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TO: Members of the State Board of Education
FROM: Karen B. Salmon, Ph.D.
DATE: September 25, 2018
SUBJECT: School Discipline: A Look Backward and Forward

PURPOSE:

To provide the Board 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 Attachment #2.

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.

EXECUTIVE SUMMARY:

At the Board meeting, staff will briefly discuss the following:

I. How and Why Discipline Reform Began (*See Attachment #2*)

- A. Experience of one 9th grader.
- B. What the literature said at the time.
- C. Basic beliefs of the Board that guided reform.
 - Students should be in school;
 - Suspension, when necessary, should be for the shortest time possible;
 - Schools must provide some education services to suspended/expelled students.

D. A long journey toward adopting regulations. (*See* Attachment #3)

II. Components of the Reform Agenda

A. Eliminate zero tolerance discipline.

B. Create a foundation for discipline policies based on rehabilitative principles.

C. Address disproportional discipline of students of color and students with disabilities.

III. Moving Forward: A Deeper Understanding of School Discipline

A. A review of the current literature and research (*See* Attachment #4)

(1) What we think we know.

- (a) Being suspended likely leads to negative outcomes for students. Low achievement, dropping out, involvement in criminal justice systems, low wages.
- (b) Students of color and students with disabilities are disproportionately disciplined out of school compared to White or Asian students.
- (c) Often discipline within a school is not disproportional but, when compared across all schools, may be disproportional.
- (d) Positive relationships between teachers and students seem to improve school climate.

(2) Where we still have questions.

- Do the reason(s) for disproportional discipline reside
 - (i) In adults? (Implicit bias? Racism? Poor instruction?)
 - (ii) Racial segregation? Concentrated poverty?
 - (iii) In students? (Not prepared well for school? Victims of trauma? Subject to anger and outbursts? Academically and socially challenged?)
- What is the effect of reducing or increasing the number of suspensions on improving school climate, student attendance, and/or achievement?
- What effect do disruptive students have on the achievement of student who are not subject to discipline?
- Do high achieving students affect school climate positively? Do low achieving students affect school climate negatively?

B. What is the interplay between State Board work and the Maryland Commission on School-to-Prison Pipeline and Restorative Practices? (*See* Attachment #5)

C. Discipline Data

ACTION:

No action is required. This is for information and planning purposes.

13A.08.01.11

.11 Disciplinary Action.

A. Local Board Authority. 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.

B. Terms Defined. In this regulation, the following terms have the meanings 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 the exclusion of the student from the student's regular school program for 45 school days or longer, which only may occur under the following circumstances:

(a) The superintendent or designated representative has determined that the student's return to school prior to the completion of the expulsion period would pose an imminent threat of serious harm to other students or staff;

(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.

(3) "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.

(4) "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.

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

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

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

(8) "Suspension" means the application of extended suspension, in-school suspension, short-term suspension, or long-term suspension.

C. Suspension and Expulsion.

(1) 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 parents 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.

(2) 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, for 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 is warranted, the principal immediately shall report the matter in writing to the local superintendent.

(3) Suspension for More than 10 Days or Expulsion.

(a) At the request of a principal, a local superintendent or the designated representative may suspend a student for more than 10 school days or expel the student.

(b) Upon receipt of a written report from a principal requesting an extended suspension or expulsion, 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 finds that an extended suspension or an expulsion 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 §C(3)(a)—(c) of this regulation shall be completed by the 10th school day of the initial suspension. If additional time is necessary to complete the process, either because of delays due to parent or guardian unavailability or due to the complexity of the investigation, the student shall be allowed to return to school, unless the local superintendent or designated representative determines that the student's return to school would pose an imminent threat of serious harm to other students or staff.

(e) If the student is not allowed to return to school after the 10th day, the superintendent or designee shall notify the student and the parent or guardian within 24 hours and provide the reasons for the delay in the process and the denial of reentry and send a copy of the notice to the State Superintendent of Schools;

(f) If after the conference the local superintendent or designated representative finds that an extended suspension or an expulsion is warranted, the student or the student's parent or guardian may appeal to the local board within 10 days after the determination.

(g) If an appeal is filed, the local board or its designated committee or hearing officer shall have 45 days from the date the appeal was received to hear the appeal and issue a decision, as follows:

(i) This timeline period may be extended if the parent, guardian, or his/her representative requests additional time; and

(ii) This timeline shall also apply in the event that the local board elects to use a hearing examiner.

(h) If due to extraordinary circumstances or unusual complexity of a particular appeal, the local board determines that it will be unable to hear an appeal and issue a decision within 45 days, it may petition the State Superintendent for an extension of time.

(i) The student or the student's parent or guardian or representative:

(i) Shall be provided the school system's witness list and a copy of the documents that the school system will present at the hearing 5 days before hearing; and

(ii) May bring counsel and witnesses to the hearing.

(j) 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.

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

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

(4) A student expelled 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.

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

(6) If a student has been suspended or expelled, 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.

(7) 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.

(8) 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 the 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. In order to establish accountability and keep suspended or expelled students on track with classroom work, as is reasonably possible, each local board shall institute education services that at a minimum provide that:

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

(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 or expulsion and to communicate weekly about classwork assignments and school-related issues by phone or email with those out-of-school suspended/expelled students and their parents.

G. Education Services During Short-Term Suspensions.

(1) For short-term suspensions, the local board of education shall inform all schools under their jurisdiction:

(a) To provide all students who receive short-term suspensions with the opportunity to complete the academic work they miss during the suspension period without penalty; and

(b) To provide all students who receive short-term suspensions, and their parents or guardians, with the contact information for a school employee who will be responsible for ensuring that the requirement described in §G(1)(a) is met.

(2) All other aspects of the process for suspended students receiving missed assignments, completing missed assignments, and making up tests shall be identical with each school's established policy and practice for makeup work in the event of any other excused absence.

13A.08.01.12-1

.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 to continue 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 or has possessed a firearm on school property or at 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) Placed 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-sponsored 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.

13A.08.01.15

.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 2015—2016 school year, the local school systems shall report data to the Department on school arrests and referrals to law enforcement agencies or to the juvenile justice system in a form and manner developed by the Department, in consultation with local school systems, and approved by the State Board.

13A.08.01.17

.17 School Use of Reportable Offenses.

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

(1) "Appropriate educational programming" means a regular or alternative education program that allows a student the opportunity to continue the student's education within the public school system and, if in secondary school, the opportunity to receive credit.

(2) "Criminal gang" has the meaning stated in Criminal Law Article, §9-801, Annotated Code of Maryland.

(3) "Law enforcement agency" means the law enforcement agencies listed in Public Safety Article, §3-101(e), Annotated Code of Maryland.

(4) "Local school system" means the schools and school programs under the supervision of the local superintendent.

(5) "Local superintendent" means the county superintendent, for the county in which a student is enrolled, or a designee of the superintendent, who is an administrator.

(6) "Related services" means any supportive intervention that is available through the local school system.

(7) "Reportable offense" means:

(a) A crime of violence, as defined in Criminal Law Article, §14-101, Annotated Code of Maryland;

(b) Any of the offenses enumerated in Courts and Judicial Proceedings Article, §3-8A-03(d)(4), Annotated Code of Maryland;

(c) A violation of Criminal Law Article §4-101, 4-102, 4-203 or 4-204, Annotated Code of Maryland;

(d) A violation of Criminal Law Article, §5-602—5-609, 5-612—5-614, 5-617, 5-618, 5-627 or 5-628, Annotated Code of Maryland;

(e) A violation of Criminal Law Article, §4-503, 9-504 or 9-505, Annotated Code of Maryland;

(f) A violation of Criminal Law Article §6-102, 6-103, 6-104 or 6-105, Annotated Code of Maryland;

(g) A violation of Criminal Law Article §9-802 or 9-803, Annotated Code of Maryland;

(h) A violation of Criminal Law Article §3-203, Annotated Code of Maryland;

(i) A violation of Criminal Law Article §6-301, Annotated Code of Maryland;

(j) A violation of Criminal Law Article §9-302, 9-303 or 9-305, Annotated Code of Maryland;

(k) A violation of Criminal Law Article §7-105, Annotated Code of Maryland; or

(l) An offense related to membership in a criminal gang.

