Maryland
STATE DEPARTMENT OF EDUCATION

Carey M. Wright, Ed.D.
State Superintendent of Schools

TO: Members of the Education Policy Committee

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

DATE: November 19, 2026

SUBJECT: 13A.07.15 *Criminal History Records Checks*
Permission to Publish

STRATEGIC PLAN ALIGNMENT:

Pillar 2: High-Quality and Diverse Teachers and Leaders
Goal: Every school has high-quality and diverse teachers and leaders.
Outcome: N/A

Purpose

The purpose of this item is to request permission to republish Code of Maryland Regulation (COMAR) 13A.07.15 *Criminal History Records Checks.* This new regulation serves to ensure that the county boards of education have developed the policies and procedures required to implement Md. Code Ann., Family Law §5-550 - 5-553 and Education §6-113.

Background

Md. Code Ann., Family Law §5-550 - 5-553 establishes the requirements for certain employers to obtain criminal history records checks of certain employees to protect the safety, health, and welfare of children in Maryland. Code of Maryland Regulation 13A.07.15 establishes the general provisions to comply with the law.

Executive Summary

On January 16, 2026, the Office of Legislative Audits issued a report to the Maryland State Department of Education (MSDE) recommending that MSDE establish procedures to ensure that the required criminal history record checks of employees required under Md. Code Ann., Family Law §5-550 - 5-553, are conducted by local education agencies (LEAs).

In response, MSDE is requesting that the State Board of Education (SBOE) promulgate COMAR 13A.07.15 *Criminal History Records Checks.* Specifically, MSDE has drafted a new regulation, which reiterates the processes required by Family Law §5-550 - 5-553, restates the convictions that bar employment in education established by Education §6-113, and requires county boards of education to provide an annual attestation to the SBOE demonstrating compliance with the requirements of the law, including a one-time audit of employees hired during a certain time period.

On July 28, 2026, the SBOE granted permission to publish COMAR 13A.07.15 in the Maryland Register for public comment. During this period, two public comments were received (enclosed). The first, submitted by Washington County Public Schools, raised operational concerns about the proposed reporting and audit requirements. Specifically, WCPS notes the staff time and financial costs LEAs will incur to reconcile records for hundreds of annual hires, given the lack of clarity on whether audits require a full review or representative sampling. Furthermore, WCPS points out that the proposed regulations fail to define the format, timeline, required documentation, and responsible signatories for both the annual attestation and the July 1, 2027 "limited review."

The regulations are drafted to allow the Maryland State Department of Education the ability to define specific processes in guidance. For example, MSDE will provide a policy outlining how an LEA may sample employees for the limited review and establish the due date for the annual attestation based on LEA feedback. For this reason, MSDE does not recommend changes to the current language.

The second comment received was from Paul Lemle, President of the Maryland State Education Association (MSEA). Mr. Lemle expressed opposition to Section .02A(3), which requires public school employees, employers, and volunteers to disclose any probation before judgment (PBJ) disposition in a sworn statement. Representing over 76,000 members, Mr. Lemle argues that this mandate improperly equates a PBJ with a criminal conviction, contradicting §6-220 of Maryland's Criminal Procedure Article, which explicitly establishes that a PBJ is not a conviction and is intended to prevent collateral disqualifications.

Upon re-reviewing Family Law § 5-553, the authorizing statute for this regulation, it was determined that the mandatory disclosure of “criminal convictions, probation before judgment dispositions, not criminally responsible dispositions, and pending criminal charges” applies to volunteers, not to employees or employers. Accordingly, MSDE recommends amending the proposed text to remove employees and employers from this requirement to align the regulation with state law. Because this constitutes a substantive change, the revised regulations must be republished for public comment.

Action

MSDE is requesting the SBOE grant permission to republish 13A.07.15 *Criminal History Records Checks.*

Attachment

COMAR 13A.07.15 Criminal History Records Checks with Redlined Changes.pdf
WCPS Public Comment
MSEA Public Comment

Code of Maryland Regulations

Subtitle 07 School Personnel

Chapter 15 Criminal History Records Checks

Authority: Education Articles §2-205(b)(2) and (c)(1), and § 6-113, Annotated Code of Maryland; Family Law Article §§5-550—5-553, Annotated Code of Maryland.

.01 Definitions

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined

(1) "Conviction" means a plea or verdict of guilty or a plea of nolo contendere.

(2) "Criminal History Records Check" means a records check of the criminal history record information maintained by the Central Repository or the Federal Bureau of Investigation.

(3) "Employee" means an individual who, for compensation, is employed to work in a public school as defined in Title I of the Education Article, and who meets at least one of the following criteria:

(a) Cares for or supervises children in the public school;

(b) Has access to children who are cared for or supervised in the public school;

(c) Will care for or supervise children in the public school or will have access to children who are cared for or supervised in the public school;

(d) For compensation will be employed on a substitute or temporary basis to work in a public school; or

(e) A contractor or subcontractor who will have direct, unsupervised, and uncontrolled access to children in the public school.

