



# **Maryland Compilation of School Discipline Laws and Regulations**

Prepared: January 31, 2020

## ***Introduction***

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

## ***Notes & Disclaimers***

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of January 2020. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

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# Table of Contents

- Maryland State Codes Cited..... 1**
- General Provisions ..... 5**
  - Authority to develop and establish rules of conduct..... 5
  - Scope ..... 7
  - Communication of policy ..... 9
- In-School Discipline ..... 11**
  - Use of multi-tiered discipline approaches ..... 11
  - Teacher authority to remove students from classrooms ..... 11
  - Alternatives to suspension ..... 12
  - Use of corporal punishment ..... 12
  - Use of student and locker searches ..... 13
  - Other in-school disciplinary approaches ..... 14
- Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements ..... 16**
  - Grounds for possible suspension or expulsion ..... 16
  - Grounds for mandatory suspension or expulsion ..... 16
  - Limitations, conditions or exclusions for use of suspension and expulsion ..... 16
  - Administrative procedures related to suspension and expulsion ..... 22
  - In-school suspension ..... 28
  - Return to school following removal ..... 30
  - Use of restraint and seclusion ..... 30
  - Alternative placements ..... 37
- Disciplinary Approaches Addressing Specific Infractions and Conditions ..... 44**
  - Firearms (as required by the Gun-Free Schools Act) ..... 44
  - Other weapons ..... 45
  - Students with chronic disciplinary issues ..... 46
  - Attendance and truancy ..... 47
  - Substance use ..... 52
  - Bullying, harassment, or hazing ..... 55
  - Other special infractions or conditions ..... 61
- Prevention and Behavioral Interventions (Non-Punitive) ..... 64**
  - Prevention ..... 64
  - Behavioral interventions and student support services ..... 65
  - Professional development ..... 73
- Monitoring and Accountability ..... 76**
  - Formal incident reporting of conduct violations ..... 76
  - Parental notification ..... 80
  - Reporting and referrals between schools and law enforcement ..... 83
  - Disclosure of school records ..... 90
  - Data collection, review, and reporting of disciplinary policies and actions ..... 101

<b>School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers</b> .....	<b>107</b>
Authority and power to implement school arrest.....	107
Certification or training .....	109
MOUs, authorization, and/or funding .....	110
<b>State Education Agency Support</b> .....	<b>111</b>
State model policies and implementation support .....	111
Funding appropriations .....	115
<b>Other or Uncategorized</b> .....	<b>117</b>
Professional immunity or liability .....	117
Community input or involvement.....	118
Other or Uncategorized .....	122
<b><i>State-Sponsored, Publicly Available Websites or Other Resources on School Discipline</i></b> .....	<b>124</b>

## ***Maryland State Codes Cited***

### **Maryland Revised Laws**

The State of Maryland contracts with LexisNexis to provide free public access to the Maryland Code. Users must agree to terms and conditions prior to use of the site. All listed laws are searchable by title and chapter number or by using key search terms.

#### **Courts and Judicial Proceedings**

##### **Title 5. Limitations, Prohibited Actions, and Immunities**

###### **Subtitle 8. Immunities and Prohibited Actions - Miscellaneous**

§ 5-803. School employees

#### **Criminal Law**

##### **Title 3. Other Crimes against the Person**

###### **Subtitle 6. Abuse and Other Offensive Conduct**

§ 3-607. Hazing

###### **Subtitle 8. Stalking and Harassment**

§ 3-805. Misuse of electronic communication or interactive computer service

##### **Title 4. Weapon Crimes**

###### **Subtitle 1. General Provisions**

§ 4-102. Deadly weapons on school property

##### **Title 5. Controlled Dangerous Substances, Prescriptions, and Other Substances**

###### **Subtitle 6. Crimes involving controlled Dangerous Substances and Paraphernalia**

#### **Part IV. Miscellaneous Crimes**

§ 5-627. Controlled dangerous substance near school

#### **Education**

##### **Division II. Elementary and Secondary Education**

###### **Title 4. Local School Administration**

###### **Subtitle 1. County Boards of Education**

§ 4-124. Drug-free school zones

§ 4-131. Student data privacy

###### **Subtitle 3. Baltimore City**

§ 4-318. Baltimore City School Police Force

§ 4-319. Baltimore City Alternative Learning Center

## **Title 7. Public Schools**

### **Subtitle 3. Attendance and Discipline of Students**

- § 7-301. Compulsory attendance
- § 7-301.1. Attendance policy for pregnant or parenting students
- § 7-302. Report of absences and maladjustment
- § 7-302.2. Truant students
- § 7-303. Arrest for reportable offense
- § 7-303.1. School principal to report student criminal activity
- § 7-304. Special programs for disruptive students
- § 7-304.1. Positive behavioral interventions and support program
- § 7-305.1. Student enrolled in public prekindergarten program, kindergarten, first grade, or second grade - Suspension or expulsion prohibited; exceptions
- § 7-306. Corporal punishment; State code of discipline
- § 7-307. Principals, teachers, and school security guards intervening in fights
- § 7-308. Searches of students and schools
- § 7-310. Dissemination of community resources list

### **Subtitle 4. Health and Safety of Students**

- § 7-411. Drug addiction and prevention education program
- § 7-412. Preservation of rights of student seeking to overcome drug abuse
- § 7-413. Alcohol abuse program
- § 7-424. Reporting incidents of harassment or intimidation against students
- § 7-424.1. Model policy prohibiting bullying, harassment and intimidation
- § 7-424.2. Gangs and gang activity
- § 7-424.3. Bullying, harassment, and intimidation policy
- § 7-428. Inhalant abuse training and awareness
- § 7-430. Cultural competency model training curriculum
- § 7-431. Telephone number of Maryland youth crisis hotline
- § 7-438. Community-Partnered school behavioral health services programs
- § 7-439. Awareness and prevention of sexual abuse and assault program
- § 7-440. Individualized or group behavioral counseling services

### **Subtitle 11. Student Behavior Intervention**

- § 7-1101. Definitions
- § 7-1102. Reports and guidance
- § 7-1103. Development of policies and procedures
- § 7-1104. Consultation concerning training requirements

### **Subtitle 15. Maryland Safe to Learn Act**

- § 7-1501. Definitions
- § 7-1507. Model policy for assessment teams
- § 7-1508. School safety coordinator, school resource officers, and school security employees

## **Division IV. Other Education Provisions**

### **Title 24. Miscellaneous Education Agencies**

#### **Subtitle 7. Maryland Longitudinal Data System**

- § 24-701. Definitions
- § 24-702. Maryland longitudinal data system
- § 24-703. Maryland longitudinal data system center
- § 24-703.1. Maryland longitudinal data system center - Reports
- § 24-704. Governing board
- § 24-705. Report
- § 24-706. Regulations
- § 24-707. Transfer of student data and workforce data

#### **Title 26. Prohibitions and Penalties**

##### **Subtitle 1. School Security**

- § 26-102. Trespass on the grounds of a public institution of elementary, secondary, or higher education
- § 26-103. Drinking or possessing intoxicating beverages on school premises

#### **Public Safety**

### **Title 4. Law Enforcement Funds and Grant Programs**

#### **Subtitle 13. Student Peer Mediation Program Fund**

- § 4-1301. Definitions
- § 4-1302. Student peer mediation program fund
- § 4-1303. Grants

## **Maryland Regulations**

### **Title 13A. State Board of Education**

#### **13A.01. State School Administration**

##### **13A.01.04. Public School Standards**

- 13A.01.04.03. School safety

##### **13A.02. Local School Administration**

###### **13A.02.04. Tobacco Free School Environment**

- 13A.02.04.01. Scope
- 13A.02.04.02. Definitions
- 13A.02.04.03. Tobacco use
- 13A.02.04.04. Notification of a tobacco-free environment
- 13A.02.04.05. Tobacco-Free guidelines

##### **13A.08. Students**

###### **13A.08.01. General Regulations**

- 13A.08.01.01. Attendance
- 13A.08.01.04. Unlawful absence

<a href="#"><u>13A.08.01.05.</u></a>	Student attendance policy
<a href="#"><u>13A.08.01.08.</u></a>	Substance use or distribution
<a href="#"><u>13A.08.01.09.</u></a>	Student organizations
<a href="#"><u>13A.08.01.11.</u></a>	Disciplinary action
<a href="#"><u>13A.08.01.12.</u></a>	Arrests on school premises
<a href="#"><u>13A.08.01.12-1.</u></a>	Bringing or possessing a firearm on school property
<a href="#"><u>13A.08.01.13.</u></a>	Questioning on school premises
<a href="#"><u>13A.08.01.14.</u></a>	Searches
<a href="#"><u>13A.08.01.15.</u></a>	Reporting delinquent acts
<a href="#"><u>13A.08.01.17.</u></a>	School use of reportable offenses
<a href="#"><u>13A.08.01.18.</u></a>	Definitions for regulations .19 - .20
<a href="#"><u>13A.08.01.19.</u></a>	Probationary and persistently dangerous school designation
<a href="#"><u>13A.08.01.20.</u></a>	Unsafe school transfer policy
<a href="#"><u>13A.08.01.21.</u></a>	Reducing and eliminating disproportionate/discrepant impact

### **13A.08.03. Discipline of Students with Disabilities**

<a href="#"><u>13A.08.03.03.</u></a>	Authority of school personnel - removal of a student with a disability
<a href="#"><u>13A.08.03.04.</u></a>	Parental notification
<a href="#"><u>13A.08.03.05.</u></a>	Change of placement
<a href="#"><u>13A.08.03.06.</u></a>	Interim alternative educational setting
<a href="#"><u>13A.08.03.07.</u></a>	Responsibilities of the IEP team
<a href="#"><u>13A.08.03.08.</u></a>	Manifestation determination
<a href="#"><u>13A.08.03.11.</u></a>	Referral to law enforcement

### **13A.08.04. Student Behavior Interventions**

<a href="#"><u>13A.08.04.01.</u></a>	Scope
<a href="#"><u>13A.08.04.02.</u></a>	Definitions
<a href="#"><u>13A.08.04.03.</u></a>	Student behavior Interventions
<a href="#"><u>13A.08.04.04.</u></a>	Use of exclusion
<a href="#"><u>13A.08.04.05.</u></a>	General requirements for the use of restraint or seclusion
<a href="#"><u>13A.08.04.06.</u></a>	Administrative procedures

### **13A.08.06. Positive Behavioral Interventions and Support Program**

<a href="#"><u>13A.08.06.01.</u></a>	Definitions
<a href="#"><u>13A.08.06.02.</u></a>	Administrative procedures - Suspension rates
<a href="#"><u>13A.08.06.03.</u></a>	Administrative procedures - Truancy rates

## **General Provisions**

### **Authority to develop and establish rules of conduct**

#### **LAWS**

##### **4-318. Baltimore City School Police Force.**

- (f) Regulations. The Baltimore City Board of School Commissioners shall adopt regulations governing the:
- (1) Operation of the Baltimore City School Police Force; and
  - (2) Conduct of each Baltimore City school police officer.

##### **7-304. Special programs for disruptive students.**

- (b) Authority to establish programs. Each county board of education and the Board of School Commissioners of Baltimore City shall establish special programs in the county and Baltimore City for students in the public school system who exhibit disruptive classroom behavior.
- (c) Joint use. Two or more county boards may establish special programs for their joint use.

##### **7-306. Corporal punishment; State code of discipline.**

- (c) Standards of conduct; implementation. - The State Board shall:
- (1) Establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards;
  - (2) On request, provide technical assistance and training to county boards regarding the use of restorative approaches; and
  - (3) Assist each county board with the implementation of the guidelines.
- (d) Regulations. -
- (1) Subject to the provisions of subsections (b) and (c) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.
  - (2) The regulations adopted by a county board under this subsection:
    - (i) Shall provide for educational and behavioral interventions, restorative approaches, counseling, and student and parent conferencing;
    - (ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate; and
    - (iii) Shall state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational.

##### **7-424.1. Model policy prohibiting bullying, harassment and intimidation.**

- (b) In general.
- (1) By March 31, 2009, the State Board, after consultation with and input from local school systems, shall develop a model policy prohibiting bullying, harassment, or intimidation in schools.
  - (2) The model policy developed under paragraph (1) of this subsection shall include:
    - (i) A statement prohibiting bullying, harassment, and intimidation in schools;
    - (ii) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;

- (iii) A definition of bullying, harassment, or intimidation that is either the same as set forth in subsection (a)(2) of this section or a definition that is not less inclusive than that definition;
- (iv) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation;
- (v) Standard consequences and remedial actions for persons found to have made false accusations;
- (vi) Model procedures for reporting acts of bullying, harassment, and intimidation;
- (vii) Model procedures for the prompt investigation of acts of bullying, harassment, and intimidation;
- (viii) Information about the types of support services available to the student bully, victim, and any bystanders;
- (ix) Information regarding the availability and use of the bullying, harassment, or intimidation form under § 7-424 of this subtitle; and
- (x) Information regarding the availability and use of an anonymous two-way electronic tip program established under § 7-424 of this subtitle.

(3) By September 1, 2016, and every 5 years thereafter, the State Board, after consultation with local school systems, shall update the model policy required under paragraph (1) of this subsection.

(c) Development of policy by county boards.

(1) Each county board shall establish a policy prohibiting bullying, harassment, or intimidation at school based on the model policy.

(2) The policy shall address the components of the model policy specified in subsection (b)(2) of this section.

(3) A county board shall develop the policy in consultation with representatives of the following groups:

- (i) Parents or guardians of students;
- (ii) School employees and administrators;
- (iii) School volunteers;
- (iv) Students; and
- (v) Members of the community.

(4) By January 1, 2017, and every 5 years thereafter, each county board shall update its policy based on the State Board's update of the model policy under subsection (b)(3) of this section.

**7-424.3. Bullying, harassment and intimidation policy.**

(a)(4) "Nonpublic school" means a nonpublic school that participates in State-funded education programs.

(b) Adoption by nonpublic school. By March 31, 2012, each nonpublic school shall adopt a policy prohibiting bullying, harassment, and intimidation.

(c) Contents. The policy adopted under subsection (b) of this section shall include:

- (1) A statement prohibiting bullying, harassment, and intimidation in the school;
- (2) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;
- (3) A definition of bullying, harassment, and intimidation that is either the same as set forth in subsection (a) of this section or a definition that is not less inclusive than that definition;
- (4) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation, including:
  - (i) Specific penalties for persons who repeatedly commit acts of bullying, harassment, or intimidation; and

- (ii) A requirement that persons who commit acts of bullying, harassment, or intimidation receive educational and therapeutic services concerning bullying prevention;
  - (5) Standard consequences and remedial actions for persons found to have made false accusations;
  - (6) Standard procedures for reporting acts of bullying, harassment, or intimidation, including a chain of command in the reporting process;
  - (7) Standard procedures for the prompt investigation of acts of bullying, harassment, or intimidation;
  - (8) Standard procedures for protecting victims of bullying, harassment, or intimidation from additional acts of bullying, harassment, or intimidation, and from retaliation; and
  - (9) Information about the types of support services available to a student bully or victim and any bystanders.
- (d) Consultation with groups. A nonpublic school is encouraged to develop the policy adopted under subsection (b) of this section in consultation with the following groups:
- (1) Parents or guardians of students;
  - (2) School employees and administrators;
  - (3) School volunteers; and
  - (4) Students.

### **7-1103. Development of policies and procedures.**

Each public agency and nonpublic school shall develop policies and procedures in compliance with this subtitle and the regulations adopted by the Department.

## **REGULATIONS**

### **13A.08.01.11. 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.

## **Scope**

## **LAWS**

### **7-424. Reporting incidents of harassment or intimidation against students.**

- (a) Definitions.

- (2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:
- (i) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:
    - 1. Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability; or
    - 2. Threatening or seriously intimidating; and
  - (ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or
  - 2. Substantially disrupts the orderly operation of a school.
- (3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.

#### **7-424.1. Model policy prohibiting bullying, harassment and intimidation.**

##### (a) Definitions.

- (1) In this section the following words have the meanings indicated.
- (2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:
- (i) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:
    - 1. Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attribute, socioeconomic status, familial status, or physical or mental ability or disability; or
    - 2. Threatening or seriously intimidating; and
  - (ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or
  - 2. Substantially disrupts the orderly operation of a school.
- (3)(i) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.
- (ii) "Electronic communication" includes a social media communication.

#### **7-424.3. Bullying, harassment and intimidation policy.**

- (a)(2) "Bullying, harassment, and intimidation" means any intentional written, verbal, or physical act, including an electronic communication, that:
- (ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or
  - 2. Substantially disrupts the orderly operation of a school.

## **REGULATIONS**

### **13A.02.04.02. Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Official school day" means the regular school day with a designated starting time and ending time as defined by the local school system.
- (2) "School buildings" means local school system owned or leased buildings.

(3) "School grounds" means local school system owned or leased land that surrounds a school building.

**13A.08.01.12-1. Bringing or possessing a firearm on school property.**

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

(4) "School property" means buildings, land that surrounds the buildings, and vehicles, that are owned or leased by a local school system.

**13A.08.01.14. Searches.**

A. Search of Student by Principal, Assistant Principal, or School Security Guard.

(1) A principal, assistant principal, or school security guard of a public school may make a reasonable search of a student on the school premises or on a school-sponsored trip if the searcher has a reasonable belief that the student has in the student's possession an item, the possession of which is:

- (a) A criminal offense under the laws of this State; or
- (b) A violation of:
  - (i) Any other State law; or
  - (ii) A rule or regulation of the local board. [...]

B. Search of School by Principal, Assistant Principal, or School Security Guard.

(1) A principal, assistant principal, or school security guard of a public school may make a search of the physical plant of the school and its appurtenances, including the lockers of students.

(2) The right of a principal, assistant principal, or school security guard to search lockers of students under §B(1) of this regulation shall be announced or published previously in the school.

C. Search of Student on School-Sponsored Trip by Teacher.

(1) A local board may authorize a teacher of a public school to make a reasonable search of a student on a school-sponsored trip if the teacher has a reasonable belief that the student has in the student's possession an item, the possession of which is:

- (a) A criminal offense under the laws of this State; or
- (b) A violation of:
  - (i) Any other State law; or
  - (ii) A rule or regulation of the local board. [...]