(8) "School principal" means the principal of the public or nonpublic school in which a student is enrolled, or a designee of the principal, who is an administrator.

(9) "School security officer" means an individual designated to maintain the security and safety of a school.

(a) School security officer includes:

(i) A school principal or other school administrator;

(ii) A law enforcement officer; or

(iii) Other individual employed by a local school system or a local government who is designated by the county superintendent or a school principal to help maintain the security and safety of a school.

(b) School security officer does not include:

(i) A teacher;

(ii) A school counselor;

(iii) A school psychologist; or

(iv) A school social worker.

(10) "Student" means an individual enrolled in a public school system in the State who is 5 years old or older and younger than 22 years old.

B. Administrative Procedures.

(1) Promptly, upon receipt of information from a law enforcement agency of an arrest of a student for a reportable offense, the local superintendent shall provide the school principal of the school in which the student is enrolled with the arrest information, including the charges. If the student who has been arrested is an identified student with disabilities who has been enrolled by the public school system in a nonpublic school program, the local superintendent shall provide the principal of the nonpublic school with the arrest information, including the charges.

(2) The school principal with appropriate staff members shall immediately develop a plan that addresses appropriate educational programming and related services for the student and that maintains a safe and secure school environment for all students and school personnel. The school principal shall request that the student's parent or guardian:

(a) Participate in the development of the plan; and

(b) Submit information that is relevant to developing the plan.

(3) If the plan results in a change to the student's educational program, the school principal shall promptly schedule a conference to inform the parent or guardian of the plan. The plan shall be implemented not later than 5 school days after receipt of the arrest information.

(4) The school principal and appropriate staff shall review the plan and the student's status and make adjustments as appropriate:

(a) Immediately upon notification from the State's Attorney of the disposition of the reportable offense; or

(b) Pending notification from the State's Attorney, at a minimum on a quarterly basis.

(5) The parent or guardian shall be informed of any adjustments to the plan.

(6) Each local school system shall provide a review process to resolve any disagreement that arises in the implementation of this regulation.

C. General Provisions.

(1) Except by order of a juvenile court or other court upon good cause shown or as provided in §C(2) of this regulation, the reportable offense information is confidential and may not be redisclosed by subpoena or otherwise and may not be made part of the student's permanent educational record.

(2) If the disposition of the reportable offense was a conviction, an adjudication of delinquency, or the criminal charge or delinquency petition is still pending, a local superintendent or school principal may transmit the information obtained under this regulation as a confidential file to the local superintendent of another public school system or to another nonpublic school in the state in which the student has enrolled or has transferred, to carry out the purposes of this regulation.

(3) A local superintendent or school principal who transmits information about a student under §C(2) of this regulation shall include in the confidential transmittal information on any educational programming and related services provided to the student.

(4) A fee may not be charged to the student or parent or guardian for the alternative educational programming or related services that are developed for the student.

(5) Notice of the reportable offense charge alone may not be the basis for suspension or expulsion of the student. However, nothing in this regulation is intended to limit the manner in which a school obtains information or uses information obtained by any lawful means other than through notice of the arrest.

(6) Appropriate educational programming and related services shall be provided to an identified student with disabilities in accordance with the Individuals with Disabilities Education Act and State special education law and regulations, including COMAR 13A.05.01.

(7) The reportable offense information obtained by a local superintendent, school principal or school security officer shall be:

(a) Transmitted only to school personnel of the school in which the student is enrolled as necessary to carry out the purposes set forth in this regulation; and

(b) Destroyed when the first of the following occurs:

(i) The student graduates;

(ii) The student otherwise permanently leaves school;

(iii) The student turns 22 years old;

(iv) The criminal case involving the reportable offense is dismissed;

(v) The student is found not guilty of the reportable offense; or

(vi) The student pleads to a lesser offense that is not a reportable offense.

(8) Reportable offense involving rape or a sexual offense.

(a) Except as otherwise provided in paragraph §C(8)(b) of this regulation, the local superintendent and the school principal shall consider prohibiting a student who is arrested for a reportable offense involving rape or a sexual offense from attending the same school or riding on the same school bus as the alleged victim of the reportable offense if such action is necessary or appropriate to protect the physical or psychological well-being of the alleged victim.

(b) If a student is arrested for a reportable offense involving rape or a sexual offense and is convicted of or adjudicated delinquent for the rape or sexual offense, the student may not attend the same school or ride on the same school

bus as the victim.

(9) Nothing in this regulation is intended to limit the manner in which a local school obtains information or uses information obtained by any lawful means other than that set forth in §C(2) of this regulation.

(10) Each public school that enrolls students in grades six through 12 in the State shall designate at least one school security officer.

13A.08.01.21

.21 Reducing and Eliminating Disproportionate/Discrepant 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 students or a discrepant impact on special education students, the local school system shall prepare and present to the State Board a plan to reduce the impact within 1 year and eliminate it within 3 years.

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



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TO: Members of the State Board of Education

FROM: Mary Gable
Elizabeth M. Kameen

DATE: September 25, 2018

SUBJECT: School Discipline Policy and Regulations

In order to place school discipline in context for future discussions of this Board, some historical background on school discipline reform may be helpful in order to understand in some detail the issues the Board grappled with beginning in 2009 to reform school discipline policy in Maryland.

HOW IT ALL STARTED:

In August 2009, the Maryland State Board issued an opinion in an appeal of the almost year-long expulsion imposed on a ninth grade student for fighting in school. She was given little or no educational services over that year. In the opinion, the State Board put all local school systems on notice of its concerns about the lack of educational services provided to the student represented in the appeal and apparently to the thousands of students who received out of school suspensions that year across all school systems.

In December 2009, the State Board approved Maryland State Department of Education's plan to study the use of long-term suspension/expulsion and whether there was meaningful access to educational services during suspension. The public was invited to offer testimony on the subject at future Board meetings.

GATHERING INPUT, DATA AND DOING THE RESEARCH:

At the April 2010 Board meeting, at the Board's invitation, representatives of eight stakeholder groups including, the Maryland Association of Boards of Education (MABE), the Public School Superintendents Association of Maryland (PSSAM), the Secondary School Principals, the Elementary School Principals, the Maryland State Education Association (MSEA), the Maryland Associations of Student Councils (MASC), the American Civil Liberties Union (ACLU), and the Open Society Institute of Baltimore (OSI-Baltimore) provided comments on whether and how educational services should be continued when a student is suspended or expelled from school and what types of services, if any, should be provided.

During the August 2010 Board meeting, the members were briefed on and accepted the report prepared by the Department entitled *Study of Student Long Term Suspensions and Expulsions*. The report included results of: (1) a survey of local systems concerning what educational services were currently offered to long-term and expelled students; (2) response from the public to a web based survey; (3) input from stakeholder groups; and (4) an analysis of public comment at Board meetings. The report included recommendations for amending school discipline regulations and revising the Student Records manual to enhance data collection on long-term suspensions and expulsions.

At the February 2011 meeting, in response to a news article on the suicide of a student suspended under the zero tolerance policy in another state, the Board directed the State Superintendent to discuss the tragedy with the twenty-four local superintendents. The Board sought to determine if Maryland's local school systems had similar zero-tolerance discipline policies with the goal to identify steps that could be taken to avoid such a tragedy in Maryland.

During the April 2011 meeting, as a way to address these issues, the Board approved the draft *Guidelines for the Timely Disposition of Long Term Discipline Cases* and posted that document for public comment.

