

BILL: House Bill 725
TITLE: Public Schools - Student Discipline - Restorative Approaches
POSITION: OPPOSE
DATE: February 28, 2019
COMMITTEES: Ways and Means Committee
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The Maryland Association of Boards of Education (MABE) opposes House Bill 725, because it would limit the discretion of school principals to discipline students unless the student poses an imminent threat of serious harm to self or others. MABE does recognize the value of the work undertaken by the recently completed Commission on the School-to-Prison Pipeline and Restorative Practices, and believes the Commission’s final report is informative on the primary purpose of restorative approaches as proactive, rather than reactive.

“The Commission urges Maryland schools to transition to what we broadly define as “restorative approaches to building and sustaining positive learning environments.” A restorative approach combines high behavioral expectations and accountability with a range of preventative, conflict resolution, and rehabilitative strategies to promote positive behavior and engaged student learning. The Commission recommends the following definition and guiding principles of a restorative approach: A restorative approach combines a relationship-focused mindset and distinctive tools that create a school climate and culture that is inherently just, racially equitable, and conducive to learning for all students. The guiding principles of a restorative approach include the following: A restorative approach is primarily proactive and preventative rather than a reactive discipline model, with 80% focused on building strong relationships and setting clear behavioral norms for the school community.”

Maryland school systems are committed to all of their students becoming college and career ready and ensuring that the appropriate use of school discipline furthers that goal. Following several years of deliberations, the State Board of Education adopted new regulations in 2014 to dramatically reform the ways in which school teachers, principals, and superintendents may suspend or expel students, and define the educational and behavioral supports to be provided to students in disciplinary situations. Therefore, MABE adopted the position of supporting the State Board’s initiative to require local boards of education to reform their student discipline policies to:

- prohibit “zero tolerance” policies;
- reflect a philosophy that fosters positive behavior;
- provide continuous education services to all suspended and expelled students; and
- hold school systems accountable for reducing and eliminating disproportionate impacts of student discipline policies on minority students.

MABE offered comments supporting the State Board’s regulatory reforms with amendments we believed were consistent with the intent of the reforms to ensure school safety, the fair administration of student discipline, the reduction and ultimate elimination of disparate impacts on minority and special education students, and uninterrupted student learning. The State Board engaged in a lengthy stakeholder process and ultimately adopted major reforms to longstanding student discipline regulations.

The regulations adopted mandated that, by the beginning of school year 2014 - 2015, each local board shall review and revise its student discipline policies to be consistent with the new regulations. These regulations redefined local board authority as follows:

“Each local board of education has both the responsibility and authority to adopt policies designed to create safe schools. In the context of school discipline, by the beginning of school year 2014-2015, each local board shall review and revise its student discipline policies and regulations with the goal of maintaining an environment of order, safety, and discipline necessary for effective learning.

The policies and regulations at minimum shall:

- (1) Reflect a discipline philosophy based on the goals of fostering, teaching, and acknowledging positive behavior;*
- (2) Be designed to keep students connected to school so that they may graduate college and career ready;*
- (3) Describe the conduct that may lead to in-school and out-of-school suspension or expulsion;*
- (4) Allow for discretion in imposing discipline;*
- (5) Address the ways the educational and counseling needs of suspended students will be met; and*
- (6) Explain why and how long-term suspensions or expulsions are last-resort options.”*

More specifically, these regulations introduced new terms and conditions for disciplining students, including definitions of short-term, long-term and extended suspensions, and expulsion. For example:

“Extended suspension” means the exclusion of a student from a student’s regular program for a time period between 11 and 45 school days, which only may occur under the following circumstances:

- (a) The superintendent or designated representative has determined that:*
 - (i) The student’s return to school prior to the completion of the suspension period would pose an imminent threat of serious harm to other students and staff; or*
 - (ii) The student has engaged in chronic and extreme disruption of the educational process that has created a substantial barrier to learning for other students across the school day, and other available and appropriate behavioral and disciplinary interventions have been exhausted.*
- (b) The superintendent or designated representative limits the duration of the exclusion to the shortest period practicable; and*
- (c) The school system provides the excluded student with comparable educational services and appropriate behavioral support services to promote successful return to the student’s regular academic program.”*

In these ways, State regulations, which have the force of law, now establish the terms and conditions governing student discipline policies in local school systems. MABE believes that current State statute and regulations, in conjunction with local board policies, effectively govern responses to student conduct without imposing the civil penalty proposed in this legislation.

In 2017, legislation passed to prohibit a child enrolled in a public prekindergarten program through second grade from being suspended or expelled from school, subject to limited exceptions. A student may be suspended for up to five school days if the school administration, in consultation with a school psychologist or other mental health professional, determines that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports. MABE supports reasonable guidance and regulations to implement this law; and anticipates the need for additional state and local funding to meet the staffing, professional development, and facility demands imposed by law’s new mandate for the use of restorative in-school practices.

Again, MABE agrees that restorative approaches should play an integral role in the administration of Maryland's public schools. Such proactive practices, implemented with fidelity following appropriate professional development and training of all staff, can make significant improvements in school climate and the learning conditions for all students to learn. However, local boards do not agree that such approaches should be a mandated reactive disciplinary response to students engaged in behavior warranting suspension.

For the reasons outlined above, MABE respectfully requests an unfavorable report on House Bill 725.