(4) "Employer" means a local school system that operates or manages a public school.

.02 Criminal History Records Checks and Disqualifying Convictions

A. Criminal History Records Checks.

(1) On or before the first day of actual employment of an employee, a local school system shall apply to the Department of Public Safety and Correctional Services for a national and State criminal history records check for the employee.

(2) A public school may require a volunteer who works with children to obtain a criminal history records check.

(3) A ~~The employee, employer, and~~ volunteer shall complete and sign a sworn statement or affirmation disclosing the existence of a criminal conviction, probation before judgment disposition, not criminally responsible disposition, or pending criminal charges without a final disposition.

B. *Disqualifying Convictions.*
   (1) *A county board may not knowingly hire or retain any individual who has been convicted of a crime involving:*
      (a) *An offense under § 3–307 or § 3–308 of the Criminal Law Article or an offense under the laws of another state that would constitute a violation of § 3–307 or § 3–308 of the Criminal Law Article if committed in the State;*
      (b) *Child sexual abuse under § 3–602 of the Criminal Law Article, or an offense under the laws of another state that would constitute child sexual abuse under § 3–602 of the Criminal Law Article if committed in this State; or*
      (c) *A crime of violence as defined in § 14–101 of the Criminal Law Article, or an offense under the laws of another state that would be a violation of § 14–101 of the Criminal Law Article if committed in this State.*
   (2) *A local school system contract shall provide that a contractor or subcontractor for the local school system may not knowingly assign an employee to work on school premises with direct, unsupervised, and uncontrolled access to children, if the employee has been convicted of a crime identified under §B(1) of this regulation.*
C. *Reporting Requirements.*
   (1) *Each county board of education shall provide an annual attestation to the State Board of Education demonstrating that it has complied with the requirements of this chapter; and*
   (2) *By July 1, 202~~7~~8, each local education agency shall perform a limited review to ensure the policies and procedures established are compliant with this chapter and are being consistently implemented.*
      (a) The limited review shall include an audit of employees hired within two ~~a~~ years of the review; and
      (b) The results of the review shall be submitted to the State Board of Education.

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November 2, 2026

Dear Kelly Meadows,

I am a nationally board-certified social studies teacher and the President of the Maryland State Education Association (MSEA). I am submitting comments on behalf of MSEA in opposition to COMAR 13A.07.15, Criminal History Records Checks. As is currently written, 13A.07.15, specifically .02A(3), insofar as it requires public school employees, prospective employees, and volunteers to disclose a probation before judgment (PBJ) disposition as part of a sworn statement or affirmation concerning their criminal history. This regulation, as currently proposed, would not only affect the over 76,000 MSEA members, but would also negatively impact prospective employees seeking employment in Maryland and potential volunteers who support educational programs.

While the importance of protecting students and maintaining safe school environments is unquestioned, the proposed regulation improperly equates a probation before judgment (PBJ) disposition with a criminal conviction and imposes a disclosure obligation that is inconsistent with the legal significance and rehabilitative purpose of PBJ under Maryland Law (§6.220 of the Criminal Procedure Code). For the reasons set forth below, the State Board should remove the reference to PBJ from proposed .02A(3).

Specifically, a PBJ disposition is not a criminal conviction under Maryland law. In fact, Maryland law expressly distinguishes between a criminal conviction and a PBJ disposition. Pursuant to §6-220 of the Criminal Procedure Article, a court may stay the entry of judgment, defer further proceedings, and place an individual on probation without entering a judgment of conviction. This statutory mechanism permits the court to impose appropriate conditions while avoiding the collateral consequences ordinarily associated with a criminal conviction. This critical legal distinction is expressly stated in §6-220(i)(3), which provides "Discharge of a defendant under this section shall be without judgment of conviction and is not a conviction for the purpose of any disqualification or disability imposed by law because of conviction of a crime." Id. The proposed regulations fail to respect this

distinction by mandating that an employee/volunteer sign a sworn statement disclosing the existence of a PBJ, expunged or not.

More importantly, the proposed disclosure requirement exceeds what is necessary to implement the statutory disqualification provisions. Proposed .01B(1) defines a conviction as a plea or verdict of guilty or a plea of nolo contendere for disqualifying offenses including specified sexual offenses, child sexual abuse, and crimes of violence, which does not address an individual who accepted a PBJ disposition. See .02B. Proposed .02A(3) that separately requires disclosure of any PBJ disposition without limitation as to the nature of the offense and notwithstanding the absence of an entered judgment of conviction. By expressly requiring disclosure of PBJ dispositions, the State Board would impose a criminal history reporting obligation extending beyond the disqualifying convictions identified in .02B. Consequently, an educator who received a PBJ for an unrelated, nonviolent offense many years earlier could be compelled to disclose that disposition under oath, even though it does not constitute a disqualifying conviction under the proposed regulation. The State Board should not expand the consequences of a PBJ disposition through regulation without a clear statutory basis for doing so.