Based on responses to proposed *Guidelines for Timely Disposition*, the Board requested that panels of stakeholder be invited to address the Board. The panels were as follows:

- August 2011 Panel Presentation –Public Schools Superintendents Association of Maryland, Maryland Association of Boards of Education, Montgomery County Public Schools
- September 2011 – Maryland Disability Law Center, Legal Aid, Office of Public Defender, Maryland Chapter of NAACP
- October 2011 – Maryland Foster Parents, Maryland PTA, Students
- December 2011 – Maryland State Education Association, Baltimore Teachers Union, 2011 National Teacher of the Year (Michelle Shearer of Maryland), 2012 Maryland Teacher of the Year (Joshua Parker of Baltimore County)

In February 2012, the Board released a draft report entitled *A Safe School, Successful Students, and A Fair and Equitable Disciplinary Process Go Hand in Hand*. In that draft report, the Board explained the negative effects of suspension and expulsions, reviewed the discipline data and found that over sixty-three percent of out-of-school suspensions were for non-violent offenses. The draft report cited data showing that school discipline disproportionately impacted students of color and students with disabilities. The report contained a draft of "Possible Regulatory Changes" and the Board once again asked for public comment on the report and the possible regulatory changes.

In May and June 2012, the Board reviewed and considered the comments on the draft report and the proposed regulations. The President of the Board placed the discussion in context:

No student comes to school "perfect" academically or behaviorally. We do not throw away the imperfect or difficult students. Wise school discipline policies fit our education reform agenda because those policies show all students that we want them to receive a world class education. We want that for them because the desired sustainable result is a better economy and quality of life for everyone in Maryland. Every student who stays in school and graduates, college and career ready, adds to the health and wealth of the State of Maryland and improves the global competitiveness of this county. It is that simple. It is that important.

Thereafter, the Board considered changes they wished to make in the draft regulations based on the hundreds of comments received.

At the July 2012 meeting, the Board issued its final report, entitled *School Discipline and Academic Success: Related Parts of Maryland's Education Reform*. In that report, the Board addressed the impact of school discipline on school safety. It explained that we often rely on a presumption that separating disorderly students from school will make schools safer places to learn for those students who are not disruptive. This presumption was not necessarily supported by research which raised serious questions about the effectiveness of using out-of-school suspensions as a means of providing a safe school.¹ Daniel Losen and Russell Skiba, *Suspended Education: Urban Middle Schools in Crisis* (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.

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

The American Psychological Association's 2006 Zero Tolerance Task Force explained that the assumption that the removal of disruptive students would result in safer schools, although intuitive is not supported by data.

“[D]ata on a number of indicators of school climate have shown the opposite effect, that is, schools with higher rates of school suspension and expulsion appear to have *less* satisfactory rating of school climate, to have *less* satisfactory school governance structures, and to spend a disproportionate amount of time on disciplinary matters. Perhaps more important, recent research

¹ The Board read and was influenced, in part, by national reports and research on school discipline issues: Daniel Losen, *Discipline Policies, Successful Schools, and Racial Justice* (2011) <http://nepc.colorado.edu/publication/discipline-policies> ; Daniel Losen and Russell Skiba, *Suspended Education: Urban Middle Schools in Crisis* (2010) <http://www.splcenter.org/get-informed/publications/suspended-education> ; Alicia Darensbourg, et al., *Overrepresentation of African American Males in Exclusionary Discipline: The Role of School Based Mental Health Professionals in Dismantling the School to Prison Pipeline*, J. Afr. Am. Males in Educ., No. 3 (2010) <https://www.isbe.net/Documents/ovr-rep-afr-amer-males.pdf> ; Michael Krezmien, et al., *Juvenile Court Referrals and the Public Schools: Nature and the Extent of the Practice in Five States*, 26 J. Contemp. Crim. Just., No. 3 (2010) <http://ccj.sagepub.com/content/26/3/273.abstract> ; Zero Tolerance Task Force, Am. Psychol. Assn., *Are Zero Tolerance Policies Effective in Schools? An Evidentiary Review and Recommendations* (2006) <http://www.apa.org/pubs/info/reports/zero-tolerance.pdf> ; Council of St. Gov'ts Just. Ctr., *Breaking School Rules: A Statewide Study of How School Discipline Relates to Student's Success and Juvenile Justice Involvement*, (2011) https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf ; Russell Skiba, et al., *Discipline Is Always Teaching: Effective Alternatives to Zero Tolerance in Schools* (2005) <http://youthjusticenc.org/download/education-justice/prevention-intervention-alternatives/Discipline%20is%20Always%20Teaching%20-%20Effective%20Alternatives%20to%20Zero%20Tolerance%20in%20Schools.pdf> ;

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, the Board asked if they served some other worthy societal purpose. In this regard, the Board recognized that there are several reasons why a society metes out punishment for bad behavior.²

- Retribution: to right a wrong by giving the person his “just desserts” 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.

The Board concluded that in the school context, suspensions for retribution purposes have no place at all. While suspensions for deterrence purposes may make us think that schools are safer, they do not necessarily serve that purpose. Indeed, as the American Psychological Association's 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 Recommendation* at 5.

The Board learned from this research that its 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, the Board exhorted all educators to keep their eyes on the prize – eliminating the achievement gap and graduating college and career ready students – even in the heat of the school discipline process.

In its report, the Board announced that it was adopting a rehabilitative approach to school discipline and proposed a regulation directing each school system to adopt a set of regulations that:

- (1) Reflect a rehabilitative discipline philosophy based on the goals of fostering, teaching, and acknowledging positive behavior;
- (2) Are designed to keep students in school so that they may graduate college and career ready;

² See, Kevin Carlsmith, et al., *Why Do We Punish*, 83 J. Pers. Soc. Psychol., No. 2, 284-299 (2002); See also, Banks, *Ethics and the Criminal Justice System*, 103-126, https://www.sagepub.com/sites/default/files/upm-binaries/5144_Banks_II_Proof_Chapter_5.pdf ;

- (3) Prohibit disciplinary policies that trigger automatic discipline without the use of discretion;
- (4) Explain why and how long-term suspension or expulsions are last resort options.

REGULATORY INITIATIVES:

Thus, in July 2012, the Board granted permission to publish proposed school discipline regulations. The Board explained that to keep students in school, it was proposing a regulation that would reduce the number of long-term out-of-school suspensions for non-violent offenses. In addition to keeping students in school, the Board determined to end the disproportionate impact of school discipline on minorities and on special education students. The Board also proposed in the regulation a requirement that school systems to provide “minimum education services” to all students suspended/expelled students out of school.

During the public comment period on those proposed regulations, 803 commenters made 2,213 suggestions for changing the proposed regulations. In January 2013, the Board reviewed all of the comments and agreed to make substantive changes to the proposed regulations. The proposed regulations, therefore, were withdrawn.

In April 2013, based on suggestions from MABE, PSSAM, MSEA, and public commentary, the Maryland State Board of Education convened a Workgroup to address, among other things, when the imposition of an “extended suspension” (11-45 days) or “expulsion” (over 45 days) was appropriate. It was co-chaired by Dr. D’Ette W. Devine, Superintendent, Cecil County Public Schools and Diana Morris, JD, of the Open Society Institute of Baltimore. The Workgroup met four times between May and June of 2013. The Workgroup presented its findings at the June 25, 2013, Maryland State Board Meeting. The Workgroup was guided by the following findings of the State Board:

- Students frequently receive extended suspensions and expulsions for behavior that does not pose an ongoing threat to school safety.
- Out-of-school suspensions carry severe consequences for students, including making them far more likely to drop out or enter the juvenile justice system. This is especially true for longer periods of school exclusion, as in extended suspensions and expulsions.

