



Mohammed Choudhury
State Superintendent of Schools

TO: Members of the State Board of Education
FROM: Mohammed Choudhury
DATE: February 22, 2021
SUBJECT: Criminal Procedure-Registered Sex Offenders-*Entry Onto School Property*

PURPOSE

Maryland Annotated Code Article §11-722(e)(3) *Criminal Procedure-Registered Sex Offenders-Entry Onto School Property* requires that the State Board develop and adopt a model policy to assist a county board with the development of a local policy generally relating to registered sex offenders on school property. The purpose of this agenda item is to share with the State Board the Model Policy.

BACKGROUND/HISTORICAL PERSPECTIVE

In 2021, the Maryland General Assembly Enacted Senate Bill 515 (Chapter 259) *Criminal Procedure-Registered Sex Offenders- Entry Onto School Property*. This bill, which was signed by Governor Larry Hogan on May 18, 2021, and is codified, Maryland Annotated Code §11-722 Criminal Procedure Article, limits the authorization of a student who is a registered sex offender from entering onto real property: (1) that is used for public or nonpublic elementary or secondary education; or (2) on which a registered family childcare home, a licensed childcare home or childcare institution, or home used for informal childcare is located. The statute also allows for a student who is a registered sex offender to receive a certain education under specific context. The statute indicates that each local school system must adopt a policy that enables a registered sex offender who is a student to receive an education by participating in a program approved by the county board such as the home and hospital teaching program for students participating in or attending a program approved by the county board, by attending the Regional Institute for Children and Adolescents (RICA), or by attending a nonpublic special education program within certain conditions.

EXECUTIVE SUMMARY

The Maryland State Department of Education (MSDE) developed the attached model policy in consultation with stakeholders from the Maryland Department of Juvenile Services, the Maryland Office of the Public Defender, local school safety administration, and the Attorney General's Office.

ACTION

Request approval of the *Criminal Procedure-Registered Sex Offender-Entry Onto School Property* model policy, which repeals the discretion of the local school systems to authorize students who are registered sex offenders to enter onto real property used for public or nonpublic elementary or secondary education under certain circumstances, and provides educational options.

ATTACHMENT:

Model policy to implement *Criminal Procedure-Registered Sex Offenders-Entry on School Property*

Maryland's Model Policy on Student Registered Sex Offenders – Entry on School Property

Introduction and Background

In 2021, the Maryland General Assembly Enacted Senate Bill 515 (Chapter 259) Criminal Procedure – Registered Sex Offenders – *Entry Onto School Property*. This bill, which was passed on May 18, 2021, and is codified, Maryland Annotated Code §11-722 Criminal Procedure Article, limits the authorization of a student who is a registered sex offender from entering onto real property: (1) that is used for public or nonpublic elementary or secondary education; or (2) on which a registered family childcare home, a licensed childcare home or childcare institution, or home used for informal childcare is located. The statute also allows for a student who is a registered sex offender to receive a certain education under specific context.

The statute indicates that each local school board must adopt a policy that enables a registered sex offender who is a student to receive an education by participating in a program approved by the county board such as the home and hospital teaching program, by attending a Regional Institute for Children and Adolescents (RICA), or by attending a nonpublic special education program within certain conditions.

The Maryland State Department of Education (MSDE) developed this model policy to support local school systems (LSS) in implementing Criminal Procedure Article §11-722(e)(3). - *Criminal Procedure-Registered Sex Offenders – Entry Onto School Property*. The document was developed by the MSDE's Division of Student Support, Academic Enrichment, and Educational Policy with feedback from the Maryland Department of Juvenile Services, the Maryland Office of the Public Defender local school safety administrators, community partners and advocates.

The list of considerations is not all-inclusive and is not intended as an endorsement of any particular action. The purpose of this guidance is focused on meeting the requirements defined within the law, keeping Maryland schools, its students, and personnel safe.

Directions for Local School Systems:

Maryland's Model Policy on Student Registered Sex Offenders – Entry on School Property 2021, serves as a model for local school systems to assist in the development of a local policy. Directions for developing the local school system's policy are incorporated into the State's Model Policy along with model language to be used in the local school system's policy.

Model Policy

Student Registered Sex Offender – Entry on School Property

Maryland State Department of Education

A. Purpose

Instructions: The local school system’s policy must include a section entitled purpose.

Maryland’s Model Policy to provide for the education of students who are registered sex offenders in accordance with requirements defined by Maryland Annotated Code §11-722. A student registered as a sex offender is prohibited from entering onto school property or attending Maryland public schools.

The Maryland State Department of Education (MSDE) is committed to maintaining a safe and secure learning environment for all students. The local school system is responsible for providing an education in accordance with state law for students who are registered sex offenders through other methods in a location other than public school property.

B. Definitions

Instructions: The local school system’s policy must include, at a minimum, the following definitions. The local school system may add to the language that is provided.

1. **Sex Offender** – defined in The Sex Offender Notification Act (SORNA) section 111(1) is a person who was “convicted” of a sex offense. Hence, whether an individual has a sex offense “conviction” determines whether he or she is within the minimum categories for which the SORNA standards require registration.
2. **Student** – an individual enrolled in a public school system or nonpublic school in the state who is 5 years of age or older and under 22 years of age.
3. **School Property** – buildings, land that surrounds the buildings, and vehicles, that are owned or leased by a local school system.