## **Communication of policy**

### **LAWS**

**7-424.1. Model policy prohibiting bullying, harassment and intimidation.**

(d) Publication of policy. Each county board shall publicize its policy in student handbooks, school system Web sites, and any other location or venue the county board determines is necessary or appropriate.

**7-424.2. Gangs and gang activity.**

(f) Policy or regulations by local school system - Publication. Each local school system shall publicize its policy or regulations in student handbooks, on school system Web sites, and at any other location or venue the local school system determines is necessary or appropriate.

**7-424.3. Bullying, harassment and intimidation policy.**

(e) Publication. A nonpublic school is encouraged to publicize the policy adopted under subsection (b) of this section in student handbooks, on the school's website, and any other location or venue the school determines is necessary or appropriate.

**REGULATIONS**

**13A.02.04.04. Notification of a Tobacco-Free Environment.**

Each local school system shall post notification to students, staff, and the general public that school buildings and grounds are tobacco-free.

**13A.08.01.05. Student Attendance Policy.**

Each local school system shall develop a student attendance policy which includes:

B. Rules, Definitions, and Procedures for Policy Implementation.

(8) Information dissemination includes methods for informing school staff, students, parents, and community members of attendance policy requirements.

**13A.08.01.14. Searches.**

B. Search of School by Principal, Assistant Principal, or School Security Guard.

(2) The right of a principal, assistant principal, or school security guard to search lockers of students under §B(1) of this regulation shall be announced or published previously in the school.

## ***In-School Discipline***

### **Use of multi-tiered discipline approaches**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

### **Teacher authority to remove students from classrooms**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

##### **13A.08.04.02. Definitions.**

A. In this chapter, the following terms have the meanings indicated.

- (4) "Exclusion" means the removal of a student to a supervised area for a limited period of time during which the student has an opportunity to regain self-control and is not receiving instruction including special education, related services, or support.

##### **13A.08.04.03. Student Behavior Interventions.**

A. General. School personnel are encouraged to use an array of positive behavior interventions, strategies, and supports to increase or decrease targeted student behaviors.

B. School personnel shall only use exclusion, restraint, or seclusion:

- (1) After less restrictive or alternative approaches have been considered, and:
  - (a) Attempted; or
  - (b) Determined to be inappropriate;
- (2) In a humane, safe, and effective manner;
- (3) Without intent to harm or create undue discomfort; and
- (4) Consistent with known medical or psychological limitations and the student's behavioral intervention plan.

C. This chapter does not prohibit:

- (1) School personnel from initiating appropriate student disciplinary actions pursuant to Education Article §7-305, Annotated Code of Maryland, COMAR 13A.08.01.11, and COMAR 13A.08.03; or
- (2) Law enforcement, judicial authorities, or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk in accordance with relevant law, regulation, policy, or procedures.

##### **13A.08.04.04. Use of Exclusion.**

A. School personnel may use exclusion to address a student's behavior:

- (1) If the student's behavior unreasonably interferes with the student's learning or the learning of others;

(2) If the student's behavior constitutes an emergency and exclusion is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;

(3) If exclusion is requested by the student; or

(4) If supported by the student's behavior intervention plan.

B. A setting used for exclusion shall:

(1) Provide school personnel with the ability to see the student at all times;

(2) Provide adequate lighting, ventilation, and furnishings; and

(3) Be unlocked and free of barriers to prevent egress.

C. School personnel shall monitor a student placed in exclusion and provide a student in exclusion with:

(1) An explanation of the behavior that resulted in the removal; and

(2) Instructions on the behavior required to return to the learning environment.

D. School personnel shall ensure that each period of exclusion:

(1) Is appropriate to the developmental level of the student and the severity of the behavior; and

(2) Does not exceed 30 minutes.

E. Parents and school personnel may at any time request a meeting to address the use of exclusion and to:

(1) Conduct a functional behavioral assessment; and

(2) Develop, review, or revise a student's behavioral intervention plan.

F. School personnel shall consider the need to initiate a referral to a pupil services or IEP team if a nondisabled student has experienced excessive exclusion, to determine if the student has a disability that may require the provision of special education and related services, in accordance with COMAR 13A.05.01.

G. School personnel shall ensure the implementation of appropriate procedures, in accordance with COMAR 13A.08.03, if a student with a disability has experienced an excessive period of exclusion that may result in a change of placement.

## **Alternatives to suspension**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

No relevant regulations found.

## **Use of corporal punishment**

### **LAWS**

#### **7-306. Corporal punishment; State code of discipline.**

(b) Corporal punishment prohibited. - Notwithstanding any bylaw, rule, or regulation made or approved by the State Board, a principal, vice principal, or other employee may not administer corporal punishment to discipline a student in a public school in the State.

(d) Regulations. -

(1) Subject to the provisions of subsections (b) and (c) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.

(2) The regulations adopted by a county board under this subsection:

(i) Shall provide for educational and behavioral interventions, restorative approaches, counseling, and student and parent conferencing;

(ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate; and

(iii) Shall state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational.

## **REGULATIONS**

### **13A.08.01.11. Disciplinary action.**

E. Corporal Punishment. Corporal punishment may not be used to discipline a student in a public school in the State.

## **Use of student and locker searches**

## **LAWS**

### **7-308. Searches of students and schools.**

(a) Authority to search student. A principal, assistant principal, or school security guard of a public school may make a reasonable search of a student on the school premises or on a school-sponsored trip if the searcher has a reasonable belief that the student has in the student's possession an item, the possession of which is a criminal offense under the laws of this State or a violation of any other State law or a rule or regulation of the county board.

(b) Authority to search student. By teacher.

(1) Subject to the provisions of paragraph (2) of this subsection, a county board may authorize a teacher of a public school to make a reasonable search of a student on a school-sponsored trip if the teacher has a reasonable belief that the student has in the student's possession an item, the possession of which is a criminal offense under the laws of this State or a violation of any other State law or a rule or regulation of the county board.

(2) To qualify to conduct a search under this subsection, a teacher shall be designated in writing by a principal and receive training to conduct a search commensurate with the training received by a principal.

(c) Presence of third party required. A search under subsection (a) or (b) of this section shall be made in the presence of a third party.

(d) Authority to search school.

(1) A principal, assistant principal, or school security guard of a public school may make a search of the physical plant of the school and its appurtenances including the lockers of students.

(2) The right of the school official to search the locker shall be announced or published previously in the school.

(e) Rules and regulations. The Department shall adopt rules and regulations relating to the searches permitted under this section.

## REGULATIONS

### **13A.08.01.14. Searches.**

#### A. Search of Student by Principal, Assistant Principal, or School Security Guard.

(1) A principal, assistant principal, or school security guard of a public school may make a reasonable search of a student on the school premises or on a school-sponsored trip if the searcher has a reasonable belief that the student has in the student's possession an item, the possession of which is:

- (a) A criminal offense under the laws of this State; or
- (b) A violation of:
  - (i) Any other State law; or
  - (ii) A rule or regulation of the local board.

(2) A search under §A(1) of this regulation shall be made in the presence of a third party.

#### B. Search of School by Principal, Assistant Principal, or School Security Guard.

(1) A principal, assistant principal, or school security guard of a public school may make a search of the physical plant of the school and its appurtenances, including the lockers of students.

(2) The right of a principal, assistant principal, or school security guard to search lockers of students under §B(1) of this regulation shall be announced or published previously in the school.

#### C. Search of Student on School-Sponsored Trip by Teacher.

(1) A local board may authorize a teacher of a public school to make a reasonable search of a student on a school-sponsored trip if the teacher has a reasonable belief that the student has in the student's possession an item, the possession of which is:

- (a) A criminal offense under the laws of this State; or
- (b) A violation of:
  - (i) Any other State law; or
  - (ii) A rule or regulation of the local board.

(2) To qualify to conduct a search under §C(1) of this regulation, a teacher shall:

- (a) Be designated in writing by a principal; and
- (b) Receive training to conduct a search commensurate with the training received by a principal.

(3) A search under §C(1) of this regulation shall be made in the presence of a third party.

D. Police officers shall conduct searches of students and the school premises in accordance with their established policies and procedures.

E. A school official may not conduct a search of the person of a student at the request of a police officer unless a search warrant has been issued authorizing the search.

F. Every effort shall be made to conduct searches in a manner which will minimize disruption of the normal school routine and minimize embarrassment to students affected.

## **Other in-school disciplinary approaches**

## **LAWS**

### **7-306. Corporal punishment; State code of discipline.**

(d) Regulations. -

(1) Subject to the provisions of subsections (b) and (c) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.

(2) The regulations adopted by a county board under this subsection:

(i) Shall provide for educational and behavioral interventions, restorative approaches, counseling, and student and parent conferencing;

(ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate; and

(iii) Shall state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational.

## **REGULATIONS**

No relevant regulations found.

## ***Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements***

### **Grounds for possible suspension or expulsion**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

### **Grounds for mandatory suspension or expulsion**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

##### **13A.08.01.12-1. Bringing or possessing a firearm on school property.**

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.

### **Limitations, conditions or exclusions for use of suspension and expulsion**

#### **LAWS**

##### **7-305.1. Student enrolled in public prekindergarten program, kindergarten, first grade, or second grade - Suspension or expulsion prohibited; exceptions.**

(a) Definitions.

(1) In this section the following words have the meanings indicated.

(2) "Public prekindergarten program" means:

- (i) Any publicly funded prekindergarten program established under § 7-101.1 of this title; or
- (ii) Any qualified vendor of prekindergarten services as defined in § 7-101.2(a)(7) of this title.

(3) "Restorative practices" means practices conducted in a whole-school ethos or culture that supports peacemaking and solves conflict by building a community and addressing harm in a school setting and that:

- (i) Are conducted by trained staff;
- (ii) Focus on repairing the harm to the community through dialogue that emphasizes individual accountability; and
- (iii) Help build a sense of belonging, safety, and social responsibility in the school community.

(b) In general.

(1) Except as provided in paragraph (2) of this subsection, a student enrolled in a public prekindergarten program, kindergarten, first grade, or second grade may not be suspended or expelled from school.

(2) A student described under paragraph (1) of this subsection may only be:

(i) Expelled from school if required by federal law; or

(ii) Suspended for not more than 5 school days if the school administration, in consultation with a school psychologist or other mental health professional, determines that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports.

(3) The principal or school administration shall promptly contact the parent or guardian of a student suspended or expelled under paragraph (2) of this subsection.

(c) Intervention and support by school.

(1) The school shall provide intervention and support to address the student's behavior if the student is:

(i) Suspended under subsection (b) of this section; or

(ii) Enrolled in prekindergarten, kindergarten, first grade, or second grade and:

1. Is disruptive to the school environment; or

2. Commits an act that would be considered an offense subject to suspension but for the student's grade.

(2) Intervention and support provided under paragraph (1) of this subsection includes:

(i) Positive behavior interventions and supports;

(ii) A behavior intervention plan;

(iii) A referral to a student support team;

(iv) A referral to an individualized education program team; and

(v) A referral for appropriate community-based services.

(d) Remedying impact of behavior. The school system shall remedy the impact of a student's behavior through appropriate intervention methods that may include restorative practices.

(e) Regulations. On or before May 1, 2018, the Department shall adopt regulations to carry out the requirements of this section.

## **REGULATIONS**

### **13A.08.01.11. Disciplinary action.**

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

(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:

(b) The superintendent or designated representative limits the duration of the exclusion to the shortest period practicable; and

(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:

(b) The superintendent or designated representative limits the duration of the exclusion to the shortest period practicable; and

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. Bringing or possessing a firearm on school property.**

#### **B. General Provisions.**

(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.

### **13A.08.03.03. Authority of school personnel - Removal of a student with a disability.**

#### **A. Removal of a Student with a Disability for not More than 10 Consecutive School Days.**

(1) A student with a disability may be removed from the student's current placement for not more than 10 consecutive school days for any violation of school rules to the same extent that removal is applied to students without disabilities.

(2) Unless it is determined that the removal constitutes a change of placement as described in Regulation .05 of this chapter, a student with a disability may be removed:

(a) To an alternative educational setting;

(b) To another setting; or

(c) By suspension.

(3) A public agency is not required to provide services to a student with a disability if services are not provided to students without disabilities.

#### **B. Removal of a Student with a Disability for More than 10 School Days.**

(1) A student with a disability may be removed from the student's current placement for up to 10 consecutive school days for each incident of misconduct in a school year if the cumulative effect of the removals does not constitute a change of placement in accordance with Regulation .05 of this chapter.

(2) School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement as described in Regulation .05 of this chapter is

appropriate for a student with a disability who violates a code of student conduct, consistent with 20 U.S.C. §1415(k)(1)(a) and 34 CFR §300.530.

(3) For each period of removal after a student with a disability has been removed for the cumulative equivalent of 10 school days in a school year, school personnel shall consult with at least one of the student's teachers to determine what services to provide to enable the student to appropriately:

- (a) Progress in the general curriculum; and
- (b) Advance toward achieving the goals of the student's IEP.

(4) A student with a disability may be removed for more than 10 consecutive school days for a violation of school rules to the same extent removal is applied to students without disabilities if the student's IEP team determines that the behavior subject to the removal is not a manifestation of the student's disability, in accordance with Regulation .08 of this chapter.

(5) A student with a disability removed consistent with §B(4) of this regulation shall:

- (a) Continue to receive educational services in another setting, so as to enable the student to continue to participate in the general education curriculum and progress toward meeting the goals set out in the student's IEP; and
- (b) Receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications designed to address the behavior violation to prevent its recurrence.

#### **13A.08.03.05. Change of placement.**

A. Removal constitutes a change of placement if a student with a disability is:

- (1) Removed from the student's current placement for more than 10 consecutive school days; or
- (2) Subjected to a series of removals that constitutes a pattern of removal that accumulates to more than 10 school days in a school year.

B. To determine if the removal constitutes a pattern of removals, the IEP team shall consider the:

- (1) Length of each removal;
- (2) Total amount of time the student is removed; and
- (3) Proximity of the removals to one another.

C. During any period of removal beyond 10 school days or its cumulative equivalent, the public agency shall provide services to the extent necessary in accordance with Regulation .03B(3) of this chapter.

#### **13A.08.03.06. Interim alternative educational setting.**

A. A public agency may remove a student with a disability for up to 45 school days to an interim alternative educational setting if, while at school, on school premises, or at a school function under the jurisdiction of the State or a public agency, the student:

- (1) Carries or possesses a weapon;
- (2) Knowingly possesses or uses an illegal drug;
- (3) Sells or solicits the sale of a controlled substance; or
- (4) Inflicts serious bodily injury on another person.

B. The IEP team shall determine the interim alternative educational setting.

C. An interim alternative educational setting shall enable the student with a disability to:

- (1) Progress in the general curriculum;
- (2) Receive the services and modifications included in the student's IEP;
- (3) Meet the goals of the student's IEP; and

- (4) Receive services and modifications designed to address the behavior to prevent its recurrence.
- D. A student with a disability removed from the student's current placement consistent with §A of this regulation shall:
- (1) Continue to receive educational services in another setting, so as to enable the student to continue to participate in the general education curriculum and progress toward meeting the goals set out in the student's IEP; and
  - (2) Receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications designed to address the behavior violation to prevent its recurrence.
- E. If a public agency believes the behavior of a student with a disability is likely to result in injury to the student or others, a public agency may request a due process hearing to seek the removal of the student to an interim alternative educational setting.
- F. If a public agency maintains that it is dangerous for the student with a disability to be in the current placement during the pendency of the due process hearing, the public agency may request that the due process hearing be expedited.
- G. An administrative law judge may order a change in placement to an interim alternative educational setting for not more than 45 school days if the administrative law judge determines that the public agency has demonstrated, beyond a preponderance of the evidence, that maintaining the current placement of the student with a disability is substantially likely to result in injury to the student or others.
- H. In making the determination in accordance with §G of this regulation, an administrative law judge shall consider whether:
- (1) The student's current placement is appropriate;
  - (2) The public agency has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and
  - (3) The interim alternative educational setting proposed by the public agency, in consultation with the student's special education teacher, meets the requirements of §C of this regulation.
- I. A student with a disability may be removed to an interim alternative educational setting in accordance with §A of this regulation without regard to whether the behavior is determined to be a manifestation of the student's disability.

**13A.08.03.07. Responsibilities of the IEP Team.**

- A. The IEP team shall meet within 10 business days of the removal of a student with a disability to develop an assessment plan if the IEP team has not:
- (1) Conducted a functional behavioral assessment; and
  - (2) Implemented a behavioral intervention plan to address the behavior before the behavior occurred that resulted in the student's removal as set forth in Regulation .03B or .05 of this chapter.
- B. As soon as possible after the completion of the assessments determined appropriate by the IEP team as set forth in §A of this regulation, the IEP team shall meet to:
- (1) Develop appropriate behavioral interventions to address the behavior; and
  - (2) Implement the behavioral intervention plan.
- C. If the student with a disability has a behavioral intervention plan, the IEP team shall meet within 10 business days of the removal to review the plan to address the behavior that resulted in the removal, and determine if:
- (1) The behavioral intervention plan needs to be modified; or

(2) The implementation of the behavioral intervention plan needs to be modified to address the behavior.

D. For subsequent disciplinary removals of the student beyond the first 10 school days the student is removed during the school year, the IEP team shall meet to review the student's behavioral intervention plan as set forth in §C of this regulation.

E. The IEP team shall modify the behavioral implementation plan and its implementation to the extent the IEP team determines necessary.

F. Meetings of the IEP team as set forth in §A of this regulation and in Regulation .08B of this chapter may be conducted at the same IEP team meeting.

#### **13A.08.03.08. Manifestation determination.**

A. The IEP team shall meet to determine whether a student's behavior that resulted in a disciplinary removal is a manifestation of the student's disability each time the student is subject to a removal:

- (1) As set forth in Regulation .03B of this chapter;
- (2) That constitutes a change of placement in accordance with Regulation .05 of this chapter; or
- (3) To an interim alternative educational setting in accordance with Regulation .06 of this chapter.