Most members of the Workgroup believed that local administrators should have considerable discretion in school discipline matters, but that disciplinary consequences should serve educational purposes and should not be used to punish students. Thus, in discussing when extended suspension or expulsion could be appropriate, Workgroup members focused on whether a student’s return to school would have continuing effects on school safety rather than on the conduct for which the student was initially suspended. In other words, the assessment of whether a student should receive an extended suspension or an expulsion should be prospective, not retrospective.

There was a contingent within the Workgroup – comprised primarily of school administrators and school board members – who felt extended suspensions should also be an option for disruptive behavior that interferes with other students’ learning. Another contingent – comprised of advocates and some parents – disagreed with this view. Their view was that extended suspensions are an inappropriate response to classroom disruptions as there are alternate methods for addressing that

behavior. A significant percentage of the Workgroup’s meetings were spent discussing this issue, but they were unable to achieve consensus. Thus, the Workgroup recommendations reflected a compromise position in which school disruptions would be permissible justifications for extended suspensions, but only in the *very rare* circumstances. The Board accepted the Workgroups findings and at its October 2013 meeting, voted to publish new proposed regulations.

At its meeting on January 28, 2014, the Board reviewed the public comments it received on the proposed regulations. A total of 3,278 comments were received from constituents or constituent groups.

A. Comments in Support

1,814 comments were in support of the proposed disciplinary regulations. Proponents of the proposed regulations came from a variety of backgrounds including parents, teachers, PSSAM, the Montgomery County’s Public Defender’s Office, the ACLU, the National Association For The Advancement of Color People (NAACP) in Allegany and Montgomery Counties, the Maryland Disability Law Center (MDLC), the Open Society Institute – Baltimore, Advocates for Children and Youth (ACY), and other advocate organizations.

Most of the comments by supporters of the proposed regulations could be categorized into four distinct categories:

- 574 comments supported ending zero tolerance discipline policies;
- 448 comments supported the regulations that allowed school principals to make discretionary discipline decisions;
- 411 comments encouraged the State Board to enact the disciplinary regulations. They believed that students make mistakes and should be held accountable at the school;
- 359 comments supported the reduction of the use of out-of-school suspension for non-violent behavior. Those suspensions disproportionately impact students of color and students with disabilities.

Several supporters stated:

“All Maryland children have a constitutional right to education, and they should not be deprived of the opportunity to learn because of minor, non-violent offenses.”

Some supporters were concerned about the long-term negative impact on students being suspended out of school stating:

“School safety must be a priority, but policies that do not recognize the unique circumstances of each child and event, or allow for discretion in determining appropriate disciplinary actions, push our children out of school and onto a path that could lead to prison.”

The Maryland General Assembly’s Joint Committee on Access to Mental Health Services stated:

“We support the proposed regulatory changes. It does a disservice to all youth, families, and communities across the State for school discipline policies to rely on out-of-school suspensions and

other exclusionary measures. Such policies too often limit the educational opportunities of youth and increase their chances of entering the juvenile and criminal justice systems.

The disproportionate effect with which current school discipline policies negatively impact youth with mental health needs is of particular concern to the Joint Committee on Access to Mental Health Services. While students with Individual Education Plans (IEP) under the Individuals with Disabilities Act (IDEA) may be entitled to manifestation hearings for violations of school rules, such protections are not afforded for many other students with mental health disorders that do not have IEPs.”

Allegany County NAACP offered:

“Maryland’s proposed regulatory changes are reflective of the research. If passed, they will serve as a model for regulations and policies across the country. We are confident that, if implemented, they will result in a stronger, and more just, education system across the state.”

Montgomery County NAACP stated:

“We are pleased that the Maryland State Board of Education has taken proactive measures to directly address this issue in Maryland. In particular, by inviting a diverse group of leaders, interested parties and individuals to publicly participate in responding to the proposed amendments to the Disciplinary Regulations; which included adopting Regulation .21 under COMAR 13A.08.01 General Regulations.”

Advocates for Children and Youth wrote:

“Disproportionality and Data. The inclusion of an accountability system to reduce the disproportionality of suspensions and expulsion for African American and students with disabilities is critical to success of these new regulations. The timelines and accountability plans are appropriate and achievable for districts...”

The ACLU of Maryland stated:

“The State Board engaged in a very thorough, deliberative, and inclusive process in developing the proposed regulations, including the appointment of a Regulations Workgroup established by the Superintendent to address concerns raised by local school system and other stakeholder...”

The Open Society Institute of Baltimore commented:

“Open Society Institute –Baltimore strongly supports the proposed amendments to COMAR 13A.08.01 that were published to the Maryland Register. OSI-Baltimore has provided funding for the three state-wide conferences on creating safe schools, implementing effective alternatives to suspension, and reducing disproportionality in discipline. We hope in 2014 to support professional development in restorative practices for teams of teachers from every school district in the state.”

FreeState Legal, advocates for Maryland’s Lesbian, Gay, Bisexual, and Transgender youth community offered:

“We have observed that current discipline practices in Maryland Schools often fail to resolve the specific instances of bullying or to address the underlying causes. For this reason, FreeState applauds

the regulatory changes that can promote more effective and thoughtful approaches to school discipline.”

The Maryland Disability Law Center stated:

“The Board’s decision to ensure that services be provided to those students who have been excluded is critical to stemming the negative impact that school exclusion has on individual students and/or communities as a whole. We understand that there is some concern that this requirement will increase the workload for teachers or require additional staffing. However, under current Maryland law, suspension has always been an excused absence requiring the provision of make-up work....”

B. Comments in Opposition

There were 1,464 comments in opposition to the proposed disciplinary regulations.

Opposition to the proposed disciplinary regulations could be categorized into three categories:

- 1,417 comments were concerned about local control. Respondents felt that disciplinary decisions should be left to locally elected or school staff who know their students better than the Maryland State Board of Education;
- 24 comments were concerned about a “one size fits all” disciplinary policy. These commenters were concerned that the State Board is attempting to mandate that local boards of education use specific disciplinary policy and practices; and
- 23 comments were classified as “other” because of the many and varied reasons for opposition.

The most common comments and the MSDE’s responses were shared with the Board at its January 2014 meeting.

Comment: “We believe our Superintendent and elected local boards of education are the best fit to determine the needs of our school system....”

MSDE Response: 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, within the proposed regulations 13A.08.01, 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....” Thus, the proposed regulations recognize the local board of education’s role in disciplinary policy and practice.

Further within section .11 Disciplinary Action, Part A, the proposed regulations state, “Each local board of education shall adopt a set of regulations designed to maintain an environment of order and discipline necessary for effective learning....”

Comment: Some other opponents raised concerns about the State Board using a “one size fits all” disciplinary model for Maryland public schools, articulating that the Maryland State Board of

Education is attempting to mandate that local boards of education use specific disciplinary policy and practices thus making schools unsafe.

MSDE Response: In the State Board’s first school discipline report, *A Safe School, Successful Students and a Fair and Equitable Disciplinary Process*, issued in February, 2012, the Board grappled with the question, “Does the use of out-of-school suspension create a safer school or better school for students?” The Board explained that, although it is a strong intuitive assumption, the assumption that the out-of-school suspension of disruptive students will result in safer schools is not supported by the research and the data. While opponents’ concerns for school safety is real and should not be ignored, Maryland Public Schools’ discipline data show that most out-of-school suspensions in Maryland are for non-violent events.

The regulations are focused on school safety in the context of a school discipline philosophy. For example, within the proposed regulations 13A.08.01, 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: (1) Address school safety; (2) Reflect a discipline philosophy based on the goals of fostering teaching, and acknowledging positive behavior; (3) Are designed to keep students in school so that they may graduate college and career ready; (4) Provide disciplinary policies based on the use of discretion; (5) Explain why and how long-term suspensions or expulsions are last resort options; and (6) Explain how the education and counseling needs of suspended students will be met.”

