FOR PUBLIC COMMENT BY MARCH 30, 2012

A Safe School, Successful Students, and A Fair and Equitable Disciplinary Process Go Hand in Hand

A Study of School Discipline Practices and Proposed Regulatory Changes

Maryland State Board of Education

February 2012

Maryland State Board of Education

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Message from the State Board

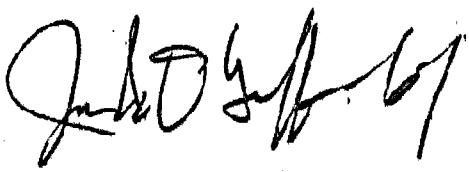
Dear Members of the Education Community:

It is the vision of the Maryland State Board of Education that the Maryland public education system shall be a world class system preparing all students for college and career success in the 21st Century. In addition, it is our mission to promote a safe, healthy, and orderly environment in which all students have positive experience every day. This Report, we believe reflects that vision and that mission. It is based on the solid principle that school discipline policies are directly related to student achievement and the achievement gap. To bring our vision and mission to fruition we need to understand that relationship. We hope this Report continues the dialogue about that relationship.

To that end, we publish this Report in draft for public comment for the next 30 days. We want to know what all our partners in education think about our recommendations. We would especially like public comment on the draft regulations set forth on pp. 31-35 of this Report. Do you support the regulations or oppose them and why? Is there something that should be included but is not? We hope to hear from teachers, administrators, students, parents and education advocates.

Finally, we thank the members of the education community for providing their testimony and views on the school discipline issues we address in this Report.

Sincerely,



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Executive Summary

An Executive Summary will be provided when this Report is finalized. It will be task oriented.

Introduction

In 2009, we decided that it was time for the State Board to review disciplinary practices in Maryland public schools. This report describes our study, what we learned, and the regulatory changes we plan to propose. We recognize and build on the work done by the Maryland State Department of Education (MSDE) and several recent Task Forces that have focused, in part, on school discipline issues:

- *The 2007 Report of the Task Force on School Safety;*
- *The 2007 Final Report of The Task Force To Study Raising Compulsory Public School Attendance: Attending to Learn, The Implication of Raising the Compulsory Age for School Attendance;*
- *The 2007 Report of the Task Force on the Education of Maryland's African-American Males.*

We begin with the principle that successful students, safe schools, and a fair and equitable discipline process are not mutually exclusive concepts. Indeed, they are interdependent. As the *Task Force on School Safety* stated, "School safety and academic achievement will never be attained if they are addressed independently." (*2007 Final Report of the Task Force on School Safety* at v). The Governor, the General Assembly, the Department, and this Board, as well as all educators in Maryland, have made the commitment to eliminate the achievement gap, to graduate students who are college and career ready, and to produce a sustainable, competitive workforce. To meet those commitments for all students, we reiterate our belief that students should be in school, not out of school. If, however, an out-of-school suspension is necessary, a connection to the school through provision of educational services is essential for the school as well as for the student.

I. STUDY OF THE DISCIPLINARY PRACTICE AND PROCESS

In 2009, we reviewed a disciplinary case on appeal. It presented a question about the educational services provided to students who are suspended or expelled for long periods of time. The case involved the expulsion of a ninth grade student for the majority of the school year, during which time the student received intermittent homework assignments but no follow-up, grading, or other interaction with school personnel.

Putting students out of school for long periods of time with very minimal education services raised concerns for us. Among other observations, we noted that it was unclear how returning a student to the school environment without having prepared either the school or the student could possibly advance the causes of school safety or student success. We decided then to look deeper into school discipline practices and policies in Maryland public schools.

The first part of our study focused on whether students who received suspensions of over 10 days or expulsions from school also received educational services during that time period. In August 2010, MSDE staff presented a report to us - - *Report on the Provision of Education Services to Long-Term Suspended and Expelled Students in Maryland Public Schools*, http://www.marylandpublicschools.org/MSDE/newsroom/publications (hereinafter *MSDE's 2010 Report on the Provision of Education Services*). They explained:

- That the provision of educational services to suspended or expelled students varies widely across school systems from minimal services to robust programs.
- That there was no legal mandate concerning the educational services that suspended students should, at minimum, receive.
- That there was no regulatory definition of alternative education programs/services nor was there a consistent definition among local school systems.

We have reviewed data about the provision of education services to students suspended or expelled out of school. We found that in the 2010-2011 school year, some type of education

services were provided in only about 23% of the out-of-school suspension incidents (95,866 out-of-school suspensions; education services provided during 22,047 suspensions/expulsions). (*MSDE's Suspensions, Expulsions, and Health-Related Exclusions Report 2010-2011,* Table 9a and Table 11).

In their *Report on the Provision of Education Services,* MSDE staff recommended that this Board provide a clear definition of expulsion; define the minimum education services that must be provided to students suspended out of school; and direct improvements in data collection. We will address those recommendations in this Report.

As our study progressed, questions arose about the fairness of the disciplinary process. We asked school system administrators, advocates, parents, students, and teachers to tell us about timeliness of the disciplinary process, how fairly it was implemented, and what problems they encountered. We learned that:

- School administrators believe that, for the most part, they move timely and fairly through the disciplinary process and that no changes are necessary to the statutes or regulations that govern that process.

- Advocates believe that the process is not consistently timely or fair. Anecdotally, they gave us examples of such unfairness which they assert require statutory or regulatory changes to prevent.

- Parents/students emphasized the need to provide education services during the time of suspension. They also provided anecdotal evidence of unfairness in the process.

- Teachers said suspension should be the consequence of last resort. They emphasized the critical importance of keeping students in school whenever possible and providing high quality education services during the period of suspension.

During the course of our study, we looked at national data and reports.[1] We learned that most suspensions nationwide were not for guns, drugs, or violence. Indeed, only 5% of out-of-school suspensions were for incidents the researchers considered serious or dangerous. The remaining 95% were for "disruptive behavior or other." (Losen 2010).