B. The IEP team shall meet within 10 school days of the date when school personnel take disciplinary action for the removal of a student with a disability as set forth in §A of this regulation to determine:

- (1) Whether the student's behavior that resulted in disciplinary removal is a manifestation of the student's disability; and
- (2) The services to be provided during the removal in accordance with Regulation .06C of this chapter to ensure the provision of FAPE.

C. In determining whether the student's behavior was a manifestation of the student's disability, the IEP team shall review:

- (1) All relevant information in the student's file;
- (2) Any teacher observations;
- (3) Any relevant information supplied by the parents; and
- (4) The student's IEP.

D. To determine that the behavior subject to the disciplinary action is a manifestation of the student's disability, the IEP team and other qualified personnel must make the determination that the student's behavior was:

- (1) Caused by or had a direct and substantial relationship to the student's disability; or
- (2) The direct result of the public agency's failure to implement the student's IEP.

E. If the IEP team determines the student's conduct was the direct result of the public agency's failure to implement the student's IEP, the public agency shall take immediate steps to remedy those deficiencies in accordance with 34 CFR §300.530(e)(3).

F. If any of the determinations set forth in §D of this regulation are made, the IEP team shall consider the behavior a manifestation of the student's disability.

G. If the IEP team determines that the student's behavior is a manifestation of the student's disability, the IEP team shall, as appropriate:

- (1) Conduct a functional behavioral assessment and implement a behavioral intervention plan if the public agency had not conducted such assessments prior to a disciplinary removal in accordance with Regulation .03B or .05 of this chapter;

- (2) Review the student's behavioral intervention plan and modify it, if necessary, to address the behavior; and
- (3) Return the student to the student's placement from which the student was removed unless the parent and the public agency agree to a change of placement as part of a modification of the student's behavioral intervention plan.

H. If the IEP team determines that the behavior is not a manifestation of the student's disability:

- (1) The student may be disciplined in the same manner as students without disabilities, including a period of suspension or expulsion, as set forth in COMAR 13A.08.01.11C; and
- (2) The IEP team shall determine the extent to which services are necessary during the period of suspension or expulsion to enable the student to appropriately:
  - (a) Progress in the general curriculum; and
  - (b) Advance toward achieving the goals of the student's IEP.

I. On initiation of disciplinary actions as set forth in §H of this regulation, the principal shall transmit the student's special education and disciplinary records to the local school superintendent.

## **Administrative procedures related to suspension and expulsion**

### **LAWS**

#### **7-305.1. Student enrolled in public prekindergarten program, kindergarten, first grade, or second grade - Suspension or expulsion prohibited; exceptions.**

(a) Definitions.

- (1) In this section the following words have the meanings indicated.
- (2) "Public prekindergarten program" means:
  - (i) Any publicly funded prekindergarten program established under § 7-101.1 of this title; or
  - (ii) Any qualified vendor of prekindergarten services as defined in § 7-101.2(a)(7) of this title.
- (3) "Restorative practices" means practices conducted in a whole-school ethos or culture that supports peacemaking and solves conflict by building a community and addressing harm in a school setting and that:
  - (i) Are conducted by trained staff;
  - (ii) Focus on repairing the harm to the community through dialogue that emphasizes individual accountability; and
  - (iii) Help build a sense of belonging, safety, and social responsibility in the school community.

(b) In general.

- (1) Except as provided in paragraph (2) of this subsection, a student enrolled in a public prekindergarten program, kindergarten, first grade, or second grade may not be suspended or expelled from school.
- (2) A student described under paragraph (1) of this subsection may only be:
  - (i) Expelled from school if required by federal law; or
  - (ii) Suspended for not more than 5 school days if the school administration, in consultation with a school psychologist or other mental health professional, determines that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports.

(3) The principal or school administration shall promptly contact the parent or guardian of a student suspended or expelled under paragraph (2) of this subsection.

(c) Intervention and support by school.

(1) The school shall provide intervention and support to address the student's behavior if the student is:

(i) Suspended under subsection (b) of this section; or

(ii) Enrolled in prekindergarten, kindergarten, first grade, or second grade and:

1. Is disruptive to the school environment; or

2. Commits an act that would be considered an offense subject to suspension but for the student's grade.

(2) Intervention and support provided under paragraph (1) of this subsection includes:

(i) Positive behavior interventions and supports;

(ii) A behavior intervention plan;

(iii) A referral to a student support team;

(iv) A referral to an individualized education program team; and

(v) A referral for appropriate community-based services.

(d) Remedying impact of behavior. The school system shall remedy the impact of a student's behavior through appropriate intervention methods that may include restorative practices.

(e) Regulations. On or before May 1, 2018, the Department shall adopt regulations to carry out the requirements of this section.

#### **7-306. Corporal punishment; State code of discipline.**

(d) Regulations. -

(1) Subject to the provisions of subsections (b) and (c) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.

(2) The regulations adopted by a county board under this subsection:

(i) Shall provide for educational and behavioral interventions, restorative approaches, counseling, and student and parent conferencing;

(ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate; and

(iii) Shall state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational.

### **REGULATIONS**

#### **13A.08.01.11. 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) "Public prekindergarten program" means:
  - (a) Any publicly funded prekindergarten program established under Education Article, 7-101.1, Annotated Code of Maryland; or
  - (b) Any qualified vendor of prekindergarten services as defined in Education Article, 7-101.2, Annotated Code of Maryland.

(8) "Restorative practices" means practices conducted in a whole-school ethos or culture that supports peacemaking and solves conflict by building a community and addressing harm in a school setting and that:

- (a) Are conducted by trained staff;
- (b) Focus on repairing the harm to the community through dialogue that emphasizes individual accountability; and
- (c) Help build a sense of belonging, safety, and social responsibility in the school community.

(9) "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.

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

### C. Suspension and Expulsion.

#### (1) Prohibition.

(a) Except as provided in § C(1)(b) of this regulation, a student enrolled in a public prekindergarten program, kindergarten, first grade, or second grade may not be suspended or expelled from school.

(b) A student described under § C(1)(a) of this regulation may only be:

- (i) Expelled from school if required by federal law; or
- (ii) Suspended for not more than 5 school days per incident if the school administration, in consultation with a school psychologist or other mental health professional, determines that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports.

(c) The principal or school administration shall promptly contact the parent or guardian of a student suspended or expelled under § C(1)(b) of this regulation.

#### (2) 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.

(3) 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, except as provided in § C(1) of this regulation.

(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.

(4) 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, except as provided in § C(1) of this regulation.

(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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

H. Intervention and Support.

(1) School personnel shall provide intervention and support to address the students behavior if the student is:

- (a) Suspended under § C(1)(b) of this regulation; or
- (b) Enrolled in a public prekindergarten program, kindergarten, first grade, or second grade and:
  - (i) Is disruptive to the school environment; or
  - (ii) Commits an act that would be considered an offense subject to suspension but for the students grade.

(2) Intervention and support provided under § H(1) of this regulation includes:

- (a) Positive behavior interventions and supports;
- (b) A behavior intervention plan;
- (c) A referral to a student support team;
- (d) A referral to an individualized education program team; and
- (e) A referral for appropriate community-based services.

(3) The school system, to the best of its ability, shall remedy the impact of a students behavior on school climate through appropriate intervention methods including restorative practices.

## **In-school suspension**

### **LAWS**

#### **7-306. Corporal punishment; State code of discipline.**

(d) Regulations. -

(1) Subject to the provisions of subsections (b) and (c) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.

(2) The regulations adopted by a county board under this subsection:

(i) Shall provide for educational and behavioral interventions, restorative approaches, counseling, and student and parent conferencing;

(ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate; and

(iii) Shall state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational.

## **REGULATIONS**

### **13A.08.01.11. Disciplinary action.**

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

(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.

C. Suspension and Expulsion.

(2) 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.

## Return to school following removal

### LAWS

No relevant laws found.

### REGULATIONS

#### **13A.08.01.11. Disciplinary action.**

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

(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;

(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:

(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.

C. Suspension and Expulsion.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

## Use of restraint and seclusion

### LAWS

#### **7-1101. Definitions.**

(a) In general. In this subtitle the following terms have the meanings indicated.

(b) Behavior intervention plan. "Behavior intervention plan" means a proactive plan designed to address problem behavior exhibited by a student in the educational setting through the use of positive behavioral interventions, strategies, and supports.

(c) Nonpublic school. "Nonpublic school" means a school that receives funds from the Department for the purpose of providing special education and related services to students with disabilities.

(d) Physical restraint.

(1) "Physical restraint" means the use of physical force, without the use of any device or material, to restrict the free movement of all or a portion of a student's body.

(2) "Physical restraint" does not include:

(i) Briefly holding a student in order to calm or comfort the student;

(ii) Holding a student's hand or arm to escort the student safely from one area to another;

(iii) Moving a disruptive student who is unwilling to leave the area when other methods such as counseling have been unsuccessful; or

(iv) Breaking up a fight in the school building or on school grounds.

(e) Public agency. "Public agency" means the Department, a local school system, the Maryland School for the Deaf, or the Maryland School for the Blind.

(f) Seclusion. "Seclusion" means the confinement of a student alone in a room, an enclosure, or any other space from which the student is physically prevented from leaving.

#### **7-1102. Reports and guidance.**

Beginning with the 2018-2019 school year, on or before December 1 each year:

(1) Each public agency and nonpublic school shall submit to the Department a report for the prior school year on the number of physical restraint and seclusion incidents, disaggregated by the student's jurisdiction, disability, race, gender, age, and type of placement.

(2) Each public agency and nonpublic school shall submit to the Department a report for the prior school year on the professional development provided to designated school personnel related to positive behavioral interventions, strategies, and supports and trauma-informed interventions.

(3) Each public agency and nonpublic school shall:

(i) Personally observe and review seclusion rooms;

(ii) Review training plans for the use of seclusion; and

(iii) Report to the Department regarding findings made under items (i) and (ii) of this paragraph.

(4) The Department shall:

(i) Provide guidance to public agencies and nonpublic schools regarding the requirements of the use of seclusion and rooms for seclusion; and

(ii) Report to the General Assembly, in accordance with § 2-1257 of the State Government Article, regarding findings and recommendations reported to the Department under this section.

#### **7-1103. Development of policies and procedures.**

Each public agency and nonpublic school shall develop policies and procedures in compliance with this subtitle and the regulations adopted by the Department.

#### **7-1104. Consultation concerning training requirements.**

The State Superintendent shall consult with representatives of institutions of higher education and the Professional Standards and Teacher Education Board under Title 6, Subtitle 7 of this article with respect to the training requirements for teachers and administrators to ensure that sufficient training is available regarding evidence-based positive behavioral interventions, strategies, and supports consistent with professionally accepted practices and standards for persons entering the field of education.

## REGULATIONS

### **13A.08.04.02. Definitions.**

A. In this chapter, the following terms have the meanings indicated.

(4) "Exclusion" means the removal of a student to a supervised area for a limited period of time during which the student has an opportunity to regain self-control and is not receiving instruction including special education, related services, or support.

(8) Mechanical Restraint.

(a) "Mechanical restraint" means any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove.

(b) "Mechanical restraint" does not include a protective or stabilizing device.

(11) Physical Restraint.

(a) "Physical restraint" means the use of physical force, without the use of any device or material, that restricts the free movement of all or a portion of a student's body.

(b) "Physical restraint" does not include:

(i) Briefly holding a student to calm or comfort the student;

(ii) Holding a student's hand or arm to escort the student safely from one area to another;

(iii) Moving a disruptive student who is unwilling to leave the area if other methods such as counseling have been unsuccessful; or

(iv) Intervening in a fight in accordance with Education Article §7-307, Annotated Code of Maryland.

(13) Protective or Stabilizing Device.

(a) "Protective or stabilizing device" means any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body for the purpose of enhancing functional skills, preventing self-injurious behavior, or ensuring safe positioning of a person.

(b) "Protective or stabilizing device" includes:

(i) Adaptive equipment prescribed by a health professional, if used for the purpose for which the device is intended by the manufacturer;

(ii) Seat belts; or

(iii) Other safety equipment to secure students during transportation in accordance with the public agency or nonpublic school transportation plan.

(15) "Restraint" means the use of a physical or mechanical restraint.

### **13A.08.04.03. Student Behavior Interventions.**

A. General. School personnel are encouraged to use an array of positive behavior interventions, strategies, and supports to increase or decrease targeted student behaviors.

B. School personnel shall only use exclusion, restraint, or seclusion:

(1) After less restrictive or alternative approaches have been considered, and:

(a) Attempted; or

(b) Determined to be inappropriate;

(2) In a humane, safe, and effective manner;

(3) Without intent to harm or create undue discomfort; and

(4) Consistent with known medical or psychological limitations and the student's behavioral intervention plan.

C. This chapter does not prohibit:

(1) School personnel from initiating appropriate student disciplinary actions pursuant to Education Article §7-305, Annotated Code of Maryland, COMAR 13A.08.01.11, and COMAR 13A.08.03; or

(2) Law enforcement, judicial authorities, or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk in accordance with relevant law, regulation, policy, or procedures.

#### **13A.08.04.05. General Requirements for the Use of Restraint or Seclusion.**

A. Use of Restraint.

(1) Physical Restraint.

(a) Except as provided in § A(1)(b) of this regulation, the use of physical restraint is prohibited in public agencies and nonpublic schools until there is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate.

(b) Once physical restraint has been used or school personnel have made a student-specific determination that it may need to be used consistent with § A(1)(a) of this regulation, physical restraint may be included in a student's behavioral intervention plan or IEP to address the student's behavior in an emergency situation, provided that school personnel:

(i) Review available data to identify any contraindications to the use of physical restraint based on medical history or past trauma, including consultation with medical or mental health professionals as appropriate;

(ii) Identify the less intrusive, nonphysical interventions that will be used to respond to the student's behavior until physical restraint is used in an emergency situation; and

(iii) Obtain written consent from the parent, consistent with Education Article, § 8-405, Annotated Code of Maryland.

(c) Physical restraint shall be applied only by school personnel who are trained in the appropriate use of physical restraint consistent with Regulation .06C of this chapter.

(d) In applying physical restraint, school personnel shall only use reasonable force as is necessary to protect a student or other person from imminent, serious, physical harm.

(e) Physical restraint:

(i) Shall be removed as soon as the student is calm; and

(ii) May not exceed 30 minutes.

(f) In applying physical restraint, school personnel may not:

(i) Place a student in a face down position;

(ii) Place a student in any other position that will obstruct a student's airway or otherwise impair a student's ability to breathe, obstruct a staff member's view of a student's face, restrict a student's ability to communicate distress, or place pressure on a student's head, neck, or torso; or

(iii) Straddle a student's torso.

(2) Mechanical Restraint.

(a) The use of mechanical restraint is prohibited in public agencies and nonpublic schools unless a public agency or nonpublic school is certified by and meets the requirements of the Joint Commission for the Accreditation of Health Care Organizations.

(b) Regulation .04 of this chapter does not prohibit school personnel from using a protective or stabilizing device:

(i) As prescribed by a health professional; or

(ii) For a student with a disability, in accordance with the student's IEP or behavior intervention plan.

(3) Documentation of the Use of Restraint.

(a) Each time a student is in a restraint, school personnel involved in the restraint shall debrief and document:

(i) Other less intrusive interventions that have failed or been determined inappropriate;

(ii) The precipitating event immediately preceding the behavior that prompted the use of restraint;

(iii) The behavior that prompted the use of a restraint;

(iv) The names of the school personnel who observed the behavior that prompted the use of restraint; and

(v) The names and signatures of the staff members implementing and monitoring the use of restraint.

(b) Documentation under § A(3) of this regulation shall include a description of the restraint event, including:

(i) The type of restraint;

(ii) The length of time in restraint;

(iii) The student's behavior and reaction during the restraint; and

(iv) The name and signature of the administrator informed of the use of restraint.

(4) The documentation described in § A(3) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(5) Each time restraint is used, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student's behavior intervention plan or IEP.

B. Use of Seclusion.

(1) Except as provided in § B(2) of this regulation, the use of seclusion is prohibited in public agencies and nonpublic schools until there is an emergency situation and seclusion is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate.

(2) Once seclusion has been used or school personnel have made a student-specific determination that it may need to be used consistent with § B(1) of this regulation, seclusion may be included in a student's behavioral intervention plan or IEP to address the student's behavior in an emergency situation, provided that school personnel:

(a) Review available data to identify any contraindications to the use of seclusion based on medical history or past trauma, including consultation with medical or mental health professionals as appropriate;

(b) Identify the less intrusive, nonphysical interventions that will be used to respond to the student's behavior until seclusion is used in an emergency situation; and

(c) Obtain written consent from the parent, consistent with Education Article, § 8-405, Annotated Code of Maryland.

(3) Seclusion Room.

(a) At a minimum, a room used for seclusion shall:

- (i) Be free of objects and fixtures with which a student could self-inflict bodily harm;
- (ii) Provide school personnel an adequate view of the student from all angles; and
- (iii) Provide adequate lighting and ventilation.

(b) The door of a seclusion room shall not be fitted with a lock unless it releases automatically when not physically held in the locked position by school personnel on the outside of the door.

(4) School personnel shall:

(a) Remain in close proximity to the door of a seclusion room at all times;

(b) Actively observe a student placed in seclusion at all times; and

(c) Provide a student placed in seclusion with:

- (i) An explanation of the behavior that resulted in the removal; and
- (ii) Instructions on the behavior required to return to the learning environment.

(5) Seclusion shall only be applied by school personnel trained in the appropriate use of seclusion consistent with Regulation .06C of this chapter.

(6) A seclusion event:

(a) Shall be appropriate to the student's developmental level and severity of the behavior;

(b) May not restrict the student's ability to communicate distress; and

(c) May not exceed 30 minutes.

(7) Documentation of Seclusion.