Comments were also received from the MABE with several local board of education agreeing with MABE. They were Anne Arundel, Calvert, Frederick, Harford, Howard, and Washington County. Below are MABE’s comments and proposed amendments.

Comment: Regulations exceed State Board legal authority given §7-305’s discretion to principals and superintendents to impose discipline “as warranted.”

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

Comment: COMAR 13A.08.01.11B(2)(a) – MABE suggests amending the language in (2)(a) referring to student conduct that would “pose an imminent threat of serious harm to other students and staff.” MABE wanted to delete “imminent” and “serious” as overly restrictive because the terms would invite litigation. MABE believes superintendents should remain empowered, within their sound discretion, to protect students and staff from any threat of harm in our schools.

MSDE Response: We agree that superintendents should have discretion to protect our students and staff. The Workgroup discussed this issue at great length. This comment is contrary to the recommendation of the Workgroup and the philosophy on which it is based. We do not recommend such change to the regulation.

Comment: COMAR 13A.08.01.11B(2)(c) and (3)(c) – On December 13, 2013, the State Board added language to the definition of expulsion and extended suspension to require that students returning to school from such discipline should be returned to “the student’s” regular academic program instead of

to “a” regular academic program. MABE supported removing the newly added language as they continue to believe it could create a new right for a disciplined student to attend a particular school – a right not possessed by any other student. They also believe this new language could result in the need to move the victim of assault or harassment, to another school because a perpetrator would have the right to return to the school from which he/she was suspended or expelled. They believe this language could also undermine the ability to place students in alternative schools should that be the most appropriate placement for the student returning from extended suspension or expulsion.

MSDE Response: At the December 2013 Board meeting, Board President Charlene Dukes explained the intent of this part of the regulation. She followed that up with a letter to MABE and others stating:

“It is the belief of the State Board of Education that school discipline regulations are built, in part, on local control and encourage discretion and reasonableness in imposing discipline. Local control, discretion, and reasonableness apply to the decision about returning the student to his/her regular academic program.

To this Board, it would violate the rule of reason for these regulation to be interpreted to require any school system to return a student to a particular school or classroom if the superintendent or principal believes that the decision raises serious safety concerns or has serious impacts on school security.”

In our view, MABE’s continuing concerns have been addressed by the Board.

Comment: COMAR 13A.08.01.11B(3)(a)(ii) – MABE supports amending the language in (3)(a)(ii) (extended suspension) to remove the terms “chronic and extreme” and “exhausted”, and to substitute more “educationally appropriate” terms such as “frequent and significant” and “unsuccessful” to define the actionable behavior that disrupts learning of other students. They would also remove the term “across the school day” because they believe that the school would need to show that such disruption occurred in all classes to constitute an actionable disruption of learning for other students.

MSDE Response: The terms at issue were recommended by the Workgroup. The suggested replacement terms are not as descriptive or strong and dilute the Workgroup’s recommendation. We would point out that a superintendent can interpret “across the school day” on a case-by-case basis, based on the behavior of the student, to determine if it warrants, for school safety reasons, a suspension of 11-45 days, which is a very serious consequence.

Comment: COMAR 13A.08.01.11C(3)(d)(ii) – MABE would add language in (3)(d)(ii) (the 10-day return to school rule) to keep certain students from returning to school after 10 days if they caused frequent and significant disruptions and to define the actionable behavior that disrupts learning from other students. MABE suggests the following:

(d) The process described in §C(3)(a)-(c) of this regulation shall be completed by the 10th school day of the initial suspension. If additional time is necessary to complete the process, either because of delays to parent or guardian unavailability or due to

the complexity of the investigation, the student shall be allowed to return to school, unless:

...

(ii) The student has engaged in frequent or significant disruption of the educational process that has created a substantial barrier to learning for other students and other available and appropriate behavioral and disciplinary interventions have been unsuccessful.

MSDE Response: Throughout this four-year process the State Board has recognized and honed the discipline regulations based on the comments received. While there is merit in these comments, it is our view that it is time to finalize these regulations and entertain amendments at a later date.

Comment: COMAR 13A.08.01.21C – MABE supports mandating that each local school system develop a “measurable multi-year plan” to immediately reduce and ultimately eliminate the disproportionate or disparate impact of the “school system’s” discipline process on minority students, but not to mandate the elimination of such impacts within a prescribed time period.

MSDE Response: Those changes can be made whenever the regulations are next amended. It is time to move forward.

The Maryland State Education Association (MSEA) was also in opposition of the discipline regulations.

Comment: MSEA commends the State Board for its efforts but opposes the adoption of regulations at this time. We have previously expressed our specific concerns relative to language, educator workload, and student safety. We appreciate the State Board’s comments at the December Board meeting relative to the intent of the language in the regulations regarding the return of a student to his/her regular academic program; however, the clarification alone is not legally enforceable. Regardless, we remain concerned about interpretation, unintended consequences, and student and educator safety. Indeed, we have heard from many educators already that the regulations are being interpreted as meaning no suspension for any reasons, which is an indication that administrators are addressing the numbers problems, but not the behavior problems. Finally the published regulation indicate that there is little fiscal impact; however, the lack of staffing, alternative services, intervention programs, and community and parent support is required for change to be successful and are lacking in local school systems across the State, and therefore fiscal impact is significant. To begin to address this issue head on, it is essential to identify funding sources based on identified needs.

MSEA also believes there will be unintended consequences as a result of the regulations such as:

- More referrals to police and juvenile justice because administrators believe their ability to suspend is limited;
- More parents, students, and educators feeling compelled to press criminal charges because they are concerned for their safety and believe that administration lacks the power to address the perceived problem; and
- The rise of informal suspensions, which we have heard is already occurring, means that parents are asked to just keep their child home

for a few days after an incident so exclusion from school does not have to be reported as a suspension.

Finally, MSEA cited a number of initiatives such as the War on Poverty and inclusion of special education students in the regular classroom, which after many decades have not fully realized their ideals. They conclude that these regulations “will be harmful to students, educators, and the safety of public schools.”

MSDE Response: There will always be reasons articulated to delay any change to educational landscape. Unintended and bad consequences are some of those reasons. The current discipline regulations and policies, however, also have unintended and bad consequences which the State Board’s Reports chronicled in great detail. It is time to change this part of the education landscape.

On January 28, 2014, the Board voted to promulgate the regulations and they became final on February 17, 2014 and remain in effect today. A copy of the regulation is Attachment #1

CODE OF CONDUCT:

In conjunction with revising the school discipline regulations, the State Board appointed a Workgroup of school district representatives and other stakeholders to update the Guidelines for a State Code of Conduct, including disciplinary options for each type of infraction to reflect the school discipline reform efforts of the State Board. The Workgroup met through 2013 and early 2014. It presented “*The Maryland Guidelines for a State Code of Discipline*” at the July 22, 2014 State Board meeting. The purpose of the *Guidelines* was to provide a framework for local school systems to use to establish local codes of conduct and develop new discipline-related policies. The *Guidelines* included behavioral expectations for all members of the school community who have a direct impact on creating healthy teaching and learning environments and promoting student success. They also provided suggested prevention, intervention, restorative, and incentive-based strategies to respond to student misconduct, detailed explanations of specific student behaviors that are not permitted, and other factors for local districts to consider in revising their policies. The Board adopted the *Guidelines* at its July 22, 2014 meeting.

DISPROPORTIONALITY IN SCHOOL DISCIPLINE:

The discipline reform work continued as MSDE tackled the problem of disproportionality in school discipline. The regulations directed MSDE to develop a method to analyze school system discipline data to determine disproportionate impact, if any, on minority students and students with disabilities. That work was statistically challenging and complex. It was completed in January 2017 when MSDE presented to the Board its report “*Reducing and Eliminating Disproportionality in School Discipline.*” The Report explained:

When the Maryland’s discipline data is disaggregated by student group, however, it becomes clear that the experience of individual student groups varies widely. For example, 8.1% of African American students and 10.1% of students with disabilities received an out-of-school suspension or expulsion, compared to 2.3% of white students and 3.6% of students without disabilities. While the use of exclusionary discipline has decreased for all students in

Maryland, when schools use out-of-school suspensions and expulsions to discipline, the data demonstrate that students of color and with disabilities are more likely to be on the receiving end.