The national data show that racial disparity exists in the disciplinary process. In particular, the evidence consistently shows that African American students receive suspensions disproportionate to their numbers in the school population. (Losen & Skiba 2010); (*MSDE's*

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[1] In preparation of this Report, we have read and been influenced, in part, by the following recent national reports on school discipline issues:

Losen, *Discipline Policies, Successful Schools, and Racial Justice* (2010); http://nepc.colorado.edu/publication/discipline-policies

Losen and Skiba, *Suspended Education: Urban Middle Schools in Crisis* (2010); http://www.splcenter.org/get-informed/publications/suspended-education

Darensbourg, Perez, Blake, *Overrepresentation of African American Males in Exclusionary Discipline: The Role of School Based Mental Health Professionals in Dismantling the School to Prison Pipeline*, Journal of African American Male Education, 2010, Vol. 1, Issue 3. http://journalofafricanamericanmales.com/wp-content/uploads/downloads/2010/09/Overrepresentation-of-African-American-Males-Alicia-Darensbourg-.pdf

Krezmien, Leone, Zablocki, Wells, *Juvenile Court Referrals and the Public Schools: Nature and the Extent of the Practice in Five States*, Journal of Contemporary Criminal Justice, 2010; http://ccj.sagepub.com/content/26/3/273.abstract

Are Zero Tolerance Policies Effective in Schools? An Evidentiary Review and Recommendations, A Report by American Psychological Association Zero Tolerance Task Force (2006); http://www.apa.org/pubs/info/reports/zero-tolerance.pdf

Breaking School Rules: A Statewide Study of How School Discipline Relates to Student's Success and Juvenile Justice Involvement, (2011); http://justicecenter.csg.org/resources/juveniles

Skiba, Rausch, Ritter, *Discipline Is Always Teaching, Center for Evaluation and Education Policy* (2005); http://gwired.gwu.edu/hamfish/merlin-cgi

2010 Report on Education Services, at 15-17). Likewise, there are significant discrepancies nationwide in suspension rates between students with disabilities and non-disabled students. (Losen 2010); (*MSDE's 2010 Report on Education Services,* at 17). Those same reports cast serious doubt on the validity of the use of suspensions to create a safe school. (Losen, 2010, *American Academy of Pediatrics 2008*; *Breaking Schools' Rules* 2011).

We considered whether Maryland data mimicked national data trends. Thus, in the course of our study, we reviewed our own Maryland data. MSDE's *Suspensions, Expulsions and Health Related Exclusions Report 2010-2011* (hereinafter Exclusions Report) gives us a wealth of data about in-school and out-of-school suspension and expulsions in Maryland public schools.

As the chart below reflects, there were 66,955 students suspended (in and out-of-school) or expelled in the 2010-2011 school year. Surprising to us, almost 85% of the students suspended or expelled were suspended/expelled out of school (56,041).

School Year 2010-2011 Exclusions Report Tables 3a and 2		
Total Enrollment	822,834 students	
Total # of Students Suspended	66,955 students	8.1 % of all students were suspended
Total # of Students Suspended Out of School	56,041students	6.8% of all students were suspended out of school

The data tell us the reasons for the out-of-school suspensions. To find out how many out-of-school suspensions were issued for non-violent or non-dangerous conduct, we separated the data by offenses that we viewed as dangerous or violent and those that appeared non-violent.[2]

[2] We categorized the following offenses as violent or dangerous or likely to be violent or dangerous:

Firearm
Other Guns
Other Weapons
Arson Bomb Threats
Explosives
Attacks on Teachers, Staff, Students
Serious Bodily Injury
Extortion
Sexual Assault
Special Ed. – Weapons & Drugs

We found that approximately 54% of the students suspended out-of-school (30,788) were suspended for what we consider non-violent offenses.

School Year 2010-2011 Number of Students Pre-K to 12 Suspended Out of School for Non-Violent Offenses Exclusions Report Table 7a	
Total # of Students Suspended Out of School	56,041 students
Refused to Obey School Policies	7,847 students
Insubordination	6,189 students
Class Disturbance	5,722 students
Disrespect	3,941 students
Class Disruption	2,654 students
Threats to Students and Teachers	2,067 students
Communication Devices	807 students
Alcohol	685 students
Tobacco	387 students
Sexual Activity	366 students
Cheating	109 students
Inhalants	14 students
Total # of Students Suspended Out of School for Non-Violent Offenses	30,788 students

In addition to looking at the data by the number of students suspended, we also looked at the total number of suspensions and expulsions that were issued. Because some students were suspended more than once, there were a total of 129,294 suspensions (in and out-of-school) and expulsions issued. Of those, 95,866, 74% of all suspensions/expulsions, were out of school. (*Exclusions Report,* Tables 8 and 8a). We looked at the reasons for the suspensions, again delineating violent from non-violent conduct, and found that 59,098 of the 95,866 out of school suspensions and expulsions (over 63%) were for non-violent offenses.

Harassment
Bullying
Drugs
Fighting
Theft
Trespass
Destruction of Property

School Year 2010-2011 Number of Out-of-School Pre-K to 12 Suspensions for Non-Violent Conduct Exclusions Report Table 9a	
Total # of Suspensions Out-of-School	95,866 suspensions
Refused to Obey School Policies	14,551 suspensions
Insubordination	13,196 suspensions
Class Disturbance	10,379 suspensions
Disrespect	7,900 suspensions
Class Disruption	5,777 suspensions
Threats to Students and Teachers	3,650 suspensions
Communication Devices	1,428 suspensions
Alcohol	806 suspensions
Tobacco	685 suspensions
Sexual Activity	545 suspensions
Cheating	160 suspensions
Inhalants	21 suspensions
Total # of Suspensions for Non-Violent Conduct	59,098 suspensions

For the first time, because of data collection changes we mandated in 2010, we were able to identify the number of students suspended out-of-school for under 10 days, as well as the number over 10 days. Of the 56,041 students suspended or expelled out-of-school in the 2010-2011 school year, 2,201were suspended or expelled for more than 10 days. (*Exclusions Report,* Table 14).

We looked at the reasons that the 2,201 students were suspended/expelled for over 10 days, again separating violent from non-violent offenses. We found that 448 students were suspended for over 10 days for non-violent offenses.

School Year 2010-2011 Number of Students Suspended For Over 10 Days for Non-Violent Offenses	
Total # of Students Suspended for over 10 days	2,201 students
Refused to Obey School Policies	109 students
Inciting or Participating in Disruption	91 students
Threats Against Students and Teachers	89 students
Classroom Disruption	50 students

Disrespect	45 students
Tobacco/Cheating/Communication Devices	8 students
Total	448 students

Frequency of suspension also raises concerns. If a student is suspended out-of-school more than two times, especially for the same behavior, we have serious doubts that suspension is a technique that is working to help the student correct his/her behavior. If a student is suspended multiple times during the school year, that student will fall further and further behind and, we believe, will be more likely to drop out of school.

Of the 56,041 students suspended out of school in the 2010-2011 school year, 9,550 were suspended three or more times and 1,335 of those were suspended more than 5 times during the school year.

The Frequency that Students Were Suspended or Expelled Out of School School Year 2010-2011 Exclusions Report Table 5a						
Total # of Students Suspended Out of School	Suspended 1	Suspended 2	Suspended 3	Suspended 4	Suspended 5	Suspended More than 5
56,041	36,002	10,489	4,712	2,291	1,212	1,335

Another important finding of our recent review is that students with disabilities and minority students are disproportionately represented in the population of suspended and expelled students. For example, of the 66,955 students suspended (all suspensions, in and out-of-school), 57% (38,515) were African Americans (*Exclusions Report,* Tables 2 and 3).