(a) Each time a student is placed in seclusion, school personnel involved in the seclusion event shall debrief and document:

- (i) Other less intrusive interventions that have failed or been determined inappropriate;
- (ii) The precipitating event immediately preceding the behavior that prompted the use of seclusion;
- (iii) The behavior that prompted the use of seclusion; and
- (iv) The names and signatures of the staff members implementing and monitoring the seclusion.

(b) The documentation under § B(7) of this regulation shall include a description of the seclusion event, including:

- (i) Justification for initiating the use of seclusion;
- (ii) The length of time in seclusion;
- (iii) The student's behavior and reaction during the seclusion; and
- (iv) The name and signature of the administrator informed of the use of seclusion.

(8) The documentation described in § B(7) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(9) Unless otherwise provided for in the student's behavior intervention plan or IEP, each time seclusion is used, school personnel shall provide the student's parent with verbal notification or send written notice within 24 hours.

C. Referral to a Pupil Services or IEP Team.

(1) If restraint or seclusion is used for a student who has not been identified as a student with a disability, the student shall immediately be referred to the school's pupil services team or an IEP team.

(2) If restraint or seclusion is used for a student with a disability, and the student's IEP or behavior intervention plan does not include the use of restraint or seclusion, the IEP team shall meet, in accordance with COMAR 13A.08.03, within 10 business days of the incident to consider:

- (a) The need for a functional behavioral assessment;
- (b) Developing appropriate behavioral interventions; and
- (c) Implementing a behavioral intervention plan.

(3) If restraint or seclusion is used for a student with a disability, and the IEP or behavior intervention plan includes the use of restraint or seclusion, the student's IEP or behavior intervention plan shall specify how often the IEP team shall meet to review or revise, as appropriate, the student's IEP or behavior intervention plan, in accordance with COMAR 13A.05.01 and 13A.08.03.

(4) When an IEP team meets to review or revise a student's IEP or behavior intervention plan, as specified in § C(3) of this regulation, the IEP team shall consider:

- (a) Existing health, physical, psychological, and psychosocial information, including any contraindications to the use of restraint or seclusion based on medical history or past trauma;
- (b) Information provided by the parent;
- (c) Observations by teachers and related service providers;
- (d) The student's current placement; and
- (e) The frequency and duration of restraints or seclusion events that occurred since the IEP team last met.

(5) The local school system or nonpublic school shall provide the parent of the student with written notice in accordance with COMAR 13A.05.01.12A when an IEP team proposes or refuses to initiate or change the student's IEP or behavior intervention plan that includes the use of restraint or seclusion.

(6) Parental Consent.

(a) The IEP team shall obtain the written consent of the parent if the team proposes to include restraint or seclusion in the behavior intervention plan or IEP to address the student's behavior.

(b) If the parent does not provide written consent, the IEP team shall send the parent written notice within 5 business days of the IEP team meeting that states:

(i) The parent has the right to either consent or refuse to consent to the use of restraint or seclusion; and

(ii) If the parent does not provide written consent or a written refusal within 15 business days of the IEP team meeting, the IEP team may implement the proposed use of restraint or seclusion.

(c) If the parent provides written refusal, the IEP team may use the dispute resolution options listed in Education Article, § 8-413, Annotated Code of Maryland, to resolve the matter.

#### **13A.08.04.06. Administrative Procedures.**

A. Each public agency and nonpublic school shall develop policies and procedures to address:

- (1) A continuum of positive behavioral interventions, strategies, and supports for use by school personnel before exclusion, restraint, or seclusion;
- (2) The prevention of self-injurious behaviors;
- (3) Methods for identifying and defusing potentially dangerous behavior;
- (4) The use and documentation of exclusion consistent with Regulation .04 of this chapter;

(5) The use of restraint consistent with Regulation .05A of this chapter; and

(6) The use of seclusion consistent with Regulation .05B of this chapter.

B. Each public agency and nonpublic school shall annually review policies and procedures and provide them to school personnel and parents as described in COMAR 13A.08.01.

C. Professional Development.

(1) Each public agency and nonpublic school shall provide professional development to designated school personnel on this chapter and the appropriate implementation of policies and procedures developed in accordance with §A of this regulation.

(2) At the beginning of each school year, each public agency and nonpublic school shall identify school personnel authorized to serve as a school-wide resource to assist in ensuring proper administration of exclusion, restraint, and seclusion.

(3) The school personnel described in §C(2) of this regulation shall receive training in current professionally accepted practices and standards regarding:

(a) Positive behavior interventions strategies and supports, including methods for identifying and defusing potentially dangerous behavior;

(b) Functional behavior assessment and behavior intervention planning;

(c) Exclusion;

(d) Restraint and alternatives to restraint;

(e) Seclusion; and

(f) Symptoms of physical distress and positional asphyxia.

(4) The professional development described in §C(3) of this regulation shall include a written examination and physical demonstration of proficiency in the described skills and competencies.

D. Monitoring and Compliance.

(1) Each public agency and nonpublic school shall develop policies and procedures on:

(a) Monitoring the use of exclusion, restraint, and seclusion; and

(b) Receiving and investigating complaints regarding exclusion, restraint, and seclusion practices.

(2) The Department may monitor and request any information regarding any matter related to exclusion, restraint, or seclusion implemented by a public agency or nonpublic school. The Department shall provide written notice of the requested information and specify the time and the manner in which the public agency or nonpublic school shall respond to the request.

## **Alternative placements**

### **LAWS**

#### **4-319. Baltimore City alternative learning center.**

(a) Definitions.

(1) In this section the following words have the meanings indicated.

(2) "Baltimore City School System" means the system of free public schools in Baltimore City.

(3) "Center" means the Baltimore City Alternative Learning Center.

(b) Established. There is a Baltimore City Alternative Learning Center in the Baltimore City School System.

(c) Director; staff.

- (1) The Chief Executive Officer of the Baltimore City Board of School Commissioners shall appoint a Director of the Center.
  - (2) The Director may employ a staff or retain consultants, including psychologists, social workers, guidance counselors, and teachers.
- (d) Actions precipitating transfer; assessment of amenability to services.
- (1) Except as otherwise provided in §§ 7-305(g) and 7-305.1 of this article, a student in the Baltimore City School System may be transferred to the Center if the student:
    - (i) Assaults a teacher, teacher's aide, student teacher, other professional or paraprofessional school employee, or other student;
    - (ii) Carries a gun, rifle, knife, or other deadly weapon onto school property; or
    - (iii) Commits any other act that would be a crime if committed by an adult.
  - (2) The Director shall review recommendations for admission of students to the Center and admit or deny admission for each student based on an assessment of the student's amenability to the services, programs, and treatment available in the Center.
- (e) Attendance at Center classes.
- (1) Subject to paragraph (2) of this subsection, a student who is admitted to the Center shall attend classes at the Center until the Director orders the student to be transferred to another school in the Baltimore City School System.
  - (2) A student may not attend the Center for more than one calendar year.
- (f) Program development. The Director shall develop and provide the following programs within the Center:
- (1) Elementary and secondary education programs;
  - (2) Special education programs that meet the social and emotional needs of the students at the Center and that require the participation of the parents or guardians of the students; and
  - (3) Vocational and rehabilitative training programs.
- (g) Annual report. The Chief Executive Officer shall report annually to the members of the Baltimore City Delegation in the General Assembly on the progress of the students in the Center.

## **REGULATIONS**

### **13A.08.01.11. Disciplinary action.**

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

(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:

(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:

(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.

C. Suspension and Expulsion.

(2) In-School Suspension.

(e) The student's school of current enrollment shall make provision for the student's education during the period of in-school suspension.

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. 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.

B. General Provisions.

- (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.

**13A.08.01.17. 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.

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.

(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.

(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.

#### **13A.08.01.18. Definitions for regulations .19 - .20.**

A. In Regulations .19 and .20 of this chapter, the following terms have the meanings indicated.

#### B. Terms Defined.

(1) "Conviction of or adjudication of" means that the perpetrator has been convicted of, adjudicated delinquent of, pleads guilty or nolo contendere with respect to, or receives probation before judgment with respect to, a violent criminal offense.

(2) "Corrective action plan" means a plan that includes information concerning conditions in the school that may have contributed to the commission of the offenses set forth in §B(4) of this regulation. A corrective action plan shall describe any behavioral interventions that will be used to address problems in the school.

(3) "Local school system" means any of the 24 local public school systems in the State.

(4) "Persistently dangerous school" means a school in which each year for 3 consecutive school years, the total number of student suspensions for more than 10 days or expulsions for any of the following offenses equals 2-1/2 percent or more of the total number of students enrolled in the school:

- (a) Arson or fire;
- (b) Drugs;
- (c) Explosives;
- (d) Firearms;
- (e) Other guns;
- (f) Other weapons;
- (g) Physical attack on a student;
- (h) Physical attack on a school system employee or other adult; and
- (i) Sexual assault.

(5) "Safe school" means a school that has not been placed on probationary status or designated as persistently dangerous pursuant to Regulation .19 of this chapter.

(6) "School grounds" means a local school system owned or leased building and land that surrounds a school building and also includes school vehicles.

(7) "Violent criminal offense" means a crime of violence as defined in Criminal Law Article, §14-101, Annotated Code of Maryland.

#### **13A.08.01.19. Probationary and persistently dangerous school designation.**

##### **A. Probationary Status.**

(1) The State Board of Education shall place on probationary status any school having each year for a period of 2 consecutive school years, the total number of student suspensions for more than 10 days or expulsions for any of the offenses set forth in Regulation .18B(4) of this chapter equal to 2-1/2 percent or more of the total number of students enrolled in the school.

(2) The local school system shall notify in a timely manner the parents of each student attending the school that the State has placed the school on probationary status.

(3) The local superintendent shall submit a corrective action plan to the State Superintendent of Schools within 30 days of being notified by the State Board of Education that a school in the jurisdiction of the school system is on probationary status.

(4) During the probationary status the school shall implement in a timely manner strategies to reduce the commission of offenses set forth in Regulation .18B(4) of this chapter.

##### **B. Persistently Dangerous Designation.**

(1) After placing a school on probationary status, the State Board of Education shall designate that school as persistently dangerous if during the next consecutive school year the total number of student suspensions for more than 10 days or expulsions for any of the offenses set forth in Regulation .18B(4) of this chapter equals 2-1/2 percent or more of the total number of students enrolled in the school.

(2) The local school system shall notify in a timely manner the parents of each student attending the school:

- (a) That the State has identified the school as persistently dangerous; and
- (b) Of the opportunity for school transfer as set forth in Regulation .20A(1) of this chapter.

(3) If a school has been designated a persistently dangerous school, the school shall retain that designation for at least 1 full school year.

(4) Each year that a school remains identified as persistently dangerous, the local school superintendent shall submit a corrective action plan to the State Superintendent of Schools within 30 days of being notified by the State that the status of the school as persistently dangerous has not changed.

(5) The State Board of Education shall remove a school's designation as a persistently dangerous school if the school no longer meets the requirements set forth in Regulation .18B(4) of this chapter.

**13A.08.01.20. Unsafe school transfer policy.**

A. Each local school system shall allow a student attending a public elementary or secondary school to attend a safe public elementary or secondary school within the school system if the student:

- (1) Attends a persistently dangerous public elementary or secondary school; or
- (2) Is a victim of a violent criminal offense as defined in Criminal Law Article, §14-101, Annotated Code of Maryland:
  - (a) During the regular school day; or
  - (b) While attending a school sponsored event in or on the grounds of a public elementary or secondary school that the student attends.

B. The local school system shall effectuate a transfer pursuant to §A of this regulation in a timely manner following either the:

- (1) Designation of a school as persistently dangerous; or
- (2) Conviction of or adjudication of delinquency of the perpetrator of a violent criminal offense.

C. To the extent possible, the local school system shall allow a student to transfer to a school that is making adequate yearly progress and has not been identified as being in school improvement, corrective action, or restructuring.

D. Each local superintendent of schools shall certify annually in writing to the State Superintendent of Schools that Regulations .18-.20 of this chapter are implemented.

E. The State Department of Education shall:

- (1) Maintain a list of schools determined to be persistently dangerous; and
- (2) Revise the list annually.

**13A.08.03.05. Change of placement.**

A. Removal constitutes a change of placement if a student with a disability is:

- (1) Removed from the student's current placement for more than 10 consecutive school days; or
- (2) Subjected to a series of removals that constitutes a pattern of removal that accumulates to more than 10 school days in a school year.

B. To determine if the removal constitutes a pattern of removals, the IEP team shall consider the:

- (1) Length of each removal;
- (2) Total amount of time the student is removed; and
- (3) Proximity of the removals to one another.

C. During any period of removal beyond 10 school days or its cumulative equivalent, the public agency shall provide services to the extent necessary in accordance with Regulation .03B(3) of this chapter.

**13A.08.03.06. Interim alternative educational setting.**

A. A public agency may remove a student with a disability for up to 45 school days to an interim alternative educational setting if, while at school, on school premises, or at a school function under the jurisdiction of the State or a public agency, the student:

- (1) Carries or possesses a weapon;
- (2) Knowingly possesses or uses an illegal drug;
- (3) Sells or solicits the sale of a controlled substance; or
- (4) Inflicts serious bodily injury on another person.

B. The IEP team shall determine the interim alternative educational setting.

C. An interim alternative educational setting shall enable the student with a disability to:

- (1) Progress in the general curriculum;
- (2) Receive the services and modifications included in the student's IEP;
- (3) Meet the goals of the student's IEP; and
- (4) Receive services and modifications designed to address the behavior to prevent its recurrence.

D. A student with a disability removed from the student's current placement consistent with §A of this regulation shall:

- (1) Continue to receive educational services in another setting, so as to enable the student to continue to participate in the general education curriculum and progress toward meeting the goals set out in the student's IEP; and
- (2) Receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications designed to address the behavior violation to prevent its recurrence.

E. If a public agency believes the behavior of a student with a disability is likely to result in injury to the student or others, a public agency may request a due process hearing to seek the removal of the student to an interim alternative educational setting.

F. If a public agency maintains that it is dangerous for the student with a disability to be in the current placement during the pendency of the due process hearing, the public agency may request that the due process hearing be expedited.

G. An administrative law judge may order a change in placement to an interim alternative educational setting for not more than 45 school days if the administrative law judge determines that the public agency has demonstrated, beyond a preponderance of the evidence, that maintaining the current placement of the student with a disability is substantially likely to result in injury to the student or others.

H. In making the determination in accordance with §G of this regulation, an administrative law judge shall consider whether:

- (1) The student's current placement is appropriate;
- (2) The public agency has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and
- (3) The interim alternative educational setting proposed by the public agency, in consultation with the student's special education teacher, meets the requirements of §C of this regulation.

I. A student with a disability may be removed to an interim alternative educational setting in accordance with §A of this regulation without regard to whether the behavior is determined to be a manifestation of the student's disability.

## ***Disciplinary Approaches Addressing Specific Infractions and Conditions***

### **Firearms (as required by the Gun-Free Schools Act)**

#### **LAWS**

##### **4-102. Deadly weapons on school property.**

(a) Exceptions. This section does not apply to:

- (1) a law enforcement officer in the regular course of the officer's duty;
- (2) An off-duty law enforcement officer who is a parent, guardian, or visitor of a student attending a school located on the public school property, provided that:
  - (I) The officer is displaying the officer's badge or credential; and
  - (II) The weapon carried or possessed by the officer is concealed;
- (3) a person hired by a county board of education specifically for the purpose of guarding public school property;
- (4) a person engaged in organized shooting activity for educational purposes; or
- (5) a person who, with a written invitation from the school principal, displays or engages in a historical demonstration using a weapon or a replica of a weapon for educational purposes.

(b) Prohibited. A person may not carry or possess a firearm, knife, or deadly weapon of any kind on public school property.

(c) Penalty.

- (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$ 1,000 or both.
- (2) A person who is convicted of carrying or possessing a handgun in violation of this section shall be sentenced under Subtitle 2 of this title.

#### **REGULATIONS**

##### **13A.08.01.12-1. 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.

## **Other weapons**

### **LAWS**

#### **4-102. Deadly weapons on school property.**

(a) Exceptions. This section does not apply to:

(1) a law enforcement officer in the regular course of the officer's duty;

(2) An off-duty law enforcement officer who is a parent, guardian, or visitor of a student attending a school located on the public school property, provided that:

- (I) The officer is displaying the officer's badge or credential; and
  - (II) The weapon carried or possessed by the officer is concealed;
  - (3) a person hired by a county board of education specifically for the purpose of guarding public school property;
  - (4) a person engaged in organized shooting activity for educational purposes; or
  - (5) a person who, with a written invitation from the school principal, displays or engages in a historical demonstration using a weapon or a replica of a weapon for educational purposes.
- (b) Prohibited. A person may not carry or possess a firearm, knife, or deadly weapon of any kind on public school property.
- (c) Penalty.
- (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$ 1,000 or both.
  - (2) A person who is convicted of carrying or possessing a handgun in violation of this section shall be sentenced under Subtitle 2 of this title.

## **REGULATIONS**

No relevant regulations found.

## **Students with chronic disciplinary issues**

### **LAWS**

#### **7-302. Report of absences and maladjustment.**

- (b) Investigation; counseling; notice to Department of Juvenile Services. - On receipt of a report from a principal or head teacher of a public school that a student has been habitually truant without lawful excuse, the appropriate representative of the school system:
- (1) Shall initiate an investigation into the cause of the child's truancy;
  - (2) May provide counseling regarding the availability of social, health, and educational services; and
  - (3) Following the investigation or intervention:
    - (i) May notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse;
    - (ii) Shall notify the appropriate local department that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-819(b-1) of the Courts Article; and
    - (iii) Shall notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-8A-19(d)(5) of the Courts Article.

#### **7-302.2. Truant students.**

- (a) In this section, "truant student" means a student:
- (1) Who is unlawfully absent from school for more than:
    - (i) 8 days in any quarter;
    - (ii) 15 days in any semester; or
    - (iii) 20 days in a school year; and

(2) Whose absences for purposes of item (1) of this subsection are unlawful absences as defined by regulation.

(b) Each county board shall develop a system of active intervention for truant students.