The Report set forth in some detail the statistical models that MSDE would use to measure disproportionality. In the simplest of terms, MSDE proposed to use a Risk Ratio Measure and a State Comparison Measure to capture, not only disproportional discipline among student groups within each school, but also whether a particular school is applying exclusionary discipline more frequently than the statewide exclusionary discipline rates.

From January to June 2017, MSDE focused on getting the word out to school systems about the disproportionality measures and gathering years of discipline data for each school. From August 2017 to June 2018, MSDE used teams to help each school system analyze its discipline data and conduct root cause analysis of disproportionality, if necessary.

SCHOOL ARREST DATA COLLECTION:

Because the State Board was concerned about “school to prison pipeline”, it directed MSDE to collect data from school system on when they referred a student to law enforcement based on conduct at school. The first report on school arrest data was published in December 2017.

School Discipline Reform

LONG JOURNEY

| 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015-2016 | 2017 |
|--|--|--|---|---|--|---|---|
| August - Opinion issued announcing the Board's intent to study school discipline issues | April – State Board hears testimony and comments from Stakeholders | February – Board discusses zero tolerance policies | February – Board publishes draft Report, <i>A Safe School, Successful Students, and Fair and Equitable Disciplinary Process Go Hand In Hand and Possible Regulatory Changes</i> | January – Board reviews 2,213 suggestions for changes to the proposed regulations | January – Board reviews 3,278 comments on the proposed regulations and adopts the regulations as final | MSDE studies various methods for assessing disproportionality | January – Board adopts a methodology for measuring disproportionality in discipline |
| December – MSDE approved to study use of long-term suspension & access to educational services | August – MSDE Report issued on educational services provided to suspended students | April – Board issues “ <i>Guidelines for Timely Disposition of Long Term Discipline</i> ” for public comment | May and June – Board reviewed & discussed the over 200 comments received on the proposed regulatory changes | April – Board convenes a Workgroup to address specific issues raised in the comments about when long-term suspension is appropriate | July – Board adopts The Maryland State Code of Discipline Guidelines based on the recommendations of a Workgroup | | |
| | | August – December – Panels of Stakeholders present comments on the <i>Guidelines</i> | July – Board issues final report – <i>School Discipline and Academic Success</i> and publishes proposed regulations | October – Board adopts Workgroup recommendations and re-proposes regulations published in December MD Register | | | |

Recent Studies on School Discipline

Summarized here are studies that were done after 2014 on school discipline reform. This is not an all inclusive list, but believe it includes research findings representing the multi-sided views on school discipline reform. We have provided links to the studies so that you may read them for yourselves if you wish.

March 2018 – GAO Report, *Discipline Disparities for Black Students, Boys, and Students with Disabilities* – <https://www.gao.gov/products/GAO-18-258>

- Used National Civil Rights data from 2013-2014 – the most recent available.
- Conclusion: Disparities were widespread and persisted regardless of types of disciplinary action, level of school poverty, or type of public school attended.
- Reasons Postulated for Disparity: implicit bias; relationship of poverty and trauma to behavior;

March 2017 – Max Eden, Manhattan Institute Report, *School Discipline Reform and Disorder: Evidence from NYC Public Schools: 2012-16* – <https://www.manhattan-institute.org/html/school-discipline-reform-and-disorder-evidence-nyc-schools-10103.html>

- Success of school discipline reform should not be measured by reduction in the number of suspensions, but by the number of schools with an improved school climate.
- Comparing the effects of the Mayor Bloomberg discipline reform (school climate remained broadly unchanged) to the Mayor De Blasio reform (school climate deteriorated) as reflected in school climate surveys.
- Makes a case against reducing suspension; focuses on negative effects of disruptive students on student achievement (pp. 9-10).
- Evidence inconclusive that disparate rates of suspension involved racial bias and discrimination.

May 2017, Matt Barnum, The 74, “*School Discipline Revolution: How Policy and Rhetoric Outstrip Hard Evidence*” – <https://www.the74million.org/article/the-school-discipline-revolution-how-policy-and-rhetoric-outstrip-hard-evidence/>

- Notes that Max Eden acknowledges that his analysis (see above) cannot show that a reduction in exclusionary discipline *caused* more negative school climates.
- Exclusionary discipline is tightly correlated with lower test scores and higher dropout rates and disproportionately affects blacks and special education students. But there is little convincing data showing that suspensions *cause* these negative effects.
- Evidence of the effects of suspension is correlational only; better research is necessary.

December 2017, Fordham University, Matthew Steinberg and Johanna Lacoé, “*The Academic and Behavior Consequences of Discipline Reform: Evidence from Philadelphia* –

<https://edex.s3-us-west-2.amazonaws.com/publication/pdfs/%2812.05%29%20The%20Academic%20and%20Behavioral%20Consequences%20of%20Discipline%20Policy%20Reform%20Evidence%20from%20Philadelphia.pdf>

- Suspensions are unlikely to benefit suspended students, but an equally important issue is whether the push to reduce the number of suspensions is harmful to the rule-abiding majority.
- A vast body of descriptive research has shown that students in traditionally disadvantaged subgroups are more likely to be suspended than other students. For example, African American students are four times as likely to be suspended as white students. Research suggests that underlying social factors such as poverty and exposure to neighborhood violence or principals’ perspectives on discipline (e.g., a more preventative approach to discipline versus a more exclusionary approach), may contribute to differences in suspensions by student race and ethnicity. But they do not fully explain these differences.
- Similarly, a vast body of correlation research has demonstrated that suspended students have lower grades and test scores, are less likely to be promoted to the next grade level, and to graduate from high school and are far more likely to wind up in the criminal justice system. Yet there is essentially no causal evidence on the effect that out-of-school suspensions have on the achievement and attendance of suspended students, due to the methodological challenges that are also present in the (far smaller) literature dealing with the effects of suspensions on peers.
- Schools that are struggling most with student misconduct – those that are lowest achieving and the most racially segregated – likely require more supports (such as PBIS) if they are to successfully implement discipline reforms without adversely affecting the majority of students who are not subject to behavioral consequences such as out-of-school suspension.

Winter 2017, Education Next, Matthew Steinberg and Johanna Lacoé, “*What Do We Know About School Discipline Reform*” – <https://www.educationnext.org/what-do-we-know-about-school-discipline-reform-suspensions-expulsions/>

- Excellent historical review of discipline reform. (only 10 pages)
- Research has well established that removing students from class has negative impacts on their academic achievement, and there’s broad recognition that suspensions and expulsions do very little on their own to address the underlying issues that cause most students to misbehave. However, good evidence on potential alternatives is fairly thin, and the linkages between school discipline and the criminal justice system are also less clear than advocates tend to acknowledge.

While there's a lot of energy to move forward, to do *something* about the glaring racial inequities, this same pressure threatens to produce policy changes that could inadvertently hurt other students, teachers, and schools. Tackling such deep structural inequities as segregation and resource allocation is likely necessary to really address school discipline disparities.

- The immediate challenge for school leaders is figuring out how to balance the harm a disruptive student would face from losing more class time with their responsibility to effectively teach the rest of the class. We already know that those students who arrive at school with the most serious challenges, those who need the most instructional support, are also among those who are likely to be suspended.
- Academics with the Civil Rights Project of UCLA say that softening disciplinary practices would be minimal and manageable, and that resolving unequal discipline is necessary to reduce the racial achievement gap. They point to the Denver Public Schools, a district that had more concerted efforts to reduce suspensions and expulsions. Researchers found that at the same time that Denver's punitive discipline went down, the district showed "a steady and substantial increase" in the percentage of students scoring proficient or higher in nearly every subject for six consecutive years. Another recent study found that the impact of Chicago shortening the length of suspensions for more serious misconduct from ten days to five did not seriously disrupt or harm other students.

