



# CONTINUING RESOLUTIONS 2022-2023

## **Student Discipline**

(Adopted 2013; amended 2014, 2017, 2019, 2022)

WHEREAS, every local board of education has established policies and regulations concerning student discipline, based on a framework established by the General Assembly and the State Board of Education; and

WHEREAS, current laws and regulations give much needed flexibility to local boards to create rules at the local level which best suit their settings, the nature of the particular disciplinary offense, and the particular circumstances of the individual student; and

WHEREAS, MABE appreciates the legislature's recognition, in statute, that principals and superintendents have broad discretion to make student discipline decisions "as warranted" (Section 7-305 of the Education Article); and

WHEREAS, State regulations have long mirrored this deference to local decision making, as well as placing a clear emphasis on school safety; and

WHEREAS, the foundational principle stated in the student discipline regulations is that "Each local board of education shall adopt a set of regulations designed to maintain an environment of order and discipline necessary for effective learning;" and

WHEREAS, in 2004, in response to concerns about high rates of suspensions and expulsions, the General Assembly passed a bill to require elementary schools with a suspension rate in excess of 18% to implement a Positive Behavioral Interventions and Support (PBIS) program; legislation passed in 2006 to reduce the threshold percentage to 16%, 14%, 12% and 10% by the 2009-2010 school year; and in 2007 a bill passed to mandate the PBIS program in schools with high truancy rates; and

WHEREAS, in 2007, legislation passed requiring MSDE to review the policies and procedures of each local board of education relating to student discipline, student suspension, and student expulsion; and the MSDE submitted a report to the General Assembly which recommended improved communication between schools, parents and guardians, and students regarding local codes of discipline, sharing best practices to reduce suspensions, increased conflict resolution and positive communication skill-building, and expanding PBIS training and implementation; and

WHEREAS, following its decision in the *Atanya C. v. Dorchester County Board of Education* case in 2009, the State Board conducted a series of briefings, issued reports, revised the student records manual, and proposed regulations regarding definitions and standards relating to student discipline; and

WHEREAS, in 2013, MSDE convened workgroups to recommend best practices for student discipline, and to develop revised guidelines for a state code of student discipline with standards of conduct and consequences for violations of the standards; and

WHEREAS, the regulations proposed by the State Board in July 2013 included changes requested by MABE to remove the reference to a “rehabilitative” philosophy, and extended the deadline to adopt new local policies and procedures to the 2014-2015 school year; and

WHEREAS, in 2014, the State Board adopted revised student discipline regulations to reform definitions, standards, and reporting requirements in state regulations and mandate new local school system policies and procedures. Major changes included:

- Minimum standards for all local student discipline policies and regulations;
- A mandate to review and revise local student discipline policies and regulations by the beginning of the 2014-2015 school year;
- Definitions of "expulsion," "extended suspension," "long-term suspension," and "short term suspension;"
- Standards and conditions for excluding students from school through extended suspensions or expulsions;
- Mandates to provide excluded students with educational and behavioral support services;
- A 45-day timeline and deadline for hearing appeals, even if using a hearing officer;
- A requirement for school systems to share all documents and witness lists with parents/guardians as appellants but no corresponding requirement for the appellants to do so;
- A requirement to provide "minimum education services" to students suspended or expelled out of school, including daily classwork and assignments from each teacher that must be reviewed, corrected and returned on a weekly basis;
- A requirement to assign a staff liaison between teachers and out of school suspended and expelled students;
- Data reporting requirements for school arrests and referrals to law enforcement or the juvenile justice system;
- Mandates for MSDE to develop a method to analyze whether there is a disproportionate impact on minority students, or a discrepant impact on special education students; and
- A requirement that, based on MSDE's finding of a disproportionate or discrepant impact, the local school system must implement a plan to reduce the impact within one year and eliminate it within 3 years; and

WHEREAS, since 1997 MSDE and the State Board have adopted Maryland Guidelines for a State Code of Discipline which provide expectations for students, staff, parents and guardians, and community organizations; and guidance for local school systems on standards of student conduct and consequences for violations of the standards; and