(c)(1) Each truant student attending kindergarten through 12th grade shall immediately be referred to the county board's system of active intervention developed under this section.

(2) This section does not prohibit a county board from intervening in the case of a student who is frequently absent from school for both lawful and unlawful purposes, but is not a truant student.

## **REGULATIONS**

### **13A.08.01.04. Unlawful Absence.**

B. Truancy. A truant is a student who is absent without lawful cause as defined in Regulation .03, of this chapter, from the attendance for a school day or portion of it.

C. Habitual Truant. A student is an habitual truant if the student is unlawfully absent from school for a number of days or portion of days in excess of 20 percent of the school days within any marking period, semester, or year. A local school system has the prerogative of defining habitual truancy in a more but not less stringent manner (for example, unlawful absences in excess of 15 percent of the school days).

### **13A.08.01.11. Disciplinary action.**

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

(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.

## **Attendance and truancy**

## **LAWS**

### **7-301. Compulsory attendance [Subject to amendment effective July 1, 2015; amended version follows this section.]**

(b) Excused absences. A county superintendent, school principal, or an individual authorized by the county superintendent or principal may excuse a student for a lawful absence.

(c) Duty of parent or guardian. Each person who has legal custody or care and control of a child who is 5 years old or older and under 16 shall see that the child attends school or receives instruction as required by this section.

(e) Penalties.

(1) Any person who induces or attempts to induce a child to absent himself unlawfully from school or employs or harbors any child who is absent unlawfully from school while school is in session is guilty of a misdemeanor and on conviction is subject to a fine not to exceed \$ 500 or imprisonment not to exceed 30 days, or both.

(2) Any person who has legal custody or care and control of a child who is 5 years old or older and under 16 who fails to see that the child attends school or receives instruction under this section is guilty of a misdemeanor and:

(i) For a first conviction is subject to a fine not to exceed \$ 50 per day of unlawful absence or imprisonment not to exceed 10 days, or both; and

(ii) For a second or subsequent conviction is subject to a fine not to exceed \$ 100 per day of unlawful absence or imprisonment not to exceed 30 days, or both.

(3) As to any sentence imposed under this section, the court may suspend the fine or the prison sentence and establish terms and conditions which would promote the child's attendance. The suspension authority provided for in this subsection is in addition to and not in limitation of the suspension authority under § 6-221 of the Criminal Procedure Article.

(e-1) Applicability of subsection; charge filed in juvenile court.

(1) This subsection applies only:

(i) In a county in which the circuit administrative judge has established a Truancy Reduction Pilot Program under § 3-8C-02 of the Courts Article; and

(ii) To the extent that funds are provided in an annual State budget for a Truancy Reduction Pilot Program.

(2) A charge under this section may be filed in the juvenile court and assigned to a truancy docket for disposition under Title 3, Subtitle 8C of the Courts Article.

(3) (i) For a person with legal custody or care and control of a child at the time of an alleged violation of this section, it is an affirmative defense to a charge under this section that the person made reasonable and substantial efforts to see that the child attended school as required by law but was unable to cause the child to attend school.

(ii) If the court finds the affirmative defense is valid, the court shall dismiss the charge under this section against the defendant.

(4) The court may condition marking a charge under this section set on participation of the defendant in the appropriate Truancy Reduction Pilot Program under Title 3, Subtitle 8C of the Courts Article.

#### **7-301.1. Attendance policy for pregnant or parenting students.**

(a) In general. A student's absence due to a student's pregnancy or parenting needs is a lawful absence as provided under this section.

(b) County board to develop written attendance policy. Each county board shall develop a written attendance policy for pregnant and parenting students that, at a minimum, meets the requirements of this section.

(c) Contents of policy; alternatives; publication.

(1) The policy developed under subsection (b) of this section shall:

(i) Excuse all absences due to pregnancy- or parenting-related conditions, including absences for:

1. Labor;

2. Delivery;

3. Recovery; and

4. Prenatal and postnatal medical appointments;

(ii) Provide at least 10 days of excused absences for a parenting student after the birth of the student's child;

(iii) Excuse any parenting-related absences due to an illness or a medical appointment of the student's child, including up to 4 days of absences per school year for which the school may not require a note from a physician; and

(iv) Excuse any absence due to a legal appointment involving the pregnant or parenting student that is related to family law proceedings, including adoption, custody, and visitation.

(2) In addition to home and hospital services, the school may allow the student to:

(i) Make up the work that the student missed in a time period that equals at least as many days that the student was absent; and

(ii) Choose one of the following alternatives to make up work that the student missed:

1. Retake a semester;

2. Participate in an online course credit recovery program; or

3. Allow the student 6 weeks to continue at the same pace and finish at a later date.

(3) Each county board shall publish its written attendance policy for pregnant and parenting students on the county board's Web site.

### **7-302. Report of absences and maladjustment.**

(b) Investigation; counseling; notice to Department of Juvenile Services. - On receipt of a report from a principal or head teacher of a public school that a student has been habitually truant without lawful excuse, the appropriate representative of the school system:

(1) Shall initiate an investigation into the cause of the child's truancy;

(2) May provide counseling regarding the availability of social, health, and educational services; and

(3) Following the investigation or intervention:

(i) May notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse;

(ii) Shall notify the appropriate local department that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-819(b-1) of the Courts Article; and

(iii) Shall notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-8A-19(d)(5) of the Courts Article.

### **7-302.2. Truant students.**

(a) In this section, "truant student" means a student:

(1) Who is unlawfully absent from school for more than:

(i) 8 days in any quarter;

(ii) 15 days in any semester; or

(iii) 20 days in a school year; and

(2) Whose absences for purposes of item (1) of this subsection are unlawful absences as defined by regulation.

(b) Each county board shall develop a system of active intervention for truant students.

(c)(1) Each truant student attending kindergarten through 12th grade shall immediately be referred to the county board's system of active intervention developed under this section.

(2) This section does not prohibit a county board from intervening in the case of a student who is frequently absent from school for both lawful and unlawful purposes, but is not a truant student.

**7-304.1. Positive behavioral interventions and support program.**

(c) Program established Truancy.

(1) Subject to paragraph (3) of this subsection, each county board shall require a school that has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection to implement:

- (i) A positive behavioral interventions and support program; or
- (ii) An alternative, research-based, positive, and effective behavior modification program in collaboration with the Department.

(2) A school is subject to this subsection if it has a truancy rate that exceeds:

- (i) 8 percent of its enrollment for the 2008-2009 school year;
- (ii) 6 percent of its enrollment for the 2009-2010 school year;
- (iii) 4 percent of its enrollment for the 2010-2011 school year;
- (iv) 2 percent of its enrollment for the 2011-2012 school year; and
- (v) 1 percent of its enrollment for the 2012-2013 school year and each school year thereafter.

(3) A school that has already implemented a positive behavioral interventions and support program or a behavior modification program shall expand its program if it has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection.

**REGULATIONS**

**13A.08.01.01. Attendance.**

A. Who Shall Attend. Each child who resides in this State and is 5 years old or older and under 16 shall attend a public school regularly during the entire school year unless the child is otherwise receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age, or the child is exempted under Regulation .02-2A of this chapter.

B. A child who resides in this State shall attend a public or nonpublic kindergarten program regularly during the school year before entering the first grade unless the child is enrolled in an alternative program as specified in Regulation .02-2B of this chapter or is receiving home instruction as provided in COMAR 13A.10.01.

C. A child who resides in this State and attends a nonpublic kindergarten program for part of the year may transfer to a public kindergarten if the child meets the minimum age requirement for admission to a public school kindergarten program, as set forth in Regulation .02B(2) of this chapter.

D. Students shall be considered in attendance at school when participating in school-sponsored activities during the school day, and when that participation is approved by the local superintendent of schools or the school principal, or their designees. Students shall be considered in attendance in an alternative program setting when participating in activities during the day sponsored by the alternative program, and when that participation is approved by the director of a licensed child care center, registered family day care home, or Head Start 5-year-old program.

E. Daily Attendance Record. A record of the daily attendance of each student shall be kept in accordance with regulations of the State Board of Education and the Maryland Student Records System Manual 2011, which is incorporated by reference in COMAR 13A.08.02.01.

**13A.08.01.04. Unlawful Absence.**

A. An absence, including absence for any portion of the day, for any reason other than those cited as lawful are presumed to be unlawful and may constitute truancy. Local school systems may add specified criteria for unlawful absences to local board-approved attendance policies.

B. Truancy. A truant is a student who is absent without lawful cause as defined in Regulation .03, of this chapter, from the attendance for a school day or portion of it.

C. Habitual Truant. A student is an habitual truant if the student is unlawfully absent from school for a number of days or portion of days in excess of 20 percent of the school days within any marking period, semester, or year. A local school system has the prerogative of defining habitual truancy in a more but not less stringent manner (for example, unlawful absences in excess of 15 percent of the school days).

#### **13A.08.01.05. Student Attendance Policy.**

Each local school system shall develop a student attendance policy which includes:

A. A general statement dealing with the local school system's purpose and rationale for promoting regular school attendance.

B. Rules, Definitions, and Procedures for Policy Implementation.

(1) Reasons for lawful and unlawful absences and tardiness include lawful/unlawful absence as defined in Regulations .03 and .04, of this chapter. Clarification of special situations for unlawful absence may also be identified.

(2) Standards for regular attendance include minimal requirements for student attendance in order to foster continuity of the instructional program. The standards for school attendance may identify a specific number of excessive or unlawful absences allowed within a marking period, semester, or school year.

(3) Procedure to verify absences/tardiness includes responsible persons, time limits, and methods of absent/tardy verification.

(4) Penalties for not meeting standards for regular attendance requirements include actions taken by school system staff when a student is unlawfully absent or accumulates an equivalent number of excessive or unlawful absences which exceeds the standard for regular school attendance. The penalties should be identified, and should reflect a continuum of excessive or unlawful absences.

(5) Make-up work requirements include classroom teacher and student responsibility, time limits, and grading policy for make-up work. Make-up work requirements may also involve a procedure for completing class work in advance of an absence wherever possible.

(6) Attendance-monitoring procedure includes:

(a) Record-keeping format to comply with State attendance reporting requirements;

(b) Intervention strategies and procedures for dealing with absenteeism at the beginning stages of the problem as well as chronic absenteeism; and

(c) A referral process to pupil services or other central office professionals for case management of chronic attendance cases.

(7) Reward process includes an identified motivational program to reward regular school attendance.

(8) Information dissemination includes methods for informing school staff, students, parents, and community members of attendance policy requirements.

(9) Appeals process includes specific due process procedures for appealing attendance violation decisions at the school and central office level.

(10) Legal foundation includes citations of legal authority for attendance policy development and implementation.

## Substance use

### LAWS

#### **4-124. Drug-free school zones.**

- (a) Regulations requiring the posting of signs. A county board may adopt regulations requiring the posting of signs designating the areas within 1,000 feet of public and nonpublic elementary and secondary schools as "drug-free school zones".
- (b) Notice of § 5-627 of the Criminal Law Article. The signs shall be designed in order to provide notice of the provisions of § 5-627 of the Criminal Law Article.
- (c) Hotline number in Anne Arundel County, Baltimore City, and Prince George's County. In Anne Arundel County, Baltimore City, and Prince George's County, all new and replacement signs shall include a hotline number to report information concerning suspected illegal drug activity.

#### **5-627. Controlled dangerous substance near school.**

- (a) Prohibited. A person may not manufacture, distribute, dispense, or possess with intent to distribute a controlled dangerous substance in violation of § 5-602 of this subtitle or conspire to commit any of these crimes:
- (1) in a school vehicle, as defined under § 11-154 of the Transportation Article; or
  - (2) in, on, or within 1,000 feet of real property owned by or leased to an elementary school, secondary school, or county board and used for elementary or secondary education.
- (b) Application of subsection (a). Subsection (a) of this section applies whether or not:
- (1) school was in session at the time of the crime; or
  - (2) the real property was being used for purposes other than school purposes at the time of the crime.
- (c) Penalty.
- (1) A person who violates this section is guilty of a felony and on conviction is subject to:
    - (i) for a first violation, imprisonment not exceeding 20 years or a fine not exceeding \$ 20,000 or both; or
    - (ii) for each subsequent violation, imprisonment not less than 5 years and not exceeding 40 years or a fine not exceeding \$ 40,000 or both.
  - (2) (i) The court may not suspend the 5-year minimum sentence required by paragraph (1)(ii) of this subsection.
    - (ii) Except as otherwise provided in § 4-305 of the Correctional Services Article, a person sentenced under paragraph (1)(ii) of this subsection is not eligible for parole during this period of the 5-year minimum sentence.
  - (3) A sentence imposed under paragraph (1) of this subsection shall be consecutive to any other sentence imposed.
- (d) Merger. Notwithstanding any other law, a conviction under this section may not merge with a conviction under § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, § 5-607, § 5-608, § 5-609, § 5-612, § 5-613, or § 5-628 of this subtitle.

#### **5-803. School employees.**

- (a) Making reports.
- (1) Whether or not an individual receives compensation for the individual's services, an employee of a county health department or other local department or agency functioning as a school nurse or school

health aide or a member of the administrative, educational, or support staff of, or an individual who serves under a contract for services to, any public, private, or parochial school is immune from liability for:

- (i) Making a report required by law, if the individual acts on reasonable grounds;
- (ii) Participating in a judicial proceeding that results from the individual's report; and
- (iii) Making a report to the appropriate school official or to a parent if the individual has reasonable grounds to suspect that a student is:
  - 1. Under the influence of alcoholic beverages or a controlled dangerous substance;
  - 2. In possession of alcoholic beverages or a controlled dangerous substance; or
  - 3. Involved in the illegal sale or distribution of alcoholic beverages or a controlled dangerous substance.

#### **7-412. Preservation of rights of student seeking to overcome drug abuse.**

(a) Inadmissibility of statement of student. If a student seeks information to overcome any form of drug abuse, as defined in § 8-101 of the Health - General Article, from a teacher, counselor, principal, or other professional educator employed by an educational institution that has received a certificate of approval under § 2-206 of this article, a statement, whether oral or written, made by the student or an observation or conclusion derived from the statement is not admissible against the student in any proceeding.

(b) Rules and regulations may not require disclosure. A rule, regulation, or order may not require disclosure of any report, statement, observation, conclusion, or other information that has been assembled or obtained by an educator through this contact.

#### **26-103. Drinking or possessing intoxicating beverages on school premises.**

(a) Prohibited conduct.

(1) Unless locally approved by the county board of education, a person may not drink or possess any alcoholic beverage on the premises of any public school.

(2) A person who drinks or possesses any alcoholic beverage and causes a public disturbance at any elementary or secondary school athletic contest may not refuse to comply with a request by a law enforcement officer to stop drinking and causing the public disturbance. If the person complies with the first request, he may not be charged under this paragraph.

(b) Penalty.

(1) Any person under 18 years of age who violates the provisions of this section shall be issued a citation and be subject to the dispositions for a violation under Title 3, Subtitle 8A of the Courts Article.

(2) Any person 18 years old or older violating the provisions of this section shall be issued a citation and be subject to § 10-119 of the Criminal Law Article.

### **REGULATIONS**

#### **13A.02.04.01. Scope.**

These regulations require each local school system to maintain a tobacco-free school environment.

#### **13A.02.04.02. Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Official school day" means the regular school day with a designated starting time and ending time as defined by the local school system.

- (2) "School buildings" means local school system owned or leased buildings.
- (3) "School grounds" means local school system owned or leased land that surrounds a school building.
- (4) Tobacco.
  - (a) "Tobacco" means products derived from the tobacco plant that are smoked, chewed, sniffed, or otherwise consumed.
  - (b) "Tobacco" does not include nicotine replacement therapy.

**13A.02.04.03. Tobacco Use.**

The sale or use of tobacco in any form is prohibited in school buildings at all times. In addition, the sale or use of tobacco in any form is prohibited on school grounds during the official school day.

**13A.02.04.04. Notification of a Tobacco-Free Environment.**

Each local school system shall post notification to students, staff, and the general public that school buildings and grounds are tobacco-free.

**13A.02.04.05. Tobacco-Free Guidelines.**

The State Department of Education shall develop guidelines to assist the local school systems in implementing a tobacco-free environment.

**13A.08.01.08. Substance Use or Distribution.**

A. Alcohol and Other Drugs. Students are prohibited from possessing or using, or both, alcohol or other drugs without a physician's prescription, in any form on the school premises.

B. Tobacco. Students are prohibited from possessing or using tobacco in any form on the school premises.

C. Alcohol and Other Drugs Policy. Consistent with Regulations .11-.15 of this chapter, COMAR 13A.08.02, and other applicable law, a local board of education shall adopt a policy on alcohol and other drug use or possession, or both, by students, which shall address at least the following areas:

- (1) Purpose;
- (2) Definition of terms;
- (3) Rules for student behavior;
- (4) Student referral procedures;
- (5) Procedures for investigating policy violations;
- (6) Due process requirements;
- (7) Provision of emergency medical care;
- (8) Confidentiality of students' educational records;
- (9) Alcohol and other drugs policy dissemination;
- (10) Staff training; and
- (11) Drug education curriculum.

D. Coordination with Local Law Enforcement.

(1) The local board of education shall notify local law enforcement officials of the local board of education's alcohol and other drugs policy.

(2) The local board of education, to the extent possible and consistent with applicable law, shall coordinate efforts with local law enforcement officials to:

- (a) Prevent alcohol and other drug abuse by students;

- (b) Detect the possession of alcohol or illegal drugs by students on school premises;
- (c) Adopt standard operating procedures regarding the reporting of activity related to alcohol and other drug abuse on school premises;
- (d) Adopt standard operating procedures regarding the investigation of activity related to alcohol and other drug abuse on school premises; and
- (e) Adopt standard operating procedures regarding the seizure and storage of contraband.

## **Bullying, harassment, or hazing**

### **LAWS**

#### **3-607. Hazing.**

- (a) Prohibited. A person may not recklessly or intentionally do an act or create a situation that subjects a student to the risk of serious bodily injury for the purpose of an initiation into a student organization of a school, college, or university.
- (b) Penalty. A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$ 500 or both.
- (c) Prohibited defense. The implied or express consent of a student to hazing is not a defense under this section.

