

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

December 14, 2021

The Honorable Bill Ferguson, Co-chair
The Honorable Adrienne A. Jones, Co-chair
Members of the Legislative Policy Committee

Ladies and Gentlemen:

The following report of the Joint Committee on Administrative, Executive, and Legislative Review (AELR) for 2021 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 14, 2021, the committee had received 20 regulations submitted by executive agencies in 2021 for emergency approval and 241 regulations proposed for adoption within normal timeframes, for an overall total of 261 regulations. In 2020, the committee received 34 emergency regulations and 172 proposed regulations for a total of 206 regulations. The overall number of regulations was somewhat lower in 2020, largely due to the COVID-19 pandemic and the State’s emergency response.

The committee has compiled statistics since 1993 on the number of regulations received from each agency. The Maryland Department of Health (MDH) has historically been the most prolific agency in submitting regulations to the committee, and in 2021 again submitted the most regulations. In 2021 MDH submitted 47 regulations, of which two were emergency regulations. The Public Service Commission (PSC) submitted 39 regulations in 2021, a historically large number of regulations for the commission. In contrast, PSC only submitted 4 regulations in 2020. In 2021, the Department of Natural Resources submitted 22 regulations, and the State Board of Education (SBOE) submitted 18 (2 of which were emergency regulations) making these agencies the third and fourth most prolific agencies for regulations for the year. As discussed below, an emergency regulation submitted by SBOE was the only regulation which required a public hearing in 2021.

Other agencies submitting significant numbers of regulations were the Department of Labor (11 proposed regulations and 5 emergency regulations, which was the most emergency regulations from any agency in 2021); the Maryland Insurance Administration (10 proposed regulations); the Department of Agriculture (9 proposed regulations and 3 emergency regulations); and the Comptroller of the Treasury (8 proposed regulations).

Major Regulatory Issues of 2021 – Public Hearings

State Board of Education

Emergency Regulation

DLS Control No. 21–110E

State Board of Education:

State School Administration:

Face Coverings in School Facilities: COMAR 13A.01.07.01 through .04

On August 27, 2021, SBOE submitted emergency regulations to require all individuals, except under specified circumstances, to wear a face covering that covers the nose and mouth while inside a school facility in each public school in every local school system in the State. Each local school system is required to expeditiously adopt policies and procedures to implement this requirement. A local school system may establish and implement additional policies and procedures not in conflict with this requirement.

The committee held a virtual public hearing on September 14, 2021, to provide committee members and the public with an opportunity to learn more about these regulations, ask questions, and voice any concerns. The public hearing was well-attended, with time allotted for proponents and opponents to offer testimony. The committee approved the emergency regulations at the public hearing with a vote of 10-7, with two members absent.

State Board of Education

Emergency Regulation

DLS Control No. 21–237E

State Board of Education:

State School Administration:

Face Coverings in School Facilities: COMAR 13A.01.07.01 through .05

On December 9, 2021, SBOE submitted emergency regulations that would revise face mask policies for each public school in local school systems in the State.

A hearing was requested, but as of the date of this letter, has not yet been scheduled.

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. One item of note is that DSD is in the process of updating the ELF system, which is the online interface that

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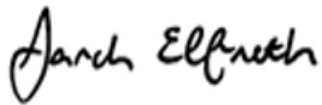
agencies use to electronically file regulations. DSD anticipates that the new system will be up and running in early 2022.

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.

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.

Sincerely,



Senator Sarah H. Elfreth
Senate Chair



Delegate Samuel I. Rosenberg
House Chair (Presiding)

SHE:SIR/KPK:JJJ;GC/cr

cc: Ms. Sally Robb
Ms. Alexandra Hughes
Mr. Jeremy Baker
Ms. Victoria Gruber
Mr. Ryan Bishop