

MARYLAND GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW

December 14, 2019

The Honorable Thomas V. Mike Miller, Jr., Co-chair
The Honorable Adrienne A. Jones, Co-chair
Members of the Legislative Policy Committee

Dear Members of the Legislative Policy Committee:

The following report of the Joint Committee on Administrative, Executive, and Legislative Review for 2019 is submitted in accordance with § 2-506(b) of the State Government Article.

Functions of the Committee

The committee has several statutory review functions relating to the activities of the Executive Branch. The committee's primary role is to review regulations issued by State administrative agencies. The specific statutory functions of the committee are as follows:

- review of all regulations proposed by State executive agencies before publication of the regulations in the *Maryland Register*;
- review and approval of all requests from State executive agencies for the immediate adoption, through the emergency process, of proposed regulations;
- discretionary review of the operations of any executive agency;
- discretionary inquiry into any alleged failure of an officer or employee of any branch of State government to comply with the laws of the State;
- review and approval of any executive order promulgated by the Governor pursuant to the Governor's emergency energy powers under Title 14, Subtitle 3 of the Public Safety Article;

- review of executive agency “work plans” and “evaluation reports” submitted in the course of an agency’s cyclical review of its existing regulations under the Regulatory Review and Evaluation Act, as implemented by Executive Order 01.01.2003.20;
- ongoing supervisory responsibilities under the “State Documents Law” relating to the publication of the *Maryland Register* and the *Code of Maryland Regulations* (COMAR) and;
- other specific review responsibilities established by statute.

Statistical Overview

As of December 9, 2019, the committee had received 8 regulations submitted by executive agencies in 2019 for emergency approval and 279 regulations proposed for adoption within normal timeframes, for an overall total of 287 regulations. In 2018, the committee received 9 emergency regulations and 385 proposed regulations for a total of 394 regulations.

The committee has compiled statistics since 1993 on the number of regulations received by the committee from each agency. The Maryland Department of Health (MDH) consistently has been the most prolific in submitting regulations to the committee. In 2019, MDH submitted 64 regulations to the committee, of which 2 were emergency regulations and 62 were proposed regulations. The regulations submitted by MDH constituted approximately 22% of the total number of regulations the committee received for the year.

The Department of Natural Resources, which submitted 37 proposed regulations, was the second most prolific source of regulations. The Department of Labor (formerly the Department of Labor, Licensing, and Regulation), submitted 1 emergency regulation and 30 proposed regulations, and was the third most prolific source of regulations. The State Board of Education was the fourth highest source of regulations in 2019, submitting 1 emergency regulation and 28 proposed regulations, for a total of 29 regulations. Other agencies submitting significant numbers of regulations were the Maryland Insurance Administration (13 proposed regulations), the Department of the Environment (1 emergency regulation and 11 proposed regulations), the Maryland Higher Education Commission (11 proposed regulations), the Department of Transportation (1 emergency regulation and 9 proposed regulations), the Department of Agriculture (10 proposed regulations), and the State Board of Elections (9 proposed regulations).

Major Regulatory Issues of 2019 – Public Hearings

In 2019 the committee held public hearings to review regulatory submissions from the State Board of Education as described below.

State Board of Education

Emergency Regulations

DLS Control No. 19-169E

State Board of Education: School Personnel:

State Board of Education Teacher Member Election:

COMAR 13A.07.13.01-.07

Chapters 576 and 577 of 2019 increased the membership of the State Board of Education by adding a certified teacher who is actively teaching and a parent of a student enrolled in a public school in the State, with the terms of the initial teacher and parent members to begin January 1, 2020. The Acts also required the adoption of regulations to govern the election of the teacher member.

On September 13, 2019, the State board submitted emergency regulations to establish a process through which a certified teacher may be elected to serve on the State board in accordance with Chapters 576 and 577. The regulations require the State Department of Education to conduct online elections and disseminate information in accordance with specified notice, schedule, and procedural requirements. The regulations also specify eligibility requirements for candidates and the information that must be submitted with a nomination. Two members of the AELR committee requested that a public hearing be held to allow for a more thorough examination of the eligibility requirements and the election process.

The committee held a public hearing on October 24, 2019 and heard from representatives of the State board, the department, and interested parties. The committee approved the requested emergency status at the hearing, beginning October 24, 2019 and expiring April 21, 2020.

Proposed Regulations

DLS Control Nos. 19-139P, 19-140P, 19-141P, and 19-142P

State Board of Education:

Large Family Child Care Homes, Child Care – Letters of Compliance, Child Care Centers, and Family Child Care Homes, respectively

COMAR 13A.18, 13A.17, 13A.16, and 13A.15, respectively

(multiple chapters in each subtitle)

On August 16, 2019, the State board submitted a suite of regulations relating to child care. The concurrent submissions update and clarify various definitions and requirements that relate to:

- the registration and operation of large family child care homes (DLS Control No. 19-139P);
- letters of compliance and the operation of child care services by certain religious organizations (DLS Control No. 19-140P);
- the licensing and operation of child care centers (DLS Control No. 19-141P); and
- the registration and operation of family child care homes (DLS Control No. 19-142P).

According to the State board, the regulations are necessary to bring Maryland into compliance with the reauthorized federal Child Care Development Block Grant, which establishes the requirements for receiving funding through the federal Child Care Development Fund. The fund provides support for safe and quality child care services and subsidies for low income families. In the process of incorporating the requirements for the fund, the department made other corrections and updates to the regulations.

The committee held a public hearing on October 24, 2019 and heard from representatives of the State board, the department, and interested parties. In response to concerns raised at the hearing, the committee placed the regulations on hold on November 25, 2019. The department worked with interested parties to address the concerns and the agreed-upon changes to the regulations were approved by the State board at its meeting on December 3, 2019. The committee released the hold on December 5, 2019.

Supervisory Responsibilities under the State Documents Law

As part of its supervisory responsibilities under the “State Documents Law” (Title 7, Subtitle 2 of the State Government Article), the committee continued to monitor significant developments concerning publications of the Division of State Documents (DSD), a unit within the Office of the Secretary of State. DSD publishes the *Maryland Register* and COMAR.

Existing Agency Operations and Regulations

Under § 2-506(b) of the State Government Article, the committee is required to comment on any legislative action that is needed to change or reverse a regulation of a unit of the Executive Branch. The committee has been satisfied with the continued cooperation it receives from the Executive Branch and is pleased to report that no recommendations for change are required at this time.

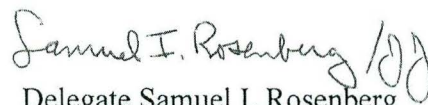
December 14, 2019
Page 5

The committee wishes to note its appreciation for the continued cooperation of the Executive Branch and its various agencies in making the process of legislative review of regulations successful.

Respectfully submitted,



Senator Cheryl C. Kagan
Senate Chair



Delegate Samuel I. Rosenberg
House Chair

CCK:SIR/JJJ:KPK:KHS/cr

cc: Ms. Victoria L. Gruber
Mr. Ryan Bishop
Mr. Jake Weissmann
Ms. Alexandra Hughes