WHEREAS, on July 22, 2014, the State Board approved revised Maryland Guidelines for a State Code of Discipline; and

WHEREAS, on January 8, 2014, the U.S. Department of Education and Department of Justice issued a joint Dear Colleague Letter, and additional guidance and resources, to assist public elementary and secondary schools in meeting their obligations under federal civil rights laws to administer student discipline without discriminating on the basis of race, color, or national origin; and

WHEREAS, legislation enacted in 2017 prohibits a child enrolled in a public prekindergarten program through second grade from being suspended or expelled from school, subject to certain exceptions; and

WHEREAS, the 2017 legislation allows a student to be expelled if required by federal law or to be suspended for up to five school days if the school administration, in consultation with a school psychologist or 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; and

WHEREAS, legislation enacted in 2017 created the Commission on the School-to-Prison Pipeline and Restorative Practices to make recommendations on establishing a Collaborative Action Plan to create a statewide framework for redesigning public school discipline practices; and legislative and policy initiatives to enact the plan, and the Commission issued its final report in December 2018; and

WHEREAS, MABE participated fully in the work of the Commission on the School-to-Prison Pipeline and Restorative Practices toward the goal of making recommendations based on Maryland and national best practices and which maintain local flexibility to create and enforce fair disciplinary standards, and which address the costs of implementing any newly mandated restorative practices; and

WHEREAS, legislation enacted in 2019 requires local board policies and regulations related to discipline to provide for restorative approaches and state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational; and

WHEREAS, the law defines restorative approaches as a relationship-focused discipline model that may include: conflict resolution, mediation, peer mediation, circle processes, restorative conferences, social emotional learning, trauma-informed care, positive behavioral intervention supports, and rehabilitation; and

WHEREAS, in 2022 legislation was enacted to provide the right to counsel in the school conference held to determine exclusionary discipline following a reportable offense; ensure that the exclusionary discipline of students with disabilities is conducted in accordance with federal special education law; and mandate annual disaggregated reporting of all school disruptions and reportable offenses; and

WHEREAS, in 2022 juvenile justice reform legislation was enacted to establish that a child younger than age 13 is not subject to the jurisdiction of the juvenile court for purposes of a delinquency proceeding and may not be charged with a crime; and child interrogation legislation was enacted to strengthen requirements for law enforcement notice of rights to children in custody and notice to parents and counsel; and

WHEREAS, in 2022 legislation was enacted to, in part, authorize the State Superintendent to adopt evidence-based and trauma-informed positive behavioral intervention training requirements for teachers, administrators, and other employees;

NOW, THEREFORE, BE IT RESOLVED, that MABE pledges to continue to collaborate with the legislature and MSDE in the development of policy initiatives intended to improve the student discipline process to promote successful classroom strategies and student attendance; and

BE IT FURTHER RESOLVED, that MABE supports reducing the rate of out-of-school suspensions for non-violent behaviors, requiring that educational services be provided to students

receiving suspensions or expulsions, and reducing and ultimately eliminating disproportionate and disparate impacts of student discipline policies on minority students and students with disabilities; and

BE IT FURTHER RESOLVED, that MABE supports local flexibility to create and enforce consistent and fair disciplinary standards; and

BE IT FURTHER RESOLVED, that MABE supports the adoption of Maryland Guidelines for a State Code of Discipline and student discipline regulations which preserve local board and school administrator discretion; and

BE IT FURTHER RESOLVED, that MABE opposes legislation and regulations that propose mandated penalties for specific infractions or include other proposals which would reduce the ability of the local board and school administrators to respond appropriately and effectively to student discipline situations on a case-by-case basis; and

BE IT FURTHER RESOLVED, that MABE supports increased state and local funding to support programs, services, and professional staffing levels determined by local school systems as necessary to successfully administer best practices in student discipline and any related mandates in law or regulations.