In short, the proposed regulations threaten to undermine the intent of PBJ by requiring employees to disclose dispositions that the criminal justice system deliberately resolved without entering a conviction. Further, the regulation provides no safeguards governing how a local school system may use the disclosed information. In other words, it does not prohibit adverse employment action based solely on a PBJ disposition, nullifying the consideration of the nature or age of the offense, or providing an opportunity for the employee to explain the circumstances. The absence of such safeguards creates a substantial risk that employees will experience employment consequences based on dispositions that do not constitute criminal convictions and are not otherwise disqualifying under the regulation.

In closing, MSEA reaffirms that the protection of students and the fair treatment of public school employees are not mutually exclusive objectives; as such, we request that the words "probation before judgment disposition" be deleted from .02A(3) of

the proposed regulations. Maryland statute clearly establishes criminal history screening requirements and mandatory employment disqualifications designed to protect children. The State Board is charged with implementing those statutory protections without unnecessarily expanding the employment consequences of PBJ dispositions. The proposed inclusion of PBJ dispositions in .02A(3) is overly broad, insufficiently justified, and inconsistent with the important distinction Maryland law recognizes between a finding of guilt and a criminal conviction.

As always, we appreciate your commitment to Maryland's students and to ensuring that the safety and security of our children remain the highest priority for all those involved in our educational system.

Sincerely,



Paul Lemle
MSEA President

WCPS | Washington County Public Schools

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Gary W. Willow, Jr., Ed.D.
Superintendent

October 27, 2026

SENT VIA EMAIL (kelly.meadows@maryland.gov)
Ms. Kelly Meadows, Assistant Superintendent
Maryland State Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

RE: Proposed New COMAR Chapter 13A.07.15 - *Criminal History Records Checks*

Dear Ms. Meadows:

Washington County Public Schools (WCPS) respectfully submits the following comments on the Maryland State Board of Education's (MSBOE) proposed Regulations 13A.07.15.01, *Definitions,* and 13A.07.15.02, *Criminal History Records Checks and Disqualifying Convictions,* published October 2, 2026, in *The Maryland Register,* volume 53, issue 20.

The safety and well-being of students is the highest priority of WCPS. We fully support rigorous criminal history record checks, appropriate screening of individuals who work with students, and meaningful accountability to ensure these requirements are consistently followed. Our comments are not intended to lessen these protections. Rather, we ask that additional requirements demonstrate how they will improve student safety by strengthening verification, identifying gaps, or addressing risks beyond existing safeguards.

- **Significant administrative burden with staff and cost implications:** The proposal's statement that there is no economic impact does not appear to account for the staff time needed to review records, resolve discrepancies, prepare submissions, and support the annual attestation. Local education agencies (LEA) hire hundreds of employees annually, potentially exceeding 1,000 in the larger LEAs. Reviewing and reconciling hiring records to support the proposed reporting requirements could require substantial staff time and resources resulting in an economic impact to LEAs. Because the proposal does not specify whether the required audit must include all employees hired during the review period or may be conducted through representative sampling, LEAs also cannot reliably assess the extent or cost of compliance. WCPS encourages MSBOE to review the cost implications of the proposed reporting requirements.

- **Unclear annual certification requirements and undefined audit scope:** The regulations, as proposed, require an annual attestation and a limited review by July 1, 2027. However, the regulations do not specify the format, supporting documentation, reporting period, reporting deadline, or individual responsible for signing the annual attestation. In addition, the regulations do not specify what constitutes a "limited review" for purposes of the July 1, 2027, review, what supporting documentation is necessary, or the individual responsible for approving and submitting the results of the review.

- **Focus on student safety rather than duplicative reporting:** WCPS supports meaningful oversight and accountability to ensure that individuals working with students have completed required criminal history records checks. Additional requirements should be evaluated based on whether they strengthen existing safeguards, identify gaps in screening practices, or reduce the likelihood that an individual who poses a risk to students gains access to schools. Recreating information already maintained through established hiring procedures may divert staff time from direct verification and monitoring activities that protect students. WCPS recommends risk-based oversight, effective internal controls, and the use of existing electronic records.

WCPS remains firmly committed to protecting students through rigorous background screening, consistent implementation of criminal history records check requirements, and strong internal accountability. We support regulations that demonstrably strengthen these safeguards and provide meaningful oversight. We encourage MSBOE to direct MSDE to provide standardized reporting guidance, allow existing electronic records and appropriate risk-based review procedures, clarify contractor responsibilities, and set reasonable implementation timelines.

Thank you for your consideration of the above.

Sincerely,

Gary W. Willow, Jr., Ed.D.



Copy: Members, Board of Education of Washington County
Ms. Terri Baker, Executive Director of Human Resources
Mr. Jeff Proulx, Chief Operating Officer
Ms. Ashley Sener, Chief Legal Counsel