The disproportionate representation of minority students, particularly African-American males, in the population of suspended and expelled students, is not new and was previously documented in the 2007 *Report of the Task Force on the Education of Maryland's African*

American Males. That report relied, in part, on data from the 2004-05 school year, when African Americans comprised of 59% (42,293) of the 71,085 students suspended (all types of suspensions, in-school and out-of-school). The Task Force expounded on the implications of its findings:

> Twenty-five years of research show not just that African Americans are more often disciplined than White students, but that they're more harshly disciplined, too. And yet numerous studies investigating behavior, race, and discipline have yet to show that African-American students misbehave at a significantly higher rate than others, nor that their misbehavior is more serious. That is, no study to date has found differences in racial behavior sufficient to explain racial differences in school punishment.
>
> More and more, researchers are looking to institutional procedures – such as those regarding discipline – to explain the difference. Those procedures, they're finding, are fraught with an alarming degree of subjectivity and act more as a perpetuator of racial order than an objective arbiter of infraction and penalty. Discipline decisions are often colored by adults' perceptions of a student's appearance, neighborhood, family, and social background – all of which influence their perception of his behavior. In fact, in deciding punishment, the individual adult/student encounter often takes a back seat to racial and societal perceptions in general.

(African American Male Task Force Report at 26).

Our study raised many questions - - among them were:

A. What are the effects of out-of- school suspensions?

B. Does the use of out-of school suspensions make safer schools or better-behaved students?

C. When are out-of-school suspensions appropriate?

D. What regulatory changes are necessary?
   - Timeliness
   - Disparate impact
   - Educational Services
   - New Vocabulary
     - Re-Defining Expulsion

- Re-Defining Short-term suspension

The remainder of the report addresses those questions.

A. What are the Effects of Suspensions?

As a result of our study, we know that as Maryland ramps up its standards, expecting that all students will graduate from high school ready for college or career, students who are suspended frequently or for long periods of time will likely not graduate, let alone be college and career ready.

We know, indeed, that being separated from school is detrimental to students. In *MSDE's 2010 Report on Education Services,* MSDE explained:

- Suspensions are a major factor leading to the decision to drop out of school. On average, in Maryland approximately 8,800 students drop out of school per year.
- Suspended students are more likely to become involved in the juvenile justice system.
- Students who drop out of school often end up in the adult criminal justice system.

We know that separating students from school is detrimental to families and the community. In the short-term, an out-of-school suspension causes disruption in the family home. If parents or guardians are working, the suspended student is often left to his/her own devices, unsupervised. If the parent or guardian decides to miss work and stay home with the student, there could very well be an adverse financial impact on the family. In the long-term, exclusionary policies add to the growing number of citizens lacking the basic educational skills to support themselves. They have a greater need for social services, like public assistance and unemployment assistance. Even if they are able to find work, drop outs are disadvantaged in

their earning capacity compared to high school graduates. Estimates indicate that a high school drop-out can cost society between $243,000 and $388,000 over his lifetime due to dependency on government assistance. Those costs escalate dramatically if the youth turns to a life of crime. *See MSDE's 2010 Report on Education Services.*

The use of out-of-school suspension, when a less onerous alternative is available, also undermines efforts to close the achievement gap, increase the graduation rate and challenge all students to reach their full potential while giving them the tools they need to get there. These initiatives are critical to ensuring we reach our goal of making all Maryland public school students, college and career ready.

The uneven application of discipline to minority and disabled students raises questions of inherent unfairness and potentially life-altering negative consequences. Without question, we must redouble our efforts to eliminate the disparity it causes.

Knowing that there are such serious consequences when students are separated from school, we asked ourselves – why would Maryland public schools issue over 95,866 out-of-school suspensions to 56,041 students in the 2010-2011 school year, the majority of which were issued for non-violent conduct?

B. Does the Use of Out-of School Suspensions Create a Safer School or a Better Behaved Student?

Given the detrimental effects and negative consequences of suspensions on students and the community, we asked whether out-of-school suspensions (long or short) result in some good - - a safer school? Because we all want safe schools, we often rely on a presumption that separating disorderly students from school will make schools safer. That presumption is not necessarily supported by the recent research which raises serious questions about the

effectiveness of using out-of-school suspensions as a means of providing a safe school. (*Losen & Skiba* 2010).

> Some have argued that suspensions remove disorderly students and deter other students from misbehaving, thereby improving the school environment so that well-behaving students can learn without distractions . . . . Yet, despite nearly two decades of implementation of zero tolerance disciplinary policies and their application to mundane and non-violent misbehavior, there is no evidence that frequent reliance on removing misbehaving students improves school safety or student behavior . . . . Because suspended students miss instructional time, frequent use of out-of-school suspension also reduces students' opportunity to learn.

Id. at 2; *see also, Breaking Schools' Rules* at 4.

The American Psychological Association's 2006 Zero Tolerance Task Force explains that the assumption that the removal of disruptive student will result in a safer school, although a strongly intuitive assumption, is not supported by the data.

> "[D]ata on a number of indicators of school climate have shown the opposite effect, that is schools with higher rates of school suspensions and expulsions appear to have *less* satisfactory rating of school climate, *less* satisfactory school governance structures, and to spend a disproportionate amount of time on disciplinary matters. Perhaps more importantly, recent research indicates a negative relationship between the use of school suspension and expulsion and school-wide academic achievement, even when controlling for demographics such as socioeconomic status. Although such findings do not demonstrate causality, it becomes difficult to argue that zero tolerance creates more positive school climates when its use is associated with more negative achievement outcomes."

Are Zero Tolerance Policies Effective in Schools, An Evidentiary Review and Recommendations at 4-5. (*emphasis in original*).

If out-of-school suspensions do not necessarily create safer schools, we asked if they served some other worthy societal purpose. In this regard, we recognize that there are several reasons why a society metes out punishment for bad behavior:[3]

- Retribution: to right a wrong by giving the person his "just deserts" in the form of a punishment appropriate to the harm caused.
- Incapacitation/Deterrence: to deter future bad conduct by making it impossible for the offender to offend again and showing others that a like offense will be punished as severely.
- Rehabilitation: to provide correction to the offender and turn him around.

(Carlsmith, Darley, Robinson (2002)).

In the school context, suspensions for retribution purposes has no place at all. Suspensions for incapacitation or deterrence purposes, while it may make us think that the schools are safer, do not necessarily serve the school or students well. Indeed, as the American Psychological Associations Zero Tolerance Task Force Report states: "Rather than reducing the likelihood of disruption, however, school suspension in general appears to predict higher future rates of misbehavior and suspensions among those students who are suspended." *Are Zero Tolerance Policies Effective in Schools, An Evidentiary Review and Recommendations* at 5.

As we have shown in this Report, the effects of separation from school are devastating to the student and the community. Our goal as educators should be a rehabilitative one - - to improve the student, not to disadvantage those students who may be most in need of our help. Indeed, we must keep our eye on the prize – eliminating the achievement gap and graduating college and career ready students – even in the heat of the school discipline process.