#### **3-805. Misuse of electronic communication or interactive computer service.**

- (a) "Electronic communication" defined. In this section, "electronic communication" means the transmission of information, data, or a communication by the use of a computer or any other electronic means that is sent to a person and that is received by the person.
- (b) Prohibited. A person may not maliciously engage in a course of conduct, through the use of electronic communication, that alarms or seriously annoys another:
  - (1) with the intent to harass, alarm, or annoy the other;
  - (2) after receiving a reasonable warning or request to stop by or on behalf of the other; and
  - (3) without a legal purpose.
- (d) Exception. This section does not apply to a peaceable activity intended to express a political view or provide information to others.
- (e) Penalty. A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 500 or both.

#### **7-424. Reporting incidents of harassment or intimidation against students.**

- (a) Definitions.
  - (1) In this section the following words have the meanings indicated.
  - (2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:
    - (i) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:
      - 1. Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability; or
      - 2. Threatening or seriously intimidating; and

- (ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or
- 2. Substantially disrupts the orderly operation of a school.

(3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.

(b) Report required.

(1) The Department shall require a county board to report incidents of bullying, harassment, or intimidation against students attending a public school under the jurisdiction of the county board.

(2) An incident of bullying, harassment, or intimidation may be reported by:

- (i) A student;
- (ii) The parent, guardian, or close adult relative of a student; or
- (iii) A school staff member.

(c) Contents; distribution.

(1) The Department shall create a standard victim of bullying, harassment, or intimidation report form.

(2) Each victim of bullying, harassment, or intimidation report form shall:

- (i) Identify the victim and the alleged perpetrator, if known;
- (ii) Indicate the age of the victim and alleged perpetrator;
- (iii) Describe the incident, including alleged statements made by the alleged perpetrator;
- (iv) Indicate the location of the incident;
- (v) Identify any physical injury suffered by the victim and describe the seriousness and any permanent effects of the injury;
- (vi) Indicate the number of days a student is absent from school, if any, as a result of the incident;
- (vii) Identify any request for psychological services initiated by the victim or the victim's family due to psychological injuries suffered; and
- (viii) Include instructions on how to fill out the form and the mailing address to where the form shall be sent.

(3) A county board shall distribute copies of the victim of bullying, harassment, or intimidation report form to each public school under the county board's jurisdiction.

(d) Anonymous two-way electronic tip program.

(1) A county board may establish an anonymous two-way electronic tip program to allow the reporting of an act of bullying, harassment, or intimidation of a student.

(2) The purpose of the anonymous two-way electronic tip program is for a student, a parent, guardian, or close adult relative of a student, or a school staff member to report acts of bullying, harassment, or intimidation.

(3) Each county board that establishes an anonymous two-way electronic tip program shall publicize the anonymous two-way electronic tip program in student handbooks, school system Web sites, and other locations that the county board determines are necessary or appropriate.

(4) On receipt of a report of an act of bullying, harassment, or intimidation from an anonymous two-way electronic tip, the recipient of the report or the recipient's designee shall:

- (i) Complete a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section; and
- (ii) Provide a transcript of the conversation to a designated person in the school.

- (5) The Governor may include funding in the State budget to provide grants to county boards to establish an anonymous two-way electronic tip program.
- (e) County boards to provide annual summaries of reports to State Board; confidentiality.
- (1) Each county board shall submit summaries of report forms filed with the county board to the State Board on or before January 31 each year.
  - (2) A county board shall delete any information that identifies an individual.
- (f) Confidentiality. The information contained in a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section or received from an anonymous two-way electronic tip in accordance with subsection (d) of this section:
- (1) Is confidential and may not be redisclosed except as otherwise provided under the Family Educational Rights and Privacy Act or this section; and
  - (2) May not be made a part of a student's permanent educational record.
- (g) Departmental reporting to General Assembly.
- (1) The Department shall submit a report on or before March 31 each year to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2-1257 of the State Government Article, consisting of a summary of the information included in the victim of bullying, harassment, or intimidation report forms filed with the county boards the previous year.
  - (2) The report submitted by the Department shall include, to the extent feasible:
    - (i) A description of the act constituting the bullying, harassment, or intimidation;
    - (ii) The age of the victim and alleged perpetrator;
    - (iii) The allegation of the alleged perpetrator's motive;
    - (iv) A description of the investigation of the complaint and any corrective action taken by the appropriate school authorities;
    - (v) The number of days a student is absent from school, if any, as a result of the incident; and
    - (vi) The number of false allegations reported.

**7-424.1. Model policy prohibiting bullying, harassment and intimidation.**

- (a) Definitions.
- (1) In this section the following words have the meanings indicated.
  - (2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:
    - (i) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:
      1. Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attribute, socioeconomic status, familial status, or physical or mental ability or disability; or
      2. Threatening or seriously intimidating; and
    - (ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or
    2. Substantially disrupts the orderly operation of a school.
  - (3) (i) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.
    - (ii) "Electronic communication" includes a social media communication.

(b) In general.

(1) By March 31, 2009, the State Board, after consultation with and input from local school systems, shall develop a model policy prohibiting bullying, harassment, or intimidation in schools.

(2) The model policy developed under paragraph (1) of this subsection shall include:

- (i) A statement prohibiting bullying, harassment, and intimidation in schools;
- (ii) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;
- (iii) A definition of bullying, harassment, or intimidation that is either the same as set forth in subsection (a)(2) of this section or a definition that is not less inclusive than that definition;
- (iv) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation;
- (v) Standard consequences and remedial actions for persons found to have made false accusations;
- (vi) Model procedures for reporting acts of bullying, harassment, and intimidation;
- (vii) Model procedures for the prompt investigation of acts of bullying, harassment, and intimidation;
- (viii) Information about the types of support services available to the student bully, victim, and any bystanders;
- (ix) Information regarding the availability and use of the bullying, harassment, or intimidation form under § 7-424 of this subtitle; and
- (x) Information regarding the availability and use of an anonymous two-way electronic tip program established under § 7-424 of this subtitle.

(3) By September 1, 2016, and every 5 years thereafter, the State Board, after consultation with local school systems, shall update the model policy required under paragraph (1) of this subsection.

(c) Development of policy by county boards.

(1) Each county board shall establish a policy prohibiting bullying, harassment, or intimidation at school based on the model policy.

(2) The policy shall address the components of the model policy specified in subsection (b)(2) of this section.

(3) A county board shall develop the policy in consultation with representatives of the following groups:

- (i) Parents or guardians of students;
- (ii) School employees and administrators;
- (iii) School volunteers;
- (iv) Students; and
- (v) Members of the community.

(4) By January 1, 2017, and every 5 years thereafter, each county board shall update its policy based on the State Board's update of the model policy under subsection (b)(3) of this section.

(d) Publication of policy. Each county board shall publicize its policy in student handbooks, school system Web sites, and any other location or venue the county board determines is necessary or appropriate.

(e) Reporting procedure. Each county board policy shall include information on the procedure for reporting incidents of bullying, harassment, or intimidation, including:

- (1) A chain of command in the reporting process; and
- (2) The name and contact information for an employee of the Department, designated by the Department, who is familiar with the reporting and investigation procedures in the applicable school system.

(f) Submission of policy.

(1) By July 1, 2009, each county board shall submit its policy to the State Superintendent.

(2) By January 1, 2017, and every 5 years thereafter, each county board shall submit its updated policy to the State Superintendent.

(g) Educational programs. Each county board shall develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation in schools:

(1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and

(2) A teacher and administrator development program that trains teachers and administrators to implement the policy.

(h) Limitation of liability.

(1) A school employee who reports an act of bullying, harassment, or intimidation under this section in accordance with the county board's policy established under subsection (c) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation under this section.

(2) The provisions of this section may not be construed to limit the legal rights of a victim of bullying, harassment, or intimidation.

**7-424.3. Bullying, harassment and intimidation policy.**

(a) Definitions.

(1) In this section the following words have the meanings indicated.

(2) "Bullying, harassment, and intimidation" means any intentional written, verbal, or physical act, including an electronic communication, that:

(i) 1. Physically harms an individual;

2. Damages an individual's property;

3. Substantially interferes with an individual's education or learning environment; or

4. Places an individual in reasonable fear of harm to the individual's person or property; and

(ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or

2. Substantially disrupts the orderly operation of a school.

(3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.

(4) "Nonpublic school" means a nonpublic school that participates in State-funded education programs.

(b) Adoption by nonpublic school. By March 31, 2012, each nonpublic school shall adopt a policy prohibiting bullying, harassment, and intimidation.

(c) Contents. The policy adopted under subsection (b) of this section shall include:

(1) A statement prohibiting bullying, harassment, and intimidation in the school;

(2) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;

(3) A definition of bullying, harassment, and intimidation that is either the same as set forth in subsection (a) of this section or a definition that is not less inclusive than that definition;

(4) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation, including:

- (i) Specific penalties for persons who repeatedly commit acts of bullying, harassment, or intimidation;  
and
  - (ii) A requirement that persons who commit acts of bullying, harassment, or intimidation receive educational and therapeutic services concerning bullying prevention;
  - (5) Standard consequences and remedial actions for persons found to have made false accusations;
  - (6) Standard procedures for reporting acts of bullying, harassment, or intimidation, including a chain of command in the reporting process;
  - (7) Standard procedures for the prompt investigation of acts of bullying, harassment, or intimidation;
  - (8) Standard procedures for protecting victims of bullying, harassment, or intimidation from additional acts of bullying, harassment, or intimidation, and from retaliation; and
  - (9) Information about the types of support services available to a student bully or victim and any bystanders.
- (d) Consultation with groups. A nonpublic school is encouraged to develop the policy adopted under subsection (b) of this section in consultation with the following groups:
- (1) Parents or guardians of students;
  - (2) School employees and administrators;
  - (3) School volunteers; and
  - (4) Students.
- (e) Publication. A nonpublic school is encouraged to publicize the policy adopted under subsection (b) of this section in student handbooks, on the school's website, and any other location or venue the school determines is necessary or appropriate.
- (f) Educational programs. A nonpublic school is encouraged to develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation:
- (1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and
  - (2) A teacher and administrator development program that trains teachers and administrators to implement the policy adopted under subsection (b) of this section.
- (g) Civil liability. An employee of a nonpublic school who reports an act of bullying, harassment, or intimidation in accordance with the nonpublic school's policy adopted under subsection (b) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation in accordance with the policy.
- (h) Construction of provisions. The provisions of this section may not be construed to:
- (1) Limit the legal rights of a victim of bullying, harassment, or intimidation; or
  - (2) Require a statewide policy in nonpublic schools relating to bullying, harassment, and intimidation.

## **REGULATIONS**

### **13A.01.04.03. School Safety.**

All students in Maryland's public schools, without exception and regardless of race, ethnicity, region, religion, gender, sexual orientation, language, socioeconomic status, age, or disability, have the right to educational environments that are:

- A. Safe;
- B. Appropriate for academic achievement; and
- C. Free from any form of harassment.

## Other special infractions or conditions

### LAWS

#### **7-303. Arrest for reportable offense.**

(g) Prohibition of student to attend same school or ride the same bus as victim. -

(1) Except as otherwise provided in paragraph (2) of this subsection, 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.

(2) 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.

#### **7-424.2. Gangs and gang activity.**

(a) "School security officer" defined.

(1) In this section, "school security officer" includes a school principal, another school administrator, a law enforcement officer, or 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.

(2) "School security officer" does not include a teacher.

(b) Model policy. By March 31, 2011, the State Board, after consultation with and input from the Department of Juvenile Services, the Department of State Police, the Department of Human Services, and local school systems, shall develop a model policy to address gangs, gang activity, and similar destructive or illegal group behavior in schools.

(c) Model policy - Contents. The model policy developed under subsection (b) of this section shall include:

(1) A statement prohibiting gang activity in schools;

(2) A statement prohibiting reprisal or retaliation against individuals who report suspected gang activity;

(3) A definition of gang and gang activity;

(4) Standard consequences and remedial actions for individuals engaged in gang activity or similar destructive or illegal group behavior;

(5) Standard consequences and remedial actions for individuals found to have made false accusations;

(6) Model procedures for reporting suspected gang activity or similar destructive or illegal group behavior;

(7) Model procedures for the prompt investigation of suspected gang activity or similar destructive or illegal group behavior;

(8) Information about the types of support services, including family support services, for a student suspected of participating in gang activity; and

(9) Recommendations concerning gang prevention and intervention services and programs for students that maximize community participation and the use of federal funding.

(d) Policy or regulations by local school system.

(1) Each local school system shall establish a policy or regulations to address gangs, gang activity, and similar destructive or illegal group behavior in schools based on the model policy.

- (2) The policy or regulations shall address the components of the model policy specified in subsection (c) of this section.
- (3) Each local school system shall develop the policy or regulations in consultation with representatives of the following groups:
- (i) Parents or guardians of students;
  - (ii) School employees and administrators;
  - (iii) School volunteers;
  - (iv) Students;
  - (v) Local law enforcement;
  - (vi) Gang prevention and intervention programs;
  - (vii) The Office of the Public Defender;
  - (viii) The Maryland State's Attorneys Association; and
  - (ix) Members of the community.
- (e) Policy or regulations by local school system - Submission to State Superintendent. Each local school system shall submit its policy or regulations to the State Superintendent by September 1, 2011.
- (f) Policy or regulations by local school system - Publication. Each local school system shall publicize its policy or regulations in student handbooks, on school system Web sites, and at any other location or venue the local school system determines is necessary or appropriate.
- (g) Policy or regulations by local school system - Education programs. Each local school system shall develop the following educational programs in its efforts to address gangs, gang activity, and similar destructive or illegal group behavior in schools:
- (1) An educational gang awareness program for students, staff, volunteers, and parents; and
  - (2) A teacher and administrator development program that trains teachers and administrators to implement the policy or regulations.
- (h) Reporting of gang activity.
- (1) A school employee shall report any incidence of suspected gang activity or similar destructive or illegal group behavior promptly to the principal and, for a school that has a school security officer, to the school security officer.
  - (2) The principal and the school security officer may take appropriate action to maintain a safe and secure school environment, including the provision of appropriate intervention services.
- (i) Meetings.
- (1) Each county superintendent shall require regular school security meetings for each middle school and high school to ensure coordination of gang prevention, intervention, and suppression efforts.
  - (2) The following individuals shall participate in the meetings described in paragraph (1) of this subsection:
    - (i) School principals;
    - (ii) School security officers;
    - (iii) Guidance counselors;
    - (iv) Local law enforcement officers;
    - (v) Representatives from the county State's Attorney's Office;
    - (vi) Representatives from the Office of the Public Defender;
    - (vii) Gang prevention and intervention program representatives; and

(viii) Any other individuals that the county superintendent considers appropriate.

(j) Coordination of efforts. Each county superintendent shall enter into a memorandum of understanding with the county State's Attorney's Office to foster coordination of gang prevention, intervention, and suppression efforts.

(k) Report. On or before January 1, 2011, and each year thereafter, the Department shall submit a report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the implementation of State and local policies and regulations to address gangs, gang activity, and similar destructive or illegal group behavior described in this section.

## **REGULATIONS**

### **13A.08.01.09. Student organizations.**

A. All student organizations desiring to conduct activities in public school buildings or on public school grounds shall be permitted to conduct these activities only if authorized to do so and shall thereafter be subject to the supervision of the administration and faculty of the school.

B. Any secret, exclusive, or self-perpetuating organization which seeks to organize and perpetuate itself by taking in members from among the students enrolled in the public schools in which they are students, upon the basis of decision of the membership of the organization, rather than from the free choice of any students in the school who are qualified to fill the special aims of the organization, shall be prohibited from conducting its activities in public school buildings or on public school grounds.

## ***Prevention and Behavioral Interventions (Non-Punitive)***

### **Prevention**

#### **LAWS**

##### **7-304. Special programs for disruptive students.**

(a) Purpose of section. The purpose of this section is to require each county board of education to provide a continuum model of prevention and intervention activities and programs that encourage and promote positive behavior and reduce disruption.

##### **7-411. Drug addiction and prevention education program.**

(a) State Board to implement program. The State Board shall develop and implement a program of drug addiction and prevention education in the public schools.

(b) Teachers to be trained in drug addiction and prevention education.

(1) Except as provided in subsection (c)(2) of this section, this program shall be started before the sixth grade in each public school by teachers who are trained in the field of drug education.

(2) The State Board shall establish standards for determining how a teacher is considered to be "trained in the field of drug addiction and prevention education" for the purposes of this section.

(c) Components of program.

(1) The program shall include instruction related to heroin and opioid addiction and prevention, including information relating to the lethal effect of fentanyl.

(2) The instruction required under paragraph (1) of this subsection shall be:

(i) Delivered in grade bands as follows:

1. Third grade through fifth grade;
2. Sixth grade through eighth grade; and
3. Ninth grade through twelfth grade; and

(ii) A stand-alone unit in the program.

(d) Coordination with other State agencies. This program shall be coordinated with other State agencies that are responsible for drug abuse education and control.

##### **7-413. Alcohol abuse program.**

(a) State Board to implement program.

(1) By the fall of 1978, the State Board shall develop and implement a program of health education that deals specifically with the abuse of alcohol.

(2) This program may be included in the drug education program under § 7-411 of this subtitle.

(b) Coordination with other State agencies. This program shall be coordinated with other State agencies that are responsible for alcohol abuse education and control.

##### **7-424.1. Model policy prohibiting bullying, harassment and intimidation.**

(g) Educational programs. Each county board shall develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation in schools:

(1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and

(2) A teacher and administrator development program that trains teachers and administrators to implement the policy.

**7-424.3. Bullying, harassment and intimidation policy.**

(f) Educational programs. A nonpublic school is encouraged to develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation:

- (1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and
- (2) A teacher and administrator development program that trains teachers and administrators to implement the policy adopted under subsection (b) of this section.

