



School Discipline in Maryland: A Look Backward and Forward

PURPOSE:

To provide the Task Force on Student Discipline (Task Force) with a historical perspective on the school discipline reform that occurred from 2009-2014 and a foundation for moving forward to study school discipline, both in terms of the legal landscape and the current research and data.

LEGAL LANDSCAPE:

Federal Law

One federal law directly impacts school discipline, the Gun-Free Schools Act, 20 U.S.C. §7961, which requires each State receiving federal education funds to pass a law that requires its LEAs to expel from school for one year any student who brings a firearm to school. The LEA can mitigate one-year term of the expulsion on a case-by-case basis. Maryland passed its version of the Gun-Free Schools Act requiring expulsion for one year for bringing a firearm on school property subject to mitigation on a case-by-case basis. Ed. Art. §7-305(f).

While the Obama Administration issued a series of policies and guidelines concerning school discipline and disproportionality of discipline, the Trump Administration has not endorsed them. The Administration has delayed for two years the implementation of special education regulations directing how school systems must calculate disproportionality of discipline of students with disabilities. Each State, at this juncture, can adopt its own model to measure disproportionality. Maryland has done so.

State Law

- **Discipline Rules**

State law defines the broad contours of the school discipline process, including the process a principal must use to suspend a student for up to 10 days and the process a superintendent must use to suspend a student for more than ten days. The law includes appeal rights after long-term suspensions and expulsions. A suspended or expelled student may not be returned to the classroom until the principal confers with the teacher or staff person who referred the student for discipline. That same process applies if disruptive student conduct results in discipline less than suspension. The law allows the principal to require the student or parents to make restitution if damages to school property occurred. Ed. Art. §7-305.

- **Limits on Suspension/Expulsion**

State law prohibits a principal from suspending or expelling students who are in Pre-K, kindergarten, first or second grade unless expulsion is required under the Gun-Free Schools Act or if the school administration determines there is an imminent threat of serious harm to students or staff that cannot be reduced or eliminated by other interventions. Ed. Art. §7-305.1.

State law prohibits suspension/expulsion solely for attendance-related offences. Ed. Art. §7-305(b).

State law prohibits corporal punishment. Ed. Art. §7-306.

- **Special Programs**

State law requires each school system to provide a “continuum model” of prevention and intervention programs to promote positive behavior and reduce disruption and to establish special programs for students who exhibit disruptive classroom behavior. Ed. Art. §7-304. State law requires each elementary school that has a suspension rate that exceeds 10% of its enrollment to implement a PBIS Program or an alternative behavior modification program in collaboration with MSDE. Ed. Art. §7-304.1(b). Likewise, if a school has a truancy rate that exceeds 1% of its enrollment, it must implement a PBIS Program or an alternative research-based behavior modification program. Ed. Art. §7-304.1(c). Any truant student K-12 must be referred to the school system’s “active intervention” program. Ed. Art. §7-302.2

- **Arrests in the Community**

When law enforcement arrests a student in the community for a “reportable offense,” law enforcement must notify the superintendent, principal, and SRO as soon as practicable. The school may use the information to provide “appropriate education programming” to the student to maintain a safe and secure school environment. If the offense is rape or sexual assault, but the student is awaiting trial, the principal may prohibit the student from riding the same bus or attending the same school as the victim. After conviction, the principal must prohibit the offender from riding the same bus and attending the same school as the victim. Ed. Art. §7-303.

- **SROs**

State law requires each public school that enrolls students in grades 6-12 to designate at least one school security officer. Ed. Art. §7-303(i).

State Board Authority to Govern School Discipline in Maryland Schools

As you know, the State Board has the broad statutory authority to adopt education policies affecting all school systems in Maryland and to carry out the provisions of State education law. To implement the provisions of State law governing school discipline, the State Board has adopted a comprehensive set of regulations and policies. COMAR 13A.08.01.11. The regulations are Attachment #1 to this transmittal. The process the State Board went through to adopt new regulations and policies is set forth in *An Overview of School Discipline Policy and Regulations in Maryland*.

Local Authority to Impose School Discipline

Certainly imposing discipline in schools is a uniquely local enterprise, as long as the school system follows the State Board regulations in doing so. During the development of the school discipline regulations, local control was the central issue of contention. The State Board received 1,417 comments advocating for total local control. The State Board’s response was:

While the tension between statewide policy making and local control of school will always exist, it is our view that the regulations balance those two important interests. Specifically, we point out that the regulations contain provisions that recognize local control. For example, proposed regulations, Section .01, Statement of Purpose, states, “the purpose of this action is to have each local board of education adopt a set of discipline policies and regulations that...” Further Section .11, Disciplinary Action, Part A, states, “Each local board of education shall adopt a set of regulations designed to maintain an environment of order and discipline necessary for effecting learning...” Thus, the proposed

regulations recognize the local board of education's role in establishing disciplinary policy and practice.

The Maryland Association of Boards of Education argued that the regulations exceeded the State Board's legal authority given the fact that Ed. Art. §7-305 gives discretion to principals and superintendents to impose discipline "as warranted." The State Board responded:

It is our view that the authority to impose discipline "as warranted" does not mean that local authority is unfettered. It means as warranted by law and sound education policy. The State Board has the authority to define in regulation education policy for Maryland. We can debate whether it is correct or sound. That is a policy debate, however. That debate does not translate into a conclusion that the Board's exercise of its authority to define "as warranted" was illegal exercise.