In Maryland, we have made a long-term commitment to focus our work on student success, producing a sustainable, competitive workforce, achieving effective, measurable

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[3] *See,* Carlsmith, Darley, Robinson, *Why Do We Punish, Journal of Personality and Social Psychology,* 2002, Vol. 83 No. 2, 284-299; *See also,* Banks, *Ethics and the Criminal Justice System,* Chapter 5, *The Purpose of Criminal Punishment* 103-126, http://www.sagepub.com/upm-data/5144_Banks_II_Proof_Chapter_5.pdf

accountability links between student achievement and school and teacher effectiveness. We must also realize that the school discipline process is inextricably linked to that commitment. A student must be in school in order to learn. We reiterate, in the 2010-2011 school year, over 56,041 Maryland students were out of school for some amount of time due to suspensions/expulsions, over 2,201 students were suspended or expelled for long periods of time - - over 10 days, and 1,336 were suspended more than 5 times. For those students, our commitment to success, reducing the achievement gap, graduation from high school college and career ready are but hollow promises. When we fail those students, we fail.

C. When Are Out-of-School Suspensions Appropriate?

The superintendents and local boards have asked that we leave the imposition of appropriate discipline in their hands. We agree. We will not propose regulatory reform to govern when out-of-school suspensions may be imposed in our schools. We trust that our education partners will endeavor to use out-of-school suspensions judiciously and appropriately as the punishment of last resort for serious offenses.

Knowing the negative consequences, particularly of long-term exclusion from school, it is our view, that out-of-school suspensions, particularly those over 10 days, should be reserved for only violent and dangerous conduct.

We considered the various types of conduct and offenses that are possible under the State Code of Conduct. There are eight categories of offenses and thirty nine possible offenses spread across those categories. They are:

Attendance
101 Class Cutting
102 Tardiness
103 Truancy

Dangerous Substances
201 Alcohol

Arson/Fire/Explosives
501 Arson/Fire
502 False Alarm/Bomb Threat
503 Explosives

Sex Offenses
601 Sexual Assault

202 Inhalants
203 Drugs
204 Tobacco
891 Sells or Solicits Sale of Controlled Substance
892 Possesses or Uses Illegal Drugs

Weapons
301 Firearms
302 Other Guns
303 Other Weapons
893 Carries a Weapon to School or School Function

Attack/Threats/Fighting
401 Physical Attack-Teacher/Staff
402 Physical Attack-Student
403 Verbal or Physical Threat to Teacher, Staff, or Others
404 Verbal or Physical Threat to Student
405 Fighting
406 Extortion
407 Bullying
408 Serious Bodily Injury

602 Sexual Harassment
603 Sexual Activity

Disrespect/Insubordination/Disruption
701 Disrespect
702 Insubordination

703 Harassment
704 Classroom Disruption
705 Inciting/Participating in Disturbance

Other
801 Academic Dishonesty/Cheating
802 Portable Communication Devices
803 Theft
804 Trespassing
805 Unauthorized Sale or Distribution
806 Vandalism/Destruction of Property
807 Refusal to Obey School Policies

Each of those offenses is defined in the Maryland Student Records Manual, some with precision, some not. Some categories seem duplicative or redundant. We understand that several years ago the Department convened a workgroup to recommend changes to the State Code of Conduct and the definitions. Their work was stayed until we conducted our study. It is time to take up that work again. When appointing the workgroup, we ask the State Superintendent to include one or more State Board members in the group.

Previously in this Report, we defined the reasons for suspensions that appeared to us to reflect violent or dangerous behavior. We were, we believe, over-inclusive in our list because some of those offenses could very well be considered non-violent based on the actual conduct involved. For example, the drug category is not always reflective of violent or dangerous conduct. We know that is the case given the recent spate of out-of-state news articles about students suspended for bringing over-the-counter medicines to school for their own use and

failing to follow school policies. That is clearly not a violent offense, and it is highly likely not a dangerous one. Similarly, what may appear to be a non-violent offense may, under the circumstances, be dangerous to the school community. The sale of alcohol or inhalants may fall into that category. The circumstances will govern whether the conduct is violent or dangerous, and we leave that decision to the local school systems. We point out, however, that our data show that in Maryland approximately 63% of the out-of-school suspensions are imposed for conduct that is not apparently violent or dangerous. Thus, to address this issue, we would like the workgroup to suggest a coding system that allows a school system to code each suspension issued as one for violent or dangerous conduct or for non-violent non-dangerous conduct.

We plan to review each school system's suspension data annually. We will ask school systems to do the same to pinpoint where out-of-school suspensions seem to be being used ineffectively and inappropriately.

As we have stated over and over in this Report, school discipline and academic success are interrelated concepts. We know that effective instruction and classroom management is the key. Each school system's Master Plan, in the Great Teachers/Great Leaders section, now addresses school safety issues in general and suspensions in particular. We recommend that in that section local school systems laser focus on the interrelationships among instruction, school discipline, and reducing the achievement gap.

D. What Regulatory Changes Are Necessary?

As our 2011 Teacher of the Year, Joshua Parker, said in his presentation to the State Board, "A school must be governed by a practical and efficacious vision that takes into account the needs of the school population. When this vision is shared, it forms a basis and context upon which to enact school procedures and processes that honor and encourage safety and learning

throughout the school." We recognize that we cannot "regulate" or impose a shared vision on each school and school system, but we wish to set the parameters of a fair and equitable disciplinary process.

A fair and equitable disciplinary process must:

BE TIMELY AND OPEN

- **A school system must conduct its disciplinary process in a timely and open way.**
- **A school system should provide to the students' representative any document it intends to use at a hearing.**

END DISPARATE IMPACT

- **To the extent that the disciplinary process is shown to have disproportionate impact on minority and/or special education students, a school system must present a plan to this Board to end such disparate impact.**

PROVIDE EDUCATIONAL SERVICES

- **When out-of-school suspension is imposed, a school system must provide at least minimum educational services to the student.**

Be Timely and Open

In June 2011, we issued for public comment, "Proposed Guidelines for Timely Disposition of Long Term Discipline Cases." The Guidelines were based on the presumption that it is better for a student to be in school rather than out of school. Any delay in the disciplinary process obviously increases time out of school.

Our first guideline addressed what should happen if a suspension over 10 days was being considered. We proposed:

Within the 10 days of the initial suspension period, the school system should complete the following steps:

- Principal makes recommendation to superintendent for a longer suspension period or expulsion;
- Superintendent or designee orders an investigation;
- The investigation is completed;
- Superintendent or designee holds a conference with parent and student; and
- Superintendent issues his/her written decision.

We proposed that, if there was to be a delay in completing the process beyond the 10 day suspension period, that the student be readmitted to school pending the Superintendent's decision.

Most of the school system testimony we heard assured us that the 10 day time period was honored in the great majority of cases. We agree that the timeliness problem appears minimal. The comments and testimony from school personnel on this proposal centered on the re-admission of a student to school if the investigation/decision process took longer than 10 days, particularly if the student's conduct was violent or dangerous. For those few cases that go beyond the 10 days, we will propose a regulation that requires a student to be re-admitted to school while a Superintendent's decision is pending only if the student's conduct was non-violent.