C. Procedures

Instructions: The local school system's policy must include a section on procedures that incorporates communication regarding the provision of educational services, pathways to meeting graduation requirements, and planning for transitions. In certain sections, model language that must be included in the school system's policy is noted.

1. Communication Regarding the Provision of Educational Services

Instructions: The local school system's policy must include a section that defines procedures that ensure clear and transparent communication with the student and parent or guardian. The following model for communication procedures are presented but by no means limit school systems from implementing other or additional methods.

- a. Immediately upon becoming aware of a student who is a sex offender registrant, system and school level administrators should arrange a meeting with the student and parent or guardian, to advise them of the manner in which the student will be educated in accordance with State law, until such time that the student is no longer a sex offender registrant. It should be made clear that the student continues to be a student of record (not withdrawn or expelled) and entitled to receive an education in accordance with State law but is not allowed to enter the property of any public or nonpublic elementary or secondary school. The parent or guardian should be provided with a primary contact person within the system who should make initial contact with the family and facilitate all future communications.
- b. Students who have a 504 Plan or Individualized Education Program (IEP) must continue to receive the services and instructional modifications established through the 504 Plan or the IEP. An appropriate team meeting must be expedited to determine any required revisions to the 504 Plan or IEP are made to ensure the student's educational needs are met and the student continues to receive a Free and Appropriate Public Education (FAPE). The change in educational placement must be properly determined and the local school system must still ensure a student receives FAPE within the new learning environment.

2. Pathways to Meeting Graduation Requirements

Instructions: The local school system's policy must include a section that defines how students who are sex offender registrant shall be afforded the opportunity to meet all graduation requirements, including required assessments and student learning, within the same timeframe as other students.

The following model for pathways to meeting graduation requirements are presented but by no means limit school systems from implementing other or additional methods. Local school systems are encouraged to develop or refine their own pathways to graduation

consistent with the policies and procedures of their local boards of education.

- a. **Home and Hospital Teaching Program - A student who is a sex offender registrant and who meets the criteria for Home and Hospital Teaching Program as provided in Code of Maryland Regulation 13A.03.05.03 may be educated following the Home and Hospital Teaching Program regulation as prescribed, and within the boundaries of this legislation.**
- b. **Virtual Learning - A student who is a sex offender registrant may be educated using a virtual learning program accessible to the student within a location other than school property. School and system leaders should ensure, if assigning this pathway to graduation, that the student has the appropriate resources to successfully access learning including an appropriate electronic device, reliable internet access, necessary software and learning platforms, and access to adults for instructional and technology support, as needed.**
- c. **A Regional Institute for Children and Adolescents (RICA) or A Nonpublic Educational Program – The local county board may refer a student who is a sex offender registrant to be educated at RICA or a nonpublic program. The receiving program is given discretion within this legislation to accept or deny a student entry upon receiving knowledge of the student’s status as a sex offender registrant. In the instance where a student is not accepted the local county board must assign another method by which the student will be educated.**
 - i. The student who is a sex offender registrant must notify an agent or employee of the nonpublic educational program of their requirement to register as a sex offender.
 - ii. The student who is a sex offender registrant is given specific written permission by an agent or employee of the nonpublic educational program to attend the program.

3. Planning for Transition

School and system leaders should be prepared to engage in strategic planning to transition a student back to the public-school environment at such time that a student is no longer a sex offender registrant.

Instructions: The local school system’s policy must provide information about procedures for the return to the public-school environment when a student is no longer a sex offender registrant. The local school systems should consider the following practices:

- a. Plan for increased communication among all stakeholders to develop strategies to:

- i. prepare the student, involved school staff, and impacted peers as appropriate for the pending return,
 - ii. determine appropriate interventions and supports to be implemented upon the students return,
 - iii. monitor progress and make timely adjustments to interventions and supports to ensure the students success.
- b. Designate individuals to serve on a multi-disciplinary school based therapeutic support team that will facilitate the student’s successful return.
- c. Plan for and implement specific actions to support the student’s social reintegration with peers and school staff.
- d. The use of restorative approaches as a means of recognizing and addressing stakeholder questions and concerns.

D. Further Considerations

Each LSS should consult with local legal counsel regarding application of State and Federal student records laws before disclosing student record information regarding students who are subject to Criminal Procedure Article §11-722.

E. Relevant Resources

1. Text of Senate Bill 515 <http://mgaleg.maryland.gov/2021RS/bills/sb/sb0515T.pdf>
2. Text of COMAR 13A.08.01.17 (C) – School Use of Reportable Offenses
<https://casetext.com/regulation/maryland-administrative-code/title-13a-state-board-of-education/subtitle-08-students/chapter-13a0801-general-regulations/section-13a080117-school-use-of-reportable-offenses>
3. Text of Educational Article § 8-406 <https://law.justia.com/codes/maryland/2013/article-ged/section-8-406/>
4. MSDE student online course offerings
<https://msde.instructure.com/courses/192/pages/msde-student-online-course-offerings>