**7-439. Awareness and prevention of sexual abuse and assault program.**

(a) "Nonpublic school" defined. In this section, "nonpublic school" means a noncollegiate educational institution that:

- (1) Holds a certificate of approval from the State Board under § 2-206(e) of this article; and
- (2) Participates in the Nonpublic Schools Textbook and Technology Grants Program.

(b) Development and implementation.

(1) The State Board and each nonpublic school in the State shall develop and implement a program of age-appropriate education on the awareness and prevention of sexual abuse and assault.

(2) The program required under paragraph (1) of this subsection shall be:

- (i) Taught by a teacher who is trained to provide instruction on the awareness and prevention of sexual abuse and assault; and
- (ii) Incorporated into the health curriculum of each county board and each nonpublic school.

(c) Regulations. The State Board shall adopt regulations to carry out the provisions of this section.

**REGULATIONS**

No relevant regulations found.

**Behavioral interventions and student support services**

**LAWS**

**7-304. Special programs for disruptive students.**

(a) Purpose of section. The purpose of this section is to require each county board of education to provide a continuum model of prevention and intervention activities and programs that encourage and promote positive behavior and reduce disruption.

**7-304.1. Positive behavioral interventions and support program.**

(a) "Positive Behavioral Interventions and Support Program" defined. In this section, "Positive Behavioral Interventions and Support Program" means the research-based, systems approach method adopted by the State Board to build capacity among school staff to adopt and sustain the use of positive, effective practices to create learning environments where teachers can teach and students can learn.

(b) Program established. Suspension.

- (1) Subject to paragraph (3) of this subsection, each county board shall require an elementary school that has a suspension rate that exceeds the standard specified in paragraph (2) of this subsection to implement:

- (i) A positive behavioral interventions and support program; or
- (ii) An alternative behavior modification program in collaboration with the Department.

(2) An elementary school is subject to this subsection if it has a suspension rate that exceeds:

- (i) 18 percent of its enrollment for the 2005-2006 school year;
- (ii) 16 percent of its enrollment for the 2006-2007 school year;
- (iii) 14 percent of its enrollment for the 2007-2008 school year;
- (iv) 12 percent of its enrollment for the 2008-2009 school year; and
- (v) 10 percent of its enrollment for the 2009-2010 school year and each school year thereafter.

(3) An elementary school that has already implemented a positive behavioral interventions and support program or a behavior modification program shall expand its existing program if it has a suspension rate that exceeds the standard specified in paragraph (2) of this subsection.

(c) Program established. Truancy.

(1) Subject to paragraph (3) of this subsection, each county board shall require a school that has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection to implement:

- (i) A positive behavioral interventions and support program; or
- (ii) An alternative, research-based, positive, and effective behavior modification program in collaboration with the Department.

(2) A school is subject to this subsection if it has a truancy rate that exceeds:

- (i) 8 percent of its enrollment for the 2008-2009 school year;
- (ii) 6 percent of its enrollment for the 2009-2010 school year;
- (iii) 4 percent of its enrollment for the 2010-2011 school year;
- (iv) 2 percent of its enrollment for the 2011-2012 school year; and
- (v) 1 percent of its enrollment for the 2012-2013 school year and each school year thereafter.

(3) A school that has already implemented a positive behavioral interventions and support program or a behavior modification program shall expand its program if it has a truancy rate that exceeds the standard specified in paragraph (2) of this subsection.

**7-305.1. Student enrolled in public prekindergarten program, kindergarten, first grade, or second grade - Suspension or expulsion prohibited; exceptions.**

(a) Definitions.

(1) In this section the following words have the meanings indicated.

(2) "Public prekindergarten program" means:

- (i) Any publicly funded prekindergarten program established under § 7-101.1 of this title; or
- (ii) Any qualified vendor of prekindergarten services as defined in § 7-101.2(a)(7) of this title.

(3) "Restorative practices" means practices conducted in a whole-school ethos or culture that supports peacemaking and solves conflict by building a community and addressing harm in a school setting and that:

- (i) Are conducted by trained staff;
- (ii) Focus on repairing the harm to the community through dialogue that emphasizes individual accountability; and
- (iii) Help build a sense of belonging, safety, and social responsibility in the school community.

(b) In general.

(1) Except as provided in paragraph (2) of this subsection, a student enrolled in a public prekindergarten program, kindergarten, first grade, or second grade may not be suspended or expelled from school.

(2) A student described under paragraph (1) of this subsection may only be:

- (i) Expelled from school if required by federal law; or
- (ii) Suspended for not more than 5 school days if the school administration, in consultation with a school psychologist or other mental health professional, determines that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports.

(3) The principal or school administration shall promptly contact the parent or guardian of a student suspended or expelled under paragraph (2) of this subsection.

(c) Intervention and support by school.

(1) The school shall provide intervention and support to address the student's behavior if the student is:

- (i) Suspended under subsection (b) of this section; or
- (ii) Enrolled in prekindergarten, kindergarten, first grade, or second grade and:
  - 1. Is disruptive to the school environment; or
  - 2. Commits an act that would be considered an offense subject to suspension but for the student's grade.

(2) Intervention and support provided under paragraph (1) of this subsection includes:

- (i) Positive behavior interventions and supports;
- (ii) A behavior intervention plan;
- (iii) A referral to a student support team;
- (iv) A referral to an individualized education program team; and
- (v) A referral for appropriate community-based services.

(d) Remedying impact of behavior. The school system shall remedy the impact of a student's behavior through appropriate intervention methods that may include restorative practices.

(e) Regulations. On or before May 1, 2018, the Department shall adopt regulations to carry out the requirements of this section.

**7-306. Corporal punishment; State code of discipline.**

(d) Regulations. -

(1) Subject to the provisions of subsections (b) and (c) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.

(2) The regulations adopted by a county board under this subsection:

- (i) Shall provide for educational and behavioral interventions, restorative approaches, counseling, and student and parent conferencing;
- (ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate; and
- (iii) Shall state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational.

**7-310. Dissemination of community resources list.**

(a) In general. Each county board shall develop and disseminate to each public school within the county board's jurisdiction a community resources list.

(b) Contents. The community resources list may include the name and contact information of local and statewide social services and nonprofit health care providers that provide nondiscriminatory services to children and families in need of assistance.

**7-428. Inhalant abuse training and awareness.**

(a) In general. The Department, in collaboration with the Maryland Department of Health, shall provide awareness and training for Directors of Student Services in local education agencies on inhalant abuse.

(b) Resource information and materials. The Maryland Department of Health shall provide to the Department:

- (1) Resource information on inhalant abuse to be distributed to local school supervisors of health, counseling, and psychology; and
- (2) Materials for distribution that describe local, State, and national resources to which students, parents, counselors, and school personnel can refer for information on inhalant abuse.

**7-431. Telephone number of Maryland youth crisis hotline.**

Each county board shall provide each student in grades six through twelve with the telephone number of the Maryland Youth Crisis Hotline by:

- (1) Printing the telephone number prominently in the school handbook; and
- (2) Printing the telephone number on a student's school identification card, if provided.

**7-438. Community-partnered school behavioral health services programs.**

(a) Definitions.

(1) In this section the following words have the meanings indicated.

(2) "Behavioral health services" means prevention, intervention, and treatment services for the social-emotional, psychological, behavioral, and physical health of students, including mental health and substance abuse disorders.

(3) (i) "Community-partnered school behavioral health services program" means a program that provides behavioral health services to students by community behavioral health providers in partnership with public schools and families that augment the behavioral health services and supports provided by public schools.

(ii) "Community-partnered school behavioral health services program" does not include school-based health centers.

(b) Standardized reporting system.

(1) The Department, in consultation with the Maryland Department of Health, county boards, and other interested stakeholders, as determined by the Department, shall develop and implement a standardized reporting system to determine the effectiveness of community-partnered school behavioral health services programs.

(2) The standardized reporting system developed under paragraph (1) of this subsection shall use measures that collect data on the outcomes of students who receive behavioral health services from community-partnered school behavioral health services programs, including a student's academic, behavioral, social, and emotional functioning and progress.

(c) Report to Governor and General Assembly. On or before December 1, 2017, and every 2 years thereafter, the Department shall submit a report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly that provides an analysis of the effectiveness of community-partnered school behavioral health services programs.

**7-440. Individualized or group behavioral counseling services.**

(a) Definitions.

(1) In this section the following words have the meanings indicated.

(2) "Behavioral health counseling services" means prevention, intervention, and treatment services for the social-emotional, psychological, behavioral, and physical health of students, including mental health and substance abuse disorders.

(3) "Health care provider" has the meaning stated in § 20-104 of the Health - General Article.

(b) In general.

(1) The Maryland Department of Health, in conjunction with the Department, shall recommend best practices for county boards of education to provide to students:

(i) Behavioral needs assessments; and

(ii) Individualized or group behavioral health counseling services with a health care provider through a school-based health center or through community partnered school-based behavioral health services.

(c) Construction of section. This section may not be construed to require a county board to provide behavioral needs assessments or individualized or group behavioral health counseling services to students.

**REGULATIONS**

**13A.08.01.05. Student attendance policy.**

Each local school system shall develop a student attendance policy which includes:

B. Rules, Definitions, and Procedures for Policy Implementation.

(6) Attendance-monitoring procedure includes:

(b) Intervention strategies and procedures for dealing with absenteeism at the beginning stages of the problem as well as chronic absenteeism; and

(c) A referral process to pupil services or other central office professionals for case management of chronic attendance cases.

(7) Reward process includes an identified motivational program to reward regular school attendance.

**13A.08.01.11. 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:

(5) Address the ways the educational and counseling needs of suspended students will be met; and

C. Suspension and Expulsion.

(1) 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.

#### H. Intervention and Support.

- (1) School personnel shall provide intervention and support to address the students behavior if the student is:
  - (a) Suspended under § C(1)(b) of this regulation; or
  - (b) Enrolled in a public prekindergarten program, kindergarten, first grade, or second grade and:
    - (i) Is disruptive to the school environment; or
    - (ii) Commits an act that would be considered an offense subject to suspension but for the students grade.
- (2) Intervention and support provided under § H(1) of this regulation includes:
  - (a) Positive behavior interventions and supports;
  - (b) A behavior intervention plan;
  - (c) A referral to a student support team;
  - (d) A referral to an individualized education program team; and
  - (e) A referral for appropriate community-based services.
- (3) The school system, to the best of its ability, shall remedy the impact of a students behavior on school climate through appropriate intervention methods including restorative practices.

#### **13A.08.01.17. School use of reportable offenses.**

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

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

##### B. Administrative Procedures.

- (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.

##### C. General Provisions.

- (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.
- (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.

#### **13A.08.03.07. Responsibilities of the IEP team.**

##### A. The IEP team shall meet within 10 business days of the removal of a student with a disability to develop an assessment plan if the IEP team has not:

- (1) Conducted a functional behavioral assessment; and

(2) Implemented a behavioral intervention plan to address the behavior before the behavior occurred that resulted in the student's removal as set forth in Regulation .03B or .05 of this chapter.

B. As soon as possible after the completion of the assessments determined appropriate by the IEP team as set forth in §A of this regulation, the IEP team shall meet to:

- (1) Develop appropriate behavioral interventions to address the behavior; and
- (2) Implement the behavioral intervention plan.

C. If the student with a disability has a behavioral intervention plan, the IEP team shall meet within 10 business days of the removal to review the plan to address the behavior that resulted in the removal, and determine if:

- (1) The behavioral intervention plan needs to be modified; or
- (2) The implementation of the behavioral intervention plan needs to be modified to address the behavior.

D. For subsequent disciplinary removals of the student beyond the first 10 school days the student is removed during the school year, the IEP team shall meet to review the student's behavioral intervention plan as set forth in §C of this regulation.

E. The IEP team shall modify the behavioral implementation plan and its implementation to the extent the IEP team determines necessary.

F. Meetings of the IEP team as set forth in §A of this regulation and in Regulation .08B of this chapter may be conducted at the same IEP team meeting.

#### **13A.08.04.01. Scope.**

This chapter applies to student behavior interventions by public agencies and nonpublic schools.

#### **13A.08.04.03. Student behavior interventions.**

A. General. School personnel are encouraged to use an array of positive behavior interventions, strategies, and supports to increase or decrease targeted student behaviors.

#### **13A.08.06.01. Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Alternative behavior modification program" means a research-based, positive and effective school-wide program that includes the following:

(a) Systems and practices that:

- (i) Enhance the capacity for all children to be successful; and
- (ii) Recognize appropriate behaviors and respond to behavioral violations; and

(b) A continuous assessment of school discipline data to facilitate appropriate decisions about implementation of research based practices.

(2) "Elementary school" means any comprehensive public school, excluding alternative settings or special schools, in which the school population includes any combination of students in prekindergarten through grade 5.

(3) "Habitually truant" means a student that meets all of the following criteria:

- (a) The student was age 5 through 20 during the school year;
- (b) The student was in membership in a school for 91 or more days; and

(c) The student was unlawfully absent from school for more than 20 percent of the days in membership.

(4) "Local school system" means any of the 24 local school systems in the State.

(5) "Positive behavioral interventions and support program (PBIS)" means the research-based, systems approach method adopted by the State Board to:

(a) Build capacity among school staff to adopt and sustain the use of positive, effective practices to create learning environments where teachers can teach and students can learn; and

(b) Improve the link between research-validated practices and the environments in which teaching and learning occur.

(6) "School" means any comprehensive public school in which the school population includes any combination of students in prekindergarten through grade 12, excluding alternative settings or special schools, in which the school population includes any combination of students in prekindergarten through grade 12.

(7) "Suspension rate" means the unduplicated count of students who receive out-of-school suspension as a disciplinary action during a year divided by the September 30 enrollment count.

(8) "Truancy rate" means the unduplicated count of students who are "habitually truant" from school during a school year divided by the September 30 enrollment count.

#### **13A.08.06.02. Administrative procedures - Suspension rates.**

A. Upon receipt of notification from the Department that an elementary school's out-of-school suspension rate exceeds the standard specified in §B of this regulation, the local school superintendent or the superintendent's designee shall direct the principal of the school to implement:

(1) A PBIS; or

(2) An alternative behavioral modification program developed in collaboration with the Department.

B. An elementary school is subject to this regulation if it has an out-of-school suspension rate that exceeds:

(1) 18 percent of its enrollment for the 2005-2006 school year;

(2) 16 percent of its enrollment for the 2006-2007 school year;

(3) 14 percent of its enrollment for the 2007-2008 school year;

(4) 12 percent of its enrollment for the 2008-2009 school year; and

(5) 10 percent of its enrollment for the 2009-2010 school year and each school year thereafter.

C. The school principal or the principal's designee and appropriate staff members shall:

(1) Develop a plan for implementing a program as set forth in §A of this regulation;

(2) Attend PBIS or alternative behavior modification training program approved by the Department; and

(3) Follow implementation guidelines and practices for PBIS or the alternative behavior modification training program.

D. The following apply to an elementary school that has at least one grade beyond grade 5:

(1) The suspension rates in §B of this regulation shall apply to students in prekindergarten through grade 5; and

(2) PBIS or the alternative behavioral modification program shall focus on students in prekindergarten through grade 5.

E. Nothing in this regulation precludes a school system from implementing PBIS or an alternative behavioral modification program either in specific schools or system-wide.

F. An elementary school shall expand its existing PBIS or alternative behavior modification program by providing more intensive interventions to targeted students in need of such interventions if:

- (1) The elementary school has already implemented a PBIS or an alternative behavior modification program; and
- (2) The elementary school has a suspension rate that exceeds the standard specified in §B of this regulation.

### **13A.08.06.03. Administrative procedures - Truancy rates.**

A. Upon receipt of notification from the Department that a school's habitual truancy rate exceeds the standard specified in §B of this regulation, the local school superintendent or the superintendent's designee shall direct the principal of the school to implement:

- (1) A PBIS; or
- (2) An alternative behavior modification program developed in collaboration with the Department.

B. A school is subject to this regulation if it has a truancy rate that exceeds:

- (1) 8 percent of its enrollment for the 2008-2009 school year;
- (2) 6 percent of its enrollment for the 2009-2010 school year;
- (3) 4 percent of its enrollment for the 2010-2011 school year;
- (4) 2 percent of its enrollment for the 2011-2012 school year; and
- (5) 1 percent of its enrollment for the 2012-2013 school year and each school year thereafter.

C. The school principal or the principal's designee and appropriate staff members shall:

- (1) Develop a plan for implementing a program as set forth in §A of this regulation;
- (2) Attend PBIS or alternative behavior modification training program approved by the Department; and
- (3) Follow implementation guidelines and practices for PBIS or the alternative behavior modification training program.

D. A school shall expand its existing PBIS or alternative behavior modification program by providing more intensive interventions to targeted students in need of such interventions if:

- (1) The school has already implemented a PBIS or an alternative behavior modification program; and
- (2) The school has a truancy rate that exceeds the standard specified in §B of this regulation.

E. Nothing in this regulation precludes a school system from implementing PBIS or an alternative behavioral modification program either in specific schools or system-wide.

## **Professional development**

### **LAWS**

#### **7-411. Drug addiction and prevention education program.**

(a) State Board to implement program. The State Board shall develop and implement a program of drug addiction and prevention education in the public schools.

(b) Teachers to be trained in drug addiction and prevention education.

- (1) Except as provided in subsection (c)(2) of this section, this program shall be started before the sixth grade in each public school by teachers who are trained in the field of drug education.
- (2) The State Board shall establish standards for determining how a teacher is considered to be "trained in the field of drug addiction and prevention education" for the purposes of this section.

(c) Components of program.

(1) The program shall include instruction related to heroin and opioid addiction and prevention, including information relating to the lethal effect of fentanyl.

(2) The instruction required under paragraph (1) of this subsection shall be:

(i) Delivered in grade bands as follows:

1. Third grade through fifth grade;
2. Sixth grade through eighth grade; and
3. Ninth grade through twelfth grade; and

(ii) A stand-alone unit in the program.

(d) Coordination with other State agencies. This program shall be coordinated with other State agencies that are responsible for drug abuse education and control.