Our second guideline addressed what should happen if a decision is made to suspend a student for more than 10 days. We proposed:

> Once the Superintendent issues his written decision to suspend the student for longer than 10 days, a parent has two choices – to appeal or not to appeal. There is no "stay" of the discipline during the appeal process.
>
> *A. "No Appeal" timeline- student should return to school on the first day after suspension time has run.*

- Student serves his suspension/expulsion time. (30 days, 60 days, a year).
- Superintendent or designee schedules and holds parent/student and teacher conferences no later than the day on which the student is to return to school.

B. *"Appeal" Timeline- - In no circumstance should a student be kept out of school awaiting the decision of the local board, if the student has served the full suspension period and met any conditions that may have been imposed (e.g. drug counseling.)*
   - Parent files an appeal with the local board within ten calendar days of the Superintendent's decision;
   - Local board schedules and conducts appeal hearing within a 30 calendar day time period after the date the appeal is filed.
   - Local board issues written decision within 10 calendar days of the end of the appeal hearing.

Both the school system panelists and the advocate panelists generally supported this guideline, particularly the return of the student to school after the full term of the suspension is served even if an appeal is pending. We will propose a regulation to implement those requirements and timelines, as well as a requirement that, prior to a hearing, a school system share documents and a witness list with the student's representative. That requirement was a request of the advocates. It resonated with our belief that the disciplinary process be fair and even-handed.

The advocate panelists noted that the written information provided to non-English speaking parents during the suspension process needs to be translated into the parents' native language in order for meaningful due process to occur. We concur. Moreover, for a fair hearing process to occur an interpreter needs to be provided. We concur. Because these requirements are directly related to due process issues, we believe they are already required by law. We will

not propose a duplicative regulation, but we emphasize that school systems must be cognizant of and meet the needs of their non-English speaking parents.

- **END DISPARATE IMPACT**

In the past, MSDE has analyzed the data in MSDE's yearly *Suspensions, Expulsions, and Health Related Exclusion Reports* disaggegregating it by race and gender and discussing that data on-site with each local school system. Additional analysis is needed, however, to determine whether or to what extent each school system's discipline is meted out in a way that may cause a disproportionate impact on African Americans and on other minorities. *The Task Force on the Education of African American Males* certainly points to an over-all disproportionate impact. We believe such impact may exist in some school systems. As we pointed out earlier in this Report, disproportionate impact discipline is, we believe, related to the achievement gap problem. Closing that gap by improving student learning and performance needs to be among our highest priorities. Understanding the relationship of disproportionate discipline to the achievement gap is critical. Therefore, we will propose a regulation that requires MSDE to develop an analysis to determine the impact of school discipline on minority students within each school system. When MSDE determines that a disproportionate impact exists, our regulation will require that the school system present to this Board a plan designed to reduce the disproportionate impact within one year and to eliminate that impact within three years. The school system will report annually to the State Board, and we will analyze and discuss the results of the school system's effort.

We know that MSDE's Special Education Division collects data on the impact of school discipline on special education students. They have developed a formula and a process for

assessing the discrepancy between discipline meted out to disabled students compared to non-disabled students. If disabled students are disciplined at a rate 2 times greater than non-disabled students, the school system is notified that it has "significant discrepancy" in its disciplinary processes which must be corrected in one year. The school system's performance is monitored by MSDE.

We suggest that the various divisions in MSDE that may be involved in assessing the impact of discipline on minorities in Maryland schools consult with the Special Education Division on whether the discrepancy model could be used to measure the impact of discipline practices on minorities.

Another type of impact concerns us. In July 2011, Secretary of Education, Arne Duncan and Attorney General, Eric Holder announced the launch of the Supportive School Discipline Initiative, a collaborative project between the Departments of Justice and Education that will address the "school-to-prison pipeline" and the disciplinary policies and practices that can push students out of school and into the justice system. The initiative aims to support good discipline practices and to foster safe and productive learning environments in every classroom. For the first time, the USDE and the DOJ will collect data from school systems with over 3,000 students on the number of school arrests and referrals to the juvenile justice system.

We have never collected such data. From our panel presenters, however, we have anecdotal evidence of referrals to juvenile justice, sometimes for minor offenses. Therefore, we do not know for sure whether there is school to prison pipeline in Maryland schools. To address this issue, we shall begin to collect school arrest and referral data in the 2013-2014 school year by adopting a data reporting procedure though the Student Records Manual to ascertain:

- Number of school arrests, who made the arrest, and reason for referrals to juvenile justice disaggregated by school system, race, ethnicity, special education, gender, etc.
- Number of special education students by school system whose conduct was determined to be a manifestation of their disability referred to juvenile justice.

- **Provide Educational Services**

We have chronicled in this Report the high cost to society when long or frequent separation from school occurs. One study has found, however, that providing effective alternative education may cost approximately $7,000 per student, and that it provides $20,650 per student per year in social benefits. Those social benefits included learning time that would have been lost, reduced grade repetition, added tax revenue, reduced welfare costs, and reduced prison costs. Indeed, providing educational services may mitigate the very negative effects on students of separation from school.[4] There is no doubt that the return on investment can be great.

There may be ways to avoid the negative consequences of suspensions. We understand that, since the mid-1980's MSDE staff have been working with school systems to develop a continuum of prevention and intervention programs to address the needs of students who exhibit chronic or escalating misbehaviors. Most promising among those programs is the Positive Behavioral Interventions and Supports (PBIS).

PBIS is an evidence-based initiative that approaches school climate through a framework of data-driven decision making. Schools are asked to monitor their behavioral data, such as office referral, and analyze it through a multitude of lenses. Moreover, PBIS trains school personnel to use positive reinforcement to reward positive behaviors by catching students doing good. Ongoing training and coaching are provided.

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[4] Maureen Carroll, Comment, Educating Expelled Students After No Child Left Behind: Mending an Incentive Structure that Discourages Alternative Education and Reinstatement, 55 U.C.L.A.L. Rev. 1909, 1944 (2008), citing, inter alia, Office for Civil Rights, U.S. Dep't of Educ., 2004 Civil Rights Data Collection.

The PBIS paradigm uses a three-tier model of approaching student behavior based on a mental health model: the first tier is school-wide prevention and intervention; the second tier is targeted for those students who don't respond favorably to the school-wide program; and the third tier is geared to students (about 5%) in any given population who require intensive interventions. Maryland currently has over 800 of its 1,424 schools trained in school-wide PBIS, but most schools have implemented only the first tier. We understand that the challenge is and remains the resources needed both at the State and local levels for implementation of secondary and tertiary levels of PBIS. MSDE staff estimates that it would cost between $10,000 and $15,000 per school over a two year period to move from Tier I to implementation of Tier II/Tier III with greater or lesser cost depending on the size of the school system. MSDE staff emphasize that estimate is imprecise, at best.