September 2015 – University of Chicago, *Suspending Chicago Students: Differences in Discipline Practices Across Schools* – <https://consortium.uchicago.edu/publications/suspending-chicagos-students-differences-discipline-practices-across-schools>

- Reviewing 2013-2014 discipline data after discipline reforms began in 2009.
- It is the concentration of many low-achieving students from high poverty neighborhoods that seem to increase the likelihood that a school will have high suspension rates.
- There are a contained number of schools that have particularly high rates of exclusionary discipline. These schools serve students who begin the year the farthest behind academically and who come from vulnerable background - - the students most in need of a safe and supportive school environment.
- Shortening the length of suspensions has mixed consequences for schools - - better attendance but worse climate and no impact on test scores.

March 2018 – Matt Barnum, Chalkbeat.org, *When Chicago Cut Down on Suspensions, Students Saw Test Scores and Attendance Rise* – <https://in.chalkbeat.org/posts/us/2018/03/13/when-chicago-cut-down-on-suspensions-students-saw-test-scores-and-attendance-rise-study-finds/>

- Reporting on a study using discipline data from 2007-2014, published in the Peabody Journal of Education, Vo. 93, 2018 – Issue 2.
- Study concluded that reduction in out-of-school suspensions for severe infractions was associated with small but statistically significant increases in student test scores, consequential attendance improvements and heterogeneity in changes in students' perception of school safety.

April 2017 – Christian Science Monitor, *Chicago Schools Big Experiment With A Different Disciplinary Tool: Empathy* – <https://www.csmonitor.com/EqualEd/2017/0412/Chicago-schools-big-experiment-with-a-different-disciplinary-tool-empathy>

- Story of the improved climate of one school and its turnaround.

July 2016 – University of Arkansas, College of Education and Health Professions, Kaitlin Anderson, Dr. Gary Ritter, *Disparate Use of Exclusionary Discipline: Evidence on Inequities in School Discipline from a U.S. State* – https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2838464

- Using seven years of Arkansas discipline data finding that “marginalized” students are more likely to receive exclusionary discipline, but that most differences occur across schools rather than within schools.
- Where schools were split into four categories (Rich White, Rich Minority, Poor White, Poor Minority) they saw that Rich Minority and Poor Minority schools administered longer punishment than Rich White Schools and that Poor White schools were similar to Rich White Schools.

Winter 2017, City-Journal.org, Katherine Kersten, *No Thug Left Behind* – <https://www.city-journal.org/html/no-thug-left-behind-14951.html>

- Anecdotes of Anarchy in St. Paul's schools after discipline reforms instituted.
- Cites to findings of a 2014 study by J.P. Wright, “*Prior Problem Behavior Accounts for Racial Gap in School Suspensions.*”

2014, Journal of Criminal Justice, J.P. Wright, *Prior Problems Behavior Accounts for Racial Gap in School Suspensions* –

https://c8.nrostatic.com/sites/default/files/pdf_article_040214_KC_HeatherMac.pdf

- Using 1998-1999 Early Childhood Longitudinal Data Set of 21,000 Kindergarteners and Follow-up data in 2000, 2002, 2004, 2007 (K-8).
- “Examined whether measures of prior problem behavior could account for the differences in suspension between both whites and

blacks. The results of these analyses were straightforward: The inclusion of a measure of prior problem behavior reduced to statistical insignificance the odds differentials in suspensions between black and white youth. Thus, our results indicate that odds differentials in suspensions are likely produced by pre-existing behavioral problems of youth that are imported into the classroom, that cause classroom disruptions, and that trigger disciplinary measures by teachers and schools officials. Differences in rates of suspensions between racial groups thus appear to be a function of differences in problem behaviors that emerge early in life, that remain relatively stable over time, and that materialize in the classroom.”

- “We remain agnostic on the appropriateness of suspending students from school as a means of discipline. The use of suspensions may, or may not, be an advisable, useful, and meaningful disciplinary mechanism. Indeed, other forms of discipline may be more effective in controlling the behavior of difficult children. The present study does not speak to these effects. However, research has indicated that students who are suspended at the secondary school level are over five times more likely to be charged with a violent crime as an adult (Katsiyannis, Thompson, Barrett, and Kingree, 2012). Ways to mitigate this outcome remain unclear because disciplinary and administrative policies are likely to vary from school to school (Kinsler, 2011). Despite this, we note in our analysis that schools rated as more troublesome by parents remain a significant predictor of suspensions for both races, as well as poor academic achievement for whites. As a result, schools utilizing proactive measures to identify and intervene early with at-risk youth, especially males, or those that attempt to foster positive community relations by involving parents, may show some success.

2009, NBER Working Paper Series, Scott Imberman, et al., *Katrina’s Children: Evidence on the Structure of Peer Effects from Hurricane Evacuees* –

<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.188.8951&rep=rep1&type=pdf>

- Studies the effects of Hurricane Katrina evacuees on students in school in Houston and Louisiana in which they enrolled.

November 2016, The American Prospect Magazine, Rachel M. Cohen, *Rethinking School Discipline* – <http://prospect.org/article/rethinking-school-discipline>

- Excellent Overview of Discipline Reform movement, the research findings and flaws in the research and responses of school leaders and teachers.
- Leads off with a successful discipline reform in Hampstead Hill, a Baltimore City Charter School.

March 2018 – Heritage Foundation, *Focusing on School Safety After Parkland* – <https://www.heritage.org/firearms/report/focusing-school-safety-after-parkland>

- Looking for warning signs in students who may turn violent.
- Attempts to link failure to discipline with school shootings (pp.50-54).

February 2016, WestEd, *Restorative Justice in U.S. Schools: A Research Review* –

https://jprc.wested.org/wp-content/uploads/2016/02/RJ_Literature-Review_20160217.pdf

- Restorative justice generally portrayed as a promising approach.
- Many limitations in the research done on the effect of restorative justice programs. Internal validity of studies is low. Sample sizes small. Staff capacity and motivation to implement the model varies.

2015? Claudia G. Vanrent, et al., *Effectiveness of School-wide PBIS and Supports in Reducing Racially Inequitable Disciplinary Exclusion in Middle Schools* –

https://civilrightsproject.ucla.edu/resources/projects/center-for-civil-rights-remedies/school-to-prison-folder/state-reports/copy6_of_dignity-disparity-and-desistance-effective-restorative-justice-strategies-to-plug-the-201school-to-prison-pipeline/vincent-SWPBIS-effectiveness-crr-fonf-2013.pdf

- Using a control and trial group, over four years examined effects of PBIS in 35 middle schools in Oregon, both urban and rural. Schools' enrollment was 70% White, 20% Latino, 5% American Indian, 2% Black.
- Found that race remained a predictor of trends in disciplinary exclusion despite implementation of PBIS.
- Found some evidence of greater disciplinary equity in several schools that focused on cultural sensitivity, culturally relevant instruction, and strong school relationships with parents and families.

May 2015, Behavioral Analysis Practice, Alyssa Wilson, *A Critique of Sociocultural Values in PBIS* – <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5048255/>

- This paper advocates to move the three tiers of PBIS toward a mental health approach that recognizes the existence of human suffering, even in children; teaches healthy way to cope with suffering; and measures positive behaviors in addition to tracking maladaptive behaviors requiring discipline.

Commission on the School-to-Prison Pipeline and Restorative Practices

March 5, 2018 Minutes

University of Maryland Francis King Carey School of Law

Attendees

- Gavin Patashnik – Maryland Department of Juvenile Services
- Michael Bunitsky – Maryland Association of Boards of Education
- Walter Sallee – Maryland State Department of Education
- Marla Posey-Moss – Maryland PTA
- Aimee Evan – Maryland PTA
- Rhonda Richetta – City Spring Elementary School
- Gail Sunderman – Maryland Equity Project
- Shantay McKinily – PSC
- Kimberly Humphrey – American Civil Liberties Union of Maryland
- Shamarla McCoy – Advocates for Children and Youth
- Lorig Charkoudian – Community Mediation Maryland
- Barb Sherrod – Community Conferencing Center
- Philip Leaf – Youth Leadership and Advocacy Network
- Craig Minor – Youth Leadership and Advocacy Network
- Barbara Grochal – C-DRUM
- Deb Eisenberg – C-DRUM

- I. Opening
 - a. Coming up with recommendations to talk about in Annapolis (Kirwin)
 - b. Recommendation possibilities: high quality teachers, youth engagement, more resources for at-risk students
- II. Plans for Engaging Youth Voice – Lorig Charkoudian
 - a. Event in Dorchester County on April 5th
 - b. Suggestions for what to ask students:
 - i. Experiences in and out of school
 - ii. Dealing with other governmental agencies
- III. Restorative Practices: What we Know in 2017 – Keith Hickman (IIRP)
 - a. Introduction: Now is a critical time for restorative practices. We need to focus on moving forward and to avoid segregation returning to schools.
 - b. IIRP Overview and Facts: refer to slideshow for statistics
 - c. IIRP Hypothesis
 - i. “To Model” and “For Model” of Discipline are not as effective as the “With” Model.
 - ii. Two goals:
 1. Repair Harm.
 2. Mend Relationships.
 - d. Primary Issues and Concerns
 - i. Push back against restorative practices is on the rise.

- ii. Increased punitive practices leads to worse situations for students, especially students of color or those with disabilities.
 - iii. Outcomes from punitive practices end up being an economic problem because these failed students cost society more.
 - iv. We are currently in a “DIRE” situation (see slide show for details)
 - v. Knowing what the “it” is: people instinctively know that restorative practices work, but we need to know what exactly “it” is that makes them work
- e. Positions and Arguments
- i. Supporting:
 1. Moving away from criminal justice-based discipline policies in schools towards restorative practices will produce better outcomes for students
 - ii. Against:
 1. Restorative practices increases classroom disruptions, so it harms “well-behaved’ students
 2. Teacher safety is at risk.
 3. Can lead to more fights and violence within the restorative circles.
 4. Disproportionate suspension rates are because of high rates of misbehavior in black students.
 - iii. Commonalities between the Arguments
 1. Seeking a balance between orderly and welcoming school climates; supporting students with discipline challenges without interfering with the learning of others
 2. Safety
 3. Treating students equitably, but considering individual circumstances that influence behavior when warranted.
 4. Successful reintegration.
- f. Promising Outcomes
- i. States are trending towards restorative practices.
 - ii. Success stories like Louisville, Pittsburgh, Maine, and Connecticut
 - iii. Expansion of network of practitioners; more teachers are becoming ready to use restorative practices in their classrooms
 - iv. Research-based studies (like Dr. Ann Gregory’s) all show reductions in suspensions; need more information on implementation, re-integration, and re-engagement in learning.
- g. Application of Restorative Practices
- i. Being restorative and practicing restorative are two different, but connected, things

1. Being restorative is about culture; need adaptive leadership, not just technical leadership → this distinction makes leaders more resistant to the change
2. Restorative practice is about climate
- ii. School districts need to know their:
 1. Strategic Plan
 2. Goals
- iii. Duration and Dose: both are necessary to create change
- iv. Areas for Improvement:
 1. Working as a group to reach collective outcomes; coordinating amongst silos within a school district
 2. Dealing better with dissent and group dynamics; when group members want to do their own thing, nothing gets done
 3. Finding a consistent model to relate research to
 4. Getting stakeholder buy-in at the top so the initiative can outlast transition and change in staff at schools
 5. Building climate and culture
- v. Good Practices:
 1. Having a plan
 2. Providing support and feedback
 3. Being reflective
 4. Develop competencies, for example, empathetic communication can be developed in circles; skills need to be modeled and practiced
- h. Implementation
 - i. Difference between “letting it happen, helping it happen, and making it happen”
 1. Most people are at the “helping it happen” stage
 2. “Making it happen” requires active use of strategies to support the adoption of innovation
 - ii. SMART Implementation:
 1. Baltimore trained without a plan – wrong way to approach implementation
 2. Inputs needed include: staff time, resources, instructors, quality assurance with trainers
 3. Outputs include: professional development and coaching
 - iii. Debate over the effectiveness of putting restorative practice training in teachers’ curriculum in college
 1. IIRP offers a Master’s Course in it
 2. Issue with not all Maryland education students teaching in Maryland, but there is no harm in them bringing that information to a different state
 3. Barbara mentioned that this idea was floated in 2008 but that they needed more research

- i. Conclusion
 - i. Moving forward: putting restorative practice training in teacher curriculum in Maryland universities
- IV. Restorative Practices and the School to Prison Pipeline: Lessons from Baltimore City – Karen Webber
 - a. Statistics on Baltimore City Schools
 - i. Students are predominantly low income, students of color, and they bring their home life into the classroom in the form of anxiety, depression, ADHD, etc. and teachers are not trained to handle it
 - ii. Too many schools look like prisons and discipline in the same patterns as prisons; need to improve school climate and culture
 - iii. More detail in slides
 - b. OSI School Police Reform Support:
 - i. OSI wants police to be a part of the school community
 - ii. Chief Ham's new vision is encouraging; new outlook on how his officers should treat students
 - 1. Two restorative practices trainers on staff
 - 2. All new officers are trained in restorative practices
 - iii. School arrests have gone down drastically
 - c. Moving forward with restorative practices in BCPS:
 - i. Goal is to become a restorative district
 - ii. Shift from punitive to restorative approaches: need to change the mindset that if a student is unpunished, they will act out again
 - iii. Best practice: working *with* the students, instead of doing things *to* them; helps the students and allows teachers to retain control
 - iv. Continuum of Restorative Practices: restorative practices are not just about circles, it's a new way of thinking
 - 1. Methods: Small impromptu conference, affective questions, affective statements, group process, formal conference.
 - 2. Affective question: if a student is acting out, say "I worked hard on this lesson, what is happening?" Rather than telling the student what to do. This is a de-escalation technique; it doesn't mean the teacher is giving up control
 - 3. Group Process: Schools need to address what will be done differently when a child is being reintegrated so they can be successful.
 - 4. Restorative practices become more effective as more people become comfortable with the idea
 - a. Need consistency and repetitiveness so students have context when a circle is conducted

- b. The focus should be community building, rather than discipline
 - v. Overall:
 - 1. Need more teachers and other staff trained in restorative practices to “grow the field”
 - 2. Need an increased level of trust in the process
 - 3. Need to develop a community
 - d. Plans:
 - i. 15 intensive learning sites named by the school district, with OSI funding four additional sites; will be starting with traditional public schools
 - ii. Create a “hub” school, so that other teachers and principals can see restorative practices in action and can get tips on what is and is not working
 - iii. Teachers Democracy Project is creating a library of instructional videos
 - iv. By mid-April, create a teacher manual with lesson plans for how to use restorative practices in their classrooms
 - v. Start training program for ESL teachers, special education teachers, etc.
 - vi. Ways to scale these plans city-wide and state-wide:
 - 1. Get perspectives from people in the community because every community will have different barriers
 - 2. Try to train people at the top (like central office-members, principals, etc.), then get them focused about school-wide trainings
- V. Next Steps
 - i. Next meeting on April 23rd: Department of Education and Skyping in author