#### **7-428. Inhalant abuse training and awareness.**

(a) In general. The Department, in collaboration with the Maryland Department of Health, shall provide awareness and training for Directors of Student Services in local education agencies on inhalant abuse.

(b) Resource information and materials. The Maryland Department of Health shall provide to the Department:

- (1) Resource information on inhalant abuse to be distributed to local school supervisors of health, counseling, and psychology; and
- (2) Materials for distribution that describe local, State, and national resources to which students, parents, counselors, and school personnel can refer for information on inhalant abuse.

#### **7-439. Awareness and prevention of sexual abuse and assault program.**

(a) "Nonpublic school" defined. In this section, "nonpublic school" means a noncollegiate educational institution that:

- (1) Holds a certificate of approval from the State Board under § 2-206(e) of this article; and
- (2) Participates in the Nonpublic Schools Textbook and Technology Grants Program.

(b) Development and implementation.

(1) The State Board and each nonpublic school in the State shall develop and implement a program of age-appropriate education on the awareness and prevention of sexual abuse and assault.

(2) The program required under paragraph (1) of this subsection shall be:

- (i) Taught by a teacher who is trained to provide instruction on the awareness and prevention of sexual abuse and assault; and
- (ii) Incorporated into the health curriculum of each county board and each nonpublic school.

(c) Regulations. The State Board shall adopt regulations to carry out the provisions of this section.

#### **7-1104. Consultation concerning training requirements.**

The State Superintendent shall consult with representatives of institutions of higher education and the Professional Standards and Teacher Education Board under Title 6, Subtitle 7 of this article with respect to the training requirements for teachers and administrators to ensure that sufficient training is available regarding evidence-based positive behavioral interventions, strategies, and supports consistent with professionally accepted practices and standards for persons entering the field of education.

## **REGULATIONS**

### **13A.08.06.02. Administrative procedures - Suspension rates.**

C. The school principal or the principal's designee and appropriate staff members shall:

- (2) Attend PBIS or alternative behavior modification training program approved by the Department; and

## ***Monitoring and Accountability***

### **Formal incident reporting of conduct violations**

#### **LAWS**

##### **5-803. School employees.**

###### **(a) Making reports.**

(1) Whether or not an individual receives compensation for the individual's services, an employee of a county health department or other local department or agency functioning as a school nurse or school health aide or a member of the administrative, educational, or support staff of, or an individual who serves under a contract for services to, any public, private, or parochial school is immune from liability for:

- (i) Making a report required by law, if the individual acts on reasonable grounds;
- (ii) Participating in a judicial proceeding that results from the individual's report; and
- (iii) Making a report to the appropriate school official or to a parent if the individual has reasonable grounds to suspect that a student is:
  - 1. Under the influence of alcoholic beverages or a controlled dangerous substance;
  - 2. In possession of alcoholic beverages or a controlled dangerous substance; or
  - 3. Involved in the illegal sale or distribution of alcoholic beverages or a controlled dangerous substance.

##### **7-302. Report of absences and maladjustment.**

(b) Investigation; counseling; notice to Department of Juvenile Services. On receipt of a report from a principal or head teacher of a public school that a student has been habitually truant without lawful excuse, the appropriate representative of the school system:

###### **(3) Following the investigation or intervention:**

- (i) May notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse;
- (ii) Shall notify the appropriate local department that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-819(b-1) of the Courts Article; and
- (iii) Shall notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse, if a court has given the notice authorized by § 3-8A-19(d)(5) of the Courts Article.

##### **7-424. Reporting incidents of harassment or intimidation against students.**

###### **(a) Definitions.**

(1) In this section the following words have the meanings indicated.

(2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:

- (i) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:
  - 1. Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability; or

- 2. Threatening or seriously intimidating; and
    - (ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or
      - 2. Substantially disrupts the orderly operation of a school.
  - (3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.
- (b) Report required.
- (1) The Department shall require a county board to report incidents of bullying, harassment, or intimidation against students attending a public school under the jurisdiction of the county board.
  - (2) An incident of bullying, harassment, or intimidation may be reported by:
    - (i) A student;
    - (ii) The parent, guardian, or close adult relative of a student; or
    - (iii) A school staff member.
- (c) Contents; distribution.
- (1) The Department shall create a standard victim of bullying, harassment, or intimidation report form.
  - (2) Each victim of bullying, harassment, or intimidation report form shall:
    - (i) Identify the victim and the alleged perpetrator, if known;
    - (ii) Indicate the age of the victim and alleged perpetrator;
    - (iii) Describe the incident, including alleged statements made by the alleged perpetrator;
    - (iv) Indicate the location of the incident;
    - (v) Identify any physical injury suffered by the victim and describe the seriousness and any permanent effects of the injury;
    - (vi) Indicate the number of days a student is absent from school, if any, as a result of the incident;
    - (vii) Identify any request for psychological services initiated by the victim or the victim's family due to psychological injuries suffered; and
    - (viii) Include instructions on how to fill out the form and the mailing address to where the form shall be sent.
  - (3) A county board shall distribute copies of the victim of bullying, harassment, or intimidation report form to each public school under the county board's jurisdiction.
- (d) Anonymous two-way electronic tip program.
- (1) A county board may establish an anonymous two-way electronic tip program to allow the reporting of an act of bullying, harassment, or intimidation of a student.
  - (2) The purpose of the anonymous two-way electronic tip program is for a student, a parent, guardian, or close adult relative of a student, or a school staff member to report acts of bullying, harassment, or intimidation.
  - (3) Each county board that establishes an anonymous two-way electronic tip program shall publicize the anonymous two-way electronic tip program in student handbooks, school system Web sites, and other locations that the county board determines are necessary or appropriate.
  - (4) On receipt of a report of an act of bullying, harassment, or intimidation from an anonymous two-way electronic tip, the recipient of the report or the recipient's designee shall:
    - (i) Complete a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section; and
    - (ii) Provide a transcript of the conversation to a designated person in the school.

- (5) The Governor may include funding in the State budget to provide grants to county boards to establish an anonymous two-way electronic tip program.
- (e) County boards to provide annual summaries of reports to State Board; confidentiality.
- (1) Each county board shall submit summaries of report forms filed with the county board to the State Board on or before January 31 each year.
- (2) A county board shall delete any information that identifies an individual.
- (f) Confidentiality. The information contained in a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section or received from an anonymous two-way electronic tip in accordance with subsection (d) of this section:
- (1) Is confidential and may not be redisclosed except as otherwise provided under the Family Educational Rights and Privacy Act or this section; and
- (2) May not be made a part of a student's permanent educational record.
- (g) Departmental reporting to General Assembly.
- (1) The Department shall submit a report on or before March 31 each year to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2-1257 of the State Government Article, consisting of a summary of the information included in the victim of bullying, harassment, or intimidation report forms filed with the county boards the previous year.
- (2) The report submitted by the Department shall include, to the extent feasible:
- (i) A description of the act constituting the bullying, harassment, or intimidation;
- (ii) The age of the victim and alleged perpetrator;
- (iii) The allegation of the alleged perpetrator's motive;
- (iv) A description of the investigation of the complaint and any corrective action taken by the appropriate school authorities;
- (v) The number of days a student is absent from school, if any, as a result of the incident; and
- (vi) The number of false allegations reported.

**7-424.1. Model policy prohibiting bullying, harassment and intimidation.**

- (b) In general.
- (1) By March 31, 2009, the State Board, after consultation with and input from local school systems, shall develop a model policy prohibiting bullying, harassment, or intimidation in schools.
- (2) The model policy developed under paragraph (1) of this subsection shall include:
- (vi) Model procedures for reporting acts of bullying, harassment, and intimidation;
- (vii) Model procedures for the prompt investigation of acts of bullying, harassment, and intimidation;
- (3) By September 1, 2016, and every 5 years thereafter, the State Board, after consultation with local school systems, shall update the model policy required under paragraph (1) of this subsection.
- (e) Reporting procedure. Each county board policy shall include information on the procedure for reporting incidents of bullying, harassment, or intimidation, including:
- (1) A chain of command in the reporting process; and
- (2) The name and contact information for an employee of the Department, designated by the Department, who is familiar with the reporting and investigation procedures in the applicable school system.

### **7-424.2. Gangs and gang activity.**

- (c) Model policy - Contents. The model policy developed under subsection (b) of this section shall include:
- (6) Model procedures for reporting suspected gang activity or similar destructive or illegal group behavior;
  - (7) Model procedures for the prompt investigation of suspected gang activity or similar destructive or illegal group behavior;
- (h) Reporting of gang activity.
- (1) A school employee shall report any incidence of suspected gang activity or similar destructive or illegal group behavior promptly to the principal and, for a school that has a school security officer, to the school security officer.
  - (2) The principal and the school security officer may take appropriate action to maintain a safe and secure school environment, including the provision of appropriate intervention services.

## **REGULATIONS**

### **13A.08.04.05. General Requirements for the Use of Restraint or Seclusion.**

#### **A. Use of Restraint.**

##### **(3) Documentation of the Use of Restraint.**

- (a) Each time a student is in a restraint, school personnel involved in the restraint shall debrief and document:
- (i) Other less intrusive interventions that have failed or been determined inappropriate;
  - (ii) The precipitating event immediately preceding the behavior that prompted the use of restraint;
  - (iii) The behavior that prompted the use of a restraint;
  - (iv) The names of the school personnel who observed the behavior that prompted the use of restraint; and
  - (v) The names and signatures of the staff members implementing and monitoring the use of restraint.
- (b) Documentation under § A(3) of this regulation shall include a description of the restraint event, including:
- (i) The type of restraint;
  - (ii) The length of time in restraint;
  - (iii) The student's behavior and reaction during the restraint; and
  - (iv) The name and signature of the administrator informed of the use of restraint.

(4) The documentation described in § A(3) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(5) Each time restraint is used, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student's behavior intervention plan or IEP.

#### **B. Use of Seclusion.**

##### **(7) Documentation of Seclusion.**

- (a) Each time a student is placed in seclusion, school personnel involved in the seclusion event shall debrief and document:
- (i) Other less intrusive interventions that have failed or been determined inappropriate;

- (ii) The precipitating event immediately preceding the behavior that prompted the use of seclusion;
- (iii) The behavior that prompted the use of seclusion; and
- (iv) The names and signatures of the staff members implementing and monitoring the seclusion.

(b) The documentation under § B(7) of this regulation shall include a description of the seclusion event, including:

- (i) Justification for initiating the use of seclusion;
- (ii) The length of time in seclusion;
- (iii) The student's behavior and reaction during the seclusion; and
- (iv) The name and signature of the administrator informed of the use of seclusion.

(8) The documentation described in § B(7) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(9) Unless otherwise provided for in the student's behavior intervention plan or IEP, each time seclusion is used, school personnel shall provide the student's parent with verbal notification or send written notice within 24 hours.

## Parental notification

### LAWS

No relevant laws found.

### REGULATIONS

#### **13A.08.01.12. Arrests on school premises.**

A. When possible and appropriate, arrest by police should be made during nonschool hours and away from the school premises.

B. When an arrest on school premises during the school hours is necessary, the responsible school official shall ascertain the facts from the arresting officer which will enable the school official to fully advise the parent or guardians and other school officials of the nature of the charge, the identity of the arresting officer, and the location of the student.

C. When an arrest has taken place on school premises or during school hours, every effort shall be made by school officials to inform the parent or guardians immediately and thereafter promptly to advise the local superintendent of schools.

#### **13A.08.01.13. Questioning on school premises.**

C. Except as provided in §D of this regulation, whenever investigative questioning of students is permitted on the premises, the school official shall promptly advise the parent or guardians and the local superintendent's office of the nature of the investigation and such other details as may be required.

D. School officials are not required to notify parents or guardians of investigations on school premises involving suspected child neglect and suspected child abuse under Family Law Article, Title 5, Subtitle 7, Annotated Code of Maryland.

E. In the absence of an arrest, school officials may not authorize the removal of a student from school for the purpose of investigative questioning without the consent of the parent or guardians, except as provided below:

- (1) A student may be removed from school premises if that student is a suspected victim of child abuse or neglect and the local department of social services has guardianship of the child or a court order to remove the child;
- (2) The Superintendent or the Superintendent's designee shall ensure that prompt notification of a student's removal from school under this section is made to the student's parent or guardians.

**13A.08.01.15. 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.

**13A.08.01.17. School use of reportable offenses.**

B. Administrative Procedures.

- (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.

**13A.08.01.19. Probationary and persistently dangerous school designation.**

A. Probationary Status.

- (1) The State Board of Education shall place on probationary status any school having each year for a period of 2 consecutive school years, the total number of student suspensions for more than 10 days or expulsions for any of the offenses set forth in Regulation .18B(4) of this chapter equal to 2-1/2 percent or more of the total number of students enrolled in the school.
- (2) The local school system shall notify in a timely manner the parents of each student attending the school that the State has placed the school on probationary status.

B. Persistently Dangerous Designation.

- (1) After placing a school on probationary status, the State Board of Education shall designate that school as persistently dangerous if during the next consecutive school year the total number of student suspensions for more than 10 days or expulsions for any of the offenses set forth in Regulation .18B(4) of this chapter equals 2-1/2 percent or more of the total number of students enrolled in the school.

(2) The local school system shall notify in a timely manner the parents of each student attending the school:

- (a) That the State has identified the school as persistently dangerous; and
- (b) Of the opportunity for school transfer as set forth in Regulation .20A(1) of this chapter.

**13A.08.03.04. Parental notification.**

On the date a student with a disability is removed from the student's current placement for a violation of a code of student conduct in accordance with Regulation .03B or .05 of this chapter, school personnel shall:

- A. Notify the parents of the decision; and
- B. Provide the parents with the procedural safeguards notice in accordance with COMAR 13A.05.01.11A.

**13A.08.04.05. General Requirements for the Use of Restraint or Seclusion.**

A. Use of Restraint.

(3) Documentation of the Use of Restraint.

(a) Each time a student is in a restraint, school personnel involved in the restraint shall debrief and document:

- (i) Other less intrusive interventions that have failed or been determined inappropriate;
- (ii) The precipitating event immediately preceding the behavior that prompted the use of restraint;
- (iii) The behavior that prompted the use of a restraint;
- (iv) The names of the school personnel who observed the behavior that prompted the use of restraint; and
- (v) The names and signatures of the staff members implementing and monitoring the use of restraint.

(b) Documentation under § A(3) of this regulation shall include a description of the restraint event, including:

- (i) The type of restraint;
- (ii) The length of time in restraint;
- (iii) The student's behavior and reaction during the restraint; and
- (iv) The name and signature of the administrator informed of the use of restraint.

(4) The documentation described in § A(3) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(5) Each time restraint is used, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student's behavior intervention plan or IEP.

B. Use of Seclusion.

(7) Documentation of Seclusion.

(a) Each time a student is placed in seclusion, school personnel involved in the seclusion event shall debrief and document:

- (i) Other less intrusive interventions that have failed or been determined inappropriate;
- (ii) The precipitating event immediately preceding the behavior that prompted the use of seclusion;
- (iii) The behavior that prompted the use of seclusion; and
- (iv) The names and signatures of the staff members implementing and monitoring the seclusion.

(b) The documentation under § B(7) of this regulation shall include a description of the seclusion event, including:

- (i) Justification for initiating the use of seclusion;
- (ii) The length of time in seclusion;
- (iii) The student's behavior and reaction during the seclusion; and
- (iv) The name and signature of the administrator informed of the use of seclusion.

(8) The documentation described in § B(7) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(9) Unless otherwise provided for in the student's behavior intervention plan or IEP, each time seclusion is used, school personnel shall provide the student's parent with verbal notification or send written notice within 24 hours.

## **Reporting and referrals between schools and law enforcement**

### **LAWS**

#### **7-303. Arrest for reportable offense.**

(b) Notification of local superintendent or nonpublic school principal - Arrest and charges. - If a student is arrested for a reportable offense or an offense that is related to the student's membership in a criminal gang, the law enforcement agency making the arrest:

(1) Shall notify the following individuals of the arrest and the charges within 24 hours of the arrest or as soon as practicable:

- (i) The local superintendent;
- (ii) The school principal; and
- (iii) For a school that has a school security officer, the school security officer; and

(2) May notify the State's Attorney of the arrest and charges.

(c) Notification of local superintendent or nonpublic school principal - Disposition. - The State's Attorney shall promptly notify either the local superintendent or the school principal of the disposition of the reportable offense required to be reported under subsection (b) of this section.

#### **7-303.1. School principal to report student criminal activity.**

(a) "School principal" defined. - In this section, "school principal" means the principal of a public or nonpublic school, or a designee of the principal who is an administrator.

(b) In general. - A school principal may make a report to any relevant law enforcement agency if, after an investigation is completed, the school principal has reason to believe that a student has engaged in conduct that constitutes an offense under:

- (1) Section 3-201 of the Criminal Law Article (assault in the first degree);
- (2) Section 3-202 of the Criminal Law Article (assault in the second degree);
- (3) Section 3-805 of the Criminal Law Article (misuse of electronic communication or interactive computer service); or
- (4) Section 3-809 of the Criminal Law Article (revenge porn).

#### **7-424.2. Gangs and gang activity.**

(a) "School security officer" defined.

(1) In this section, "school security officer" includes a school principal, another school administrator, a law enforcement officer, or 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.

(2) "School security officer" does not include a teacher.

(b) Model policy. By March 31, 2011, the State Board, after consultation with and input from the Department of Juvenile Services, the Department of State Police, the Department of Human Services, and local school systems, shall develop a model policy to address gangs, gang activity, and similar destructive or illegal group behavior in schools.

(c) Model policy - Contents. The model policy developed under subsection (b) of this section shall include:

(1) A statement prohibiting gang activity in schools;

(2) A statement prohibiting reprisal or retaliation against individuals who report suspected gang activity;

(3) A definition of gang and gang activity;

(4) Standard consequences and remedial actions for individuals engaged in gang activity or similar destructive or illegal group behavior;

(5) Standard consequences and remedial actions for individuals found to have made false accusations;

(6) Model procedures for reporting suspected gang activity or similar destructive or illegal group behavior;

(7) Model procedures for the prompt investigation of suspected