To use in concert with PBIS, MSDE has developed a character education program that shows promise. *See, Character Education By Design: A Blueprint for Successful District and School Initiatives* (2007). We encourage school systems to implement such programs to improve school climate and reduce the number of suspensions issued. Yet, when an out-of-school suspension is deemed necessary, some type of education service for the student is, we believe, also necessary.

We point out here an anomaly: a student who enters the juvenile justice system because of behavior at school must receive education services as a matter of law, yet a student suspended out-of-school receives little, if any, education services and no law governs what type of education services should be provided.

We have heard from school systems that there is no one-size-fits-all when it comes to provision of educational services to suspended students. We agree. Yet, we want school staff to

make every effort to keep all suspended students connected to the school. This is hardly a new concept. As explained in the *MSDE's 2010 Report on Education Services,* numerous Task Forces from 1974 to the present have recommended that school systems provide students who are separated from school with alternative educational services. Indeed, there is a statute that requires local boards to "establish special programs in the county and Baltimore City for students . . . who exhibit disruptive classroom behavior." Md. Educ. Code Ann. §7-304. *MSDE's 2010 Report on Education Services* recommends that school systems take a close look at the type of educational services they provide to suspended students.

For those school systems that have alternative education programs, that resource can be used to keep students connected to the school community. In Maryland, a variety of alternative school models exist, but the quality of education services provided varies. In order to help local school systems that are forming and/or operating alternative schools to provide programming that is effective, the Department developed standards for alternative programs. They are contained in the *Maryland Dropout/School Completion Resource Guide*. We urge Maryland school systems with alternative education programs to work with MSDE staff to implement the standards.

We know that smaller school systems especially are challenged by budget, staff, and other resources to provide meaningful education services to their long-term suspended students. We encourage them to form consortia. With the many advances in technology available today, together they may be able to explore live feeds from classrooms or develop curriculum aligned podcasts for a student to view classes while he/she is at home on a suspension. This could also be an option for providing educational programming to students on in-school suspension.

We know that some school systems have innovative approaches to providing education services to student on in-school and out-of-school suspension. Sharing that knowledge and practice with each other is essential. We know that some local school system staff and hearing officers are interested in starting this discussion. We encourage them to do so and ask MSDE to prime the pump to start the discussion and to report periodically to the Board on best practices in Maryland and other states.

During the time period in which the local school systems are designing, implementing or improving their alternative education programs, we will propose a regulation to define minimum education services. If a student is not assigned to an alternative program, he/she should receive **minimum education services** - - which are daily homework, corrected and returned to the student, with at least one staff person assigned to be the liaison between teachers and the various students on out-of-school suspension. We know that this will not be a popular resolution to the problem of keeping up with school work, nor is it an ideal resolution. As the teacher's panel explained, providing homework is a time consuming process for them. Moreover, for some classes such as chemistry or physics, homework is just the tip of the iceberg. Students cannot replicate experiments at home. We do not underestimate the burden this requirement will impose on teachers. Nor do we underestimate the cost and the burden on other school administrative staff to maintain contact with suspended students. Yet, we cannot stand by and do nothing. If there are other alternatives that would not impose even greater costs and burdens on school systems and lead to a one-size-fits all approach that no educator advocates, we urge our partners in education to let us know.

The requirement to provide those minimum education services will begin to give meaning to our current regulations governing education services for suspended students.

Specifically, under COMAR 13A.08.01.03(H), local school systems are required to give suspended students an opportunity to make up class work missed during a suspension. Because the absences for any suspended student for any period of time are considered excused absences, those students are entitled by law to make up all school work. They cannot do so if school work is not provided to them, if it is not corrected or checked, and if some contact with the student is not maintained during the period of suspension.

- **CONSIDER NEW VOCABULARY**

As we looked at the data and the definitions of disciplinary actions, we discovered some problems in terminology.

- **Defining Expulsion?**

We learned that there was no clear demarcation line in regulation separating "extended suspensions" (those over 10 days) from "expulsions." Indeed, our definition of expulsion was exceedingly vague - - "the removal of a student from the student's regular school program . . . further defined by the local board of education." COMAR 13A.08.01.11B(2).

In *MSDE's 2010 Report on Education Services*, MSDE staff recommended that we develop a clear definition of expulsion. In considering that recommendation, we reviewed the school discipline policies of the 24 school systems looking for some points of commonality across their definition of expulsion. We considered whether length of time out of school was a common element. It was not. We found expulsion time frames ranging from "at least 36 weeks", to "for more than 45 days", to "for 365 days or more". We considered whether total exclusion from school/education services was a common thread. It was not. Some school systems excluded the expelled students from day school programs only, but allowed attendance in the other programs; some excluded the expelled students completely and totally from all school/education services.

Because of the lack of the commonality across those definitions, we have taken time to re-think the concept of "expulsion." We asked: Should expulsion mean something different from "extended suspension" - - which is any suspension over 10 days? Given the variety of time spans in the local school system definitions of expulsions, we think the definition of extended suspension could encompass the concept of "expulsion" without requiring a separate definition. Specifically, an "extended suspension" could be for up to 365 days or more, if a school system decided to impose a suspension for that length of time.

We also asked: Should expulsion mean total exclusion from all education services? Given the devastating effects of separating students from school for long periods of time, we think that, unless the student poses a danger to the school community, total exclusion is contrary to the intents and purposes of public education in Maryland. To the extent that, in some school systems in Maryland, an expulsion automatically denies access to all education services, we intend that practice to stop unless there are serious, extenuating circumstances that make total exclusion the only way to ensure a safe school environment.

We will propose a regulation that deletes the term "expulsion" from the general school discipline regulations, but would allow total exclusion from school under the circumstances described above. We recognize, however, that federal law and State law, call for "expulsion" if a student brings or possess a firearm on school property. *See* COMAR 13A.08.01.12-1. We shall retain the definition of expulsion contained in that specific regulation for the purposes set forth in that regulation.

- **Redefining Short-Term and Long-Term Suspensions**

We also looked at the premise set forth in our regulations that a short-term suspension is any suspension lasting 10 days or less. COMAR 13A.08.01.11(B)(6). That 10-day time frame

seems to be based on the statute giving a principal the unilateral authority to suspend a student for up to 10 days. Md. Educ. Code. Ann. §7-305(a). By statute, only the superintendent can suspend a student for more than 10 days. *Id.* at 7-305(b).

We asked whether using the 10-day time period to define a "short-term suspension" was appropriate. We asked: Is missing two full weeks of school a short time period in a world in which students must be prepared to graduate college and career ready? We think not. Indeed, in schools with block scheduling, the ten day suspension can translate into 20 class days missed. Ten day suspensions have far ranging, negative impacts on meeting our commitments to reduce the achievement gap and to produce a productive and sustainable workforce which can compete globally. Thus, we have concluded that the 10-day span is too significant an amount of time to lose from class to consider it a "short" time. Therefore, we will propose a regulation that changes the definition of short-term suspension to a suspension for up to 3 days. We recognize, of course, that a principal retains the statutory right to suspend a student for up to 10 days, but that will no longer be considered a short-term suspension when reporting discipline data.

