2, 2020, Primary Election Day, as a school closure make-up day for the 2019-2020 school year; and 2) Talbot County Public Schools to open school on May 25, 2020, Memorial Day, as a school closure make-up day for the 2019-2020 school year.

ACTION: Upon motion by Ms. Bates and seconded by Ms. Halle, the State Board approved the requested calendar modifications. (In Favor: 14; Opposed: 0; Abstained: 0)

BOARD MEMBER COMMENTS/UPDATES

President Sumpter thanked the State Board for their support throughout this new virtual meeting process. He also thanked multiple state partners, organizations, and stakeholders for their support and collaboration during these emergency circumstances.

OPINIONS

Mr. Schoen read the following decisions:

- *K.W. v. Baltimore County Board of Education* – student discipline – Op. No. 20-14
- *Lisa B. v. Harford County Public School* – reentry – Op. No. 20-15
- *James Hagerty v. Carroll County Board of Education* – termination/whistleblower – Op. No. 20-16
- *Vincent and Parul M. v. Charles County Board of Education* – student discipline – Op. No. 20-17
- *S.R. v. Montgomery County Board of Education* – discrimination at IEP meeting – Op. No. 20-18
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- *Tyboia Brown v. Somerset County Board of Education* – motion to recuse – OR20-09
- *Lorena Reyes-Harding v. Howard County Board of Education* – request for reconsideration – OR20-1

ADJOURNMENT

With no further business before the Board, the meeting was adjourned at 1:25 p.m.

Karen B. Salmon, Ph.D.
Secretary/Treasurer

Date: May 27, 2020

The information included here provides a summary of the agenda items presented and actions taken during the meeting of the Maryland State Board of Education. The video recordings of the meetings are the official record of the meetings and can be located at:

<http://www.marylandpublicschools.org/stateboard/Pages/meeting-agendas/2020/2020-02-25.aspx>

Meeting materials, Opinions, and Orders can be found at:

<http://www.marylandpublicschools.org/stateboard/Pages/Meetings-2020.aspx>

The next meeting of the Maryland State Board of Education will be held on Wednesday, May 27, 2020.

MARYLAND STATE BOARD OF EDUCATION
PRESIDING OFFICER'S WRITTEN STATEMENT FOR CLOSING A MEETING ("CLOSING STATEMENT") UNDER OPEN MEETINGS ACT (General Provisions Article § 3-305)

1. Recorded vote to close the meeting.

Date: April 28, 2020

Time: 11:10 am

Location: 200 West Baltimore Street, Baltimore, MD 21201

Motion to close meeting made by: Ms. Halle

Seconded by: Ms. McCusker

Members in favor: 14

Opposed: 0

Abstaining: 0

Absent: 0

2. The meeting was closed under authority of Section 3-305(b) of the General Provisions Article of the Annotated Code of Maryland (check all provisions that apply). This meeting will be closed under General Provision Art. § 3-305(b) only.

- 1. To discuss: (i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or (ii) any other personnel matter that affects one or more specific individuals.
- 2. To protect the privacy or reputation of individuals concerning a matter not related to public business.
- 3. To consider the acquisition of real property for a public purpose and matters directly related thereto.
- 4. To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State.
- 5. To consider the investment of public funds.
- 6. To consider the marketing of public securities.
- 7. To consult with counsel to obtain legal advice.
- 8. To consult with staff, consultants, or other individuals about pending or potential litigation.
- 9. To conduct collective bargaining negotiations or consider matters that relate to the negotiations.
- 10. To discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans.
- 11. To prepare, administer, or grade a scholastic, licensing, or qualifying examination.
- 12. To conduct or discuss an investigative proceeding on actual or possible criminal conduct.
- 13. To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter.
- 14. Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

3. For each provision checked above, disclosure of the topic to be discussed and the public body's reason for discussing that topic in closed session.

Citation (insert # from above)	Topic	Reason for closed-session discussion to topic
§ 3-305(b)(7)	Legal Counsel/Advice and Internal Board Management	To discuss with legal counsel 6 appeals, 3 draft orders, 1 draft opinion, obtain legal advice, and discuss 2 internal board management items.

4. This statement is made by BG Warner I. Sumpter, Ret., Presiding Officer.