

In this article, the word "regulation" is substituted for the former references to "rules and regulations" to distinguish, to the extent possible, between regulations of executive units and rules of judicial or legislative units and to establish consistency in the use of these words. This substitution conforms to the practice of the Division of State Documents. See the revisor's note to SG § 10-101(e).

Also throughout this article, to be consistent and to avoid unnecessary confusion, the singular verb "adopt" is used in relation to rules or regulations, and verbs such as "prescribe" and "promulgate" are deleted. Regulations, in any event, are subject to Title 10, Subtitle 1 of the State Government Article.

In each "Membership" section of this article, there is a subsection captioned "Tenure; vacancies". A standard paragraph included in each of those subsections provided that a "member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed [and qualifies]". That paragraph applies: (1) when a successor is appointed to replace a member who has died, resigned, or failed for any other reason to complete a term; (2) when a member is appointed to succeed a member who has "held over" to part of the next term, pending the delayed appointment and qualification of the successor; or (3) when, in any other situation, a member takes office after a term has begun, e.g., when, at the completion of a term, there is a delay in the appointment of a successor, but the member who served the prior term does not "hold over".

In each "Examinations" section of this article, a standard subsection captioned "Right To Examination" is included. The subsection provides expressly that an applicant who otherwise qualifies for a license is entitled to an opportunity to meet the final requirement for licensing: i.e., the opportunity to take the required examination. Stated from the other perspective, the subsection simply states that a governmental unit may not deny arbitrarily an otherwise qualified applicant an opportunity to take the license examination. This is a requirement of the former law that becomes clearer within the context of the revised form used in the "Examinations" sections of this article. In any event, this provision reflects the requirements of the due process clause under the 14th Amendment of the U.S. Constitution. See Douglas v. Noble, 261 U.S. 165 (1923); Schwartz v. Board of Bar Examiners, 353 U.S. 232 (1957); and Willner v. Committee on Character and Fitness, 373 U.S. 96 (1963).

The Business Regulation Article Review Committee notes, for consideration by the General Assembly, the addition in several titles of this article of a general delegation of powers and duties section or subsection. This expressly allows the regulatory authority to delegate any responsibilities that normally could be delegated. It also avoids repetition of phrases such as "authorized representative of the Commissioner" and "designated agent of the Commissioner". In each instance, the Committee was unable to discern any powers or duties that were not delegable. See §§ 3-202, 9-201, 14-105, 14-205, 16-102, and 17-202 of this article.

The Committee also notes that throughout this article subpoena provisions refer generally to issuing subpoenas to produce "evidence". The general word "evidence" is substituted for former lists of specific types of evidence such as "papers, books, documents, and records" to conform to comparable provisions elsewhere in the Code.