We will also create a new category of suspensions by defining suspensions between 4 and 10 days to be "long-term suspensions." And as we explained previously, we will retain the definition of "extended suspensions" for those suspensions over 10 days.

This new terminology we believe better reflects the need to consider carefully the length of time a student is out of school and the consequences of that time out of school.

Conclusion

Although this Report concludes our current study of school discipline in Maryland, it does not end our interest in the topic. We intend to monitor discipline data in the upcoming years to spotlight continuing problems. We know that many of our school systems are already

working hard to understand the implications of their discipline data and to use it to address problem areas. We want to work in tandem with them and to support their efforts. As we have said throughout this Report, school discipline policies are linked to student achievement and to the achievement gap. We will work in the next year to more fully understand that link so that our vision of a world class education system preparing all students for college and career success in a safe, healthy, and orderly school comes to fruition.

Draft of Possible Proposed Regulatory Changes
COMAR 13A.08.01

Amendments in Bold
[Deletions in Brackets]

.10 Guidelines for Students' Responsibilities and Rights

A. Each local board of education shall have a document on students' responsibilities and rights.
B. This document shall conform to guidelines established by the State Board of Education.
C. The local document shall be disseminated periodically to all members of the school community, including students, teachers, administrators, and parents or guardians.
D. There shall be broad involvement of representatives of the school community in the review of the document.

.11 Disciplinary Action

A. Local Regulations. Each local board of education shall adopt a set of regulations designed to maintain an environment of order and discipline necessary for effective learning. These regulations should provide for counseling and standards for appropriate disciplinary measures, and may permit suspensions or**, when appropriate**, expulsions **pursuant to COMAR 13A.08.01.12-1.**

B. Terms Defined. In this regulation, the following terms have the meaning indicated:

(1) "Confer" means a discussion or dialogue by any means, for example, telephone, electronic mail, or face-to-face meeting, where the views of the teacher are communicated and considered.

[(2) "Expulsion" means, at a minimum, the removal of the student from the student's regular school program and may be further defined by a local board of education.]

(2) "Extended suspension" means the [temporary] removal of a student from school for a specified period of time longer than 10 school days for disciplinary reasons by the local superintendent or the local superintendent's designated representative. **Extended suspensions can include total exclusion from school only when that is the only means by which to ensure a safe school.**

(3) "In-school suspension" means the removal within the school building of a student from the student's current education program for up to but not more than 10 school days in a school year for disciplinary reasons by the school principal.

(4) "Long-term suspension" means the removal of a student from school for a time period between 4-10 days for disciplinary reasons by the principal.

(5) "Principal" means the principal of a school or the principal's designee.

(6) "Short-term suspension" means the removal of a student from school for up to but not more than [10] **3** school days for disciplinary reasons by the principal.

(7) "Suspension" means the application of extended suspension, in-school suspension, [or] short-term suspension **or long-term suspension.**

C. Suspension and Expulsion

(1) In those instances when the behavior of a student is disruptive and detrimental to the operation of the school, the student may be suspended or**, if appropriate,** expelled **pursuant to COMAR 13A.08.01.12-1**.

(2) In-School Suspension.

(a) An in-school removal is not considered a day of suspension as long as the student is afforded the opportunity to continue to:

(i) Appropriately progress in the general curriculum;

(ii) Receive the special education and related services specified on the student's IEP, if the student is a student with a disability in accordance with COMAR 13A.05.01;

(iii) Receive instruction commensurate with the program afforded to the student in the regular classroom; and

(iv)Participate with peers as they would in their current education program to the extent appropriate.

(b) A student may not receive an in-school suspension unless the student has been informed of the reasons for the suspension and has been given an opportunity to respond before the suspension becomes effective.

(c) The school principal shall provide the student's parents with written notification of the in-school suspension action taken by the school.

(d) After 10 days of cumulative in-school suspension, the student, the student's parent or guardian, and the principal shall confer.

(e) The student's school of current enrollment shall make provision for the student's education during the period of in-school suspension.

(f) Local school systems shall develop policies pertaining to a student's participation in extracurricular activities if the student receives an in-school suspension.

(g) Local school systems shall develop and implement a behavioral program of positive interventions to address the causes of misbehavior as part of the in-school suspension.

(3) Suspension for Not More Than 10 Days

(a) In accordance with the rules and regulations of the local board, each principal of a public school may suspend for cause, not more than 10 school days, any student in the school who is under the direction of the principal.

(b) The student or the student's parent or guardian promptly shall be given a conference with the principal and any other appropriate personnel during the suspension period.

(c) At or before the conference, the student shall receive oral or written notice of the charges against him or her. If the student denies the charges, the student has the right to an explanation of the evidence supporting the charges and an opportunity to present the student's side of the story.

(d) A student whose presence in school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be removed immediately from school, if the notice and conference required by this subsection is provided as soon as possible.

(e) If the principal finds that an extended suspension or expulsion **under COMAR 13A.08.01.12-1** is warranted, the principal immediately shall report the matter in writing to the local superintendent.

(4) Suspension for More than 10 Days or Expulsion

(a) At the request of the principal, a local superintendent or the designated representative may suspend a student for more than 10 school days or expel the student **pursuant to COMAR 13A.08.01.12-1.**

(b) Upon receipt of a written report from a principal requesting an extended suspension or **an** expulsion **under COMAR 13A.08.01.12-1,** the local superintendent or designated representative promptly shall make a thorough investigation of the matter.

(c) If after the investigation the local superintendent or designated representative find that [a longer] **an extended** suspension or **an** expulsion **under COMAR 13A.08.01.12-1** is warranted, the superintendent or designated representative promptly shall arrange a conference with the student and the student's parent or guardian.

(d) **The process described in (a)-(c) of this section of the regulation shall be completed by the 10th day of the initial suspension. If additional time is necessary to complete the process, the student shall be allowed to return to school, unless the local**

superintendent or designated representative consider the conduct at issue as violent, dangerous, or a threat to the safety of the school community.

(e) If after the conference the local superintendent or designated representative finds that a suspension of more than 10 school days or **an** expulsion **under COMAR 13A.08.01.12-1** is warranted, the student or the student's parent or guardian may[:][(i)] Appeal to the local board within 10 days after the **date of the written** determination[;].

[(ii) Be heard before the local board or its designated committee; and]**(f) If an appeal is filed, it shall be heard before the local board or its designated committee, or hearing officer and completed within 30 days of the date of appeal was received by the local board.**

[(iii) Bring counsel and witnesses to the hearing]**(g) The student or the student's parent or guardian:**

(a) shall be provided the school system's witness list and a copy of the documents that the school system will present at the hearing five days before the hearing;

(b) may bring counsel and witnesses to the hearing

(h) The local board shall issue its decision within 10 days after the close of the hearing.

(i) Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the board.

(j) The appeal to the local board does not stay the decision of the county superintendent.

(k) The decision of the local board is final.

(5) A student expelled **under COMAR 13A.08.01.12-1** or suspended from school shall remain away from the school premises during those hours each school day when the school the student attends is in session, and may not participate in school-sponsored activities. The expelled or suspended student may return to the school premises during the prohibited hours only for attendance at a previously scheduled appointment, and if the student is a minor then only if accompanied by the student's parent or guardian.

(6) A student suspended from school shall be allowed to return to school on the day that the terms and conditions of the suspension are met whether or not the student, parent, or guardian has filed an appeal of the suspension.

(7) If a student has been suspended or expelled **under COMAR 13A.08.01.12-1**, the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.

(8) If a student's disruptive behavior results in action less than suspension, the principal shall confer with the teacher who referred the student to the principal before returning the student to that teacher's classroom. The principal may satisfy this requirement by consulting with the teacher before returning the student to the classroom.

(9) A local superintendent may deny attendance to a student who is currently expelled **or on extended suspension** from another school system for a length of time equal to that expulsion **or extended suspension**. A school system shall forward information to another school system relating to the discipline of a student, including information of an expulsion **or extended suspension** of the student, on receipt of the request for information.

D. Restitution. Unless the student is referred to the Department of Juvenile Services, if a student violates a State or local law or regulation and during or as a result of the commission of that violation damaged, destroyed, or substantially decreased the value of school property or property of another that was on school property at the time of the violation, as part of a conference on the matter with the student, the student's parent or guardian, and other appropriate individual, the principal shall require the student or the student's parent or guardian to make restitution. The restitution may be made in a form of monetary restitution not to exceed the lesser of the fair market value of the property, or $2,500, or by the student's assignment to a school work project, or both.

E. Corporal Punishment. Corporal punishment may not be used to discipline a student in a public school in the State.

F. Minimum Education Services

(1) Each student suspended out-of-school who is not placed in an alternative education program shall receive daily homework assignments from each teacher which shall be reviewed and corrected by teachers on a weekly basis and returned to the student.

(2) Each principal shall assign a school staff person to be the liaison between the teachers and the various students on out-of-school suspension and to communicate weekly about homework assignments and school-related issues by phone or e-mail with those out-of-school suspended students.

.12 Arrests on School Premises.

A. When possible and appropriate, arrest by police should be made during non-school hours and away from school premises.

B. When an arrest on school premises during the school hours is necessary, the responsible school official shall ascertain the facts from the arresting officer which will enable the school official to fully advise the parent or guardians and other school official of the nature of the charge, the identity of the arresting officer, and the location of the student.

C. When an arrest has taken place on school premises or during school hours, every effort shall be made by school officials to inform the parent or guardians immediately and thereafter promptly to advise the local superintendent of schools.

D. Arrest on school premises during school hours shall be effectuated in such a manner as to avoid both embarrassment to the student being arrested and jeopardizing the safety and welfare of other students.

E. School officials may not permit questioning of a student under arrest on the school premises and shall request the arresting officer to remove the student from the premises as soon as practicable after the arrest is made.

F. Data on school arrests shall be reported in a manner and format developed by the Department.

.12-1 Bringing or Possessing a Firearm on School Property.

A. In this regulation, the following terms have the meanings indicated:

(1) "Alternative educational setting" means an alternative education program that allows the student's education within the public school system and, if in a secondary school, the opportunity to earn credit.

(2) "Expulsion" means at a minimum the removal of a student from the student's regular school program.

(3) "Firearm" means a weapon as defined in 18 U.S.C. §921.

(4) "School property" means buildings, land that surrounds the buildings, and vehicles, that are owned or leased by a local school system.

(5) "Year" means a calendar year of 12 months.

B. General Provisions.

(1) Except as provided in §B(2) of this regulation, if the local superintendent or designee finds that a student has brought a firearm onto school property or to a school sponsored activity, the student shall be expelled for a minimum of 1 year.

(2) The local superintendent may specify in writing, on a case-by-case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the local board, for a student who has brought a firearm onto school property or to a school-sponsored activity or has possessed a firearm on school property or at a school-sponsored activity.

(3) Nothing in this regulation applies to a firearm:

(a) That is lawfully stored inside a locked vehicle on school property; or

(b) For activities approved and authorized by the local school system, if the local school system adopts appropriate safeguards to ensure student safety.

C. Students with Disabilities. An identified student with disabilities who brings a firearm onto school property or to a school-sponsored activity or who possesses a firearm on school property or at a school-sponsored activity may be suspended or expelled in accordance with the procedures set out in Education Article, §7-305, Annotated Code of Maryland, and COMAR 13A.08.03.

D. Administrative Procedures.

(1) Annually by August 1, each local school system shall provide the State Board of Education with a report that includes:

(a) Written certification that the local school system is in compliance with the requirements of this regulation;

(b) A description of the circumstances surrounding any expulsions imposed under State law as required by §B(1) of this regulation;

(c) The number of incidents in which a student brought a firearm onto school property or to a school-sponsored activity or possessed a firearm on school property or at a school-sponsored activity.

(d) The name of the school where each incident took place;

(e) The type of firearm involved;

(f) The disposition of each case, including the number of students:

(i) Expelled from each school, and

(ii) Place in alternative educational settings; and

(g) A description of alternative educational settings used in compliance with this regulation.

(2) Each local school system shall report each incident in which a student brings a firearm onto school property or to a school-sponsored activity or possesses a firearm on school property or at a school-property activity to the appropriate juvenile justice or criminal enforcement agency.

E. Nothing in this regulation precludes a local school system from developing or applying more stringent regulations and procedures.

. . .

.15 Reporting Delinquent Acts.

A. Delinquent acts are offenses committed by a person who is under 18 years old which would be crimes if committed by an adult. School officials shall promptly report to the responsible law enforcement agencies all delinquent acts coming to their attention whether occurring on or away from the school premises which involve students attending the particular school.

B. Delinquent acts do not include conduct which has been traditionally treated as a matter of discipline to be handled administratively by the particular school, except that all conduct of a serious nature should be promptly reported to the parent or guardians concerned.

C. Beginning in the 2013-2014 school year, the local school systems shall report data to the Department on school arrests and referrals to the juvenile justice system in a form and manner developed by the Department.

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.21 Reducing and Eliminating Disproportionate Impact

A. The Department shall develop a method to analyze local school system discipline data to determine whether there is a disproportionate impact on minority students.

B. The Department may use the discrepancy model to assess the impact of discipline on special education students.

C. If the Department identifies a school's discipline process as having a disproportionate impact on minority or special education students, the local school system shall prepare and present to the State Board a plan to reduce the disproportionate impact within 1 year and eliminate it within 3 years.

D. The local school system will report annually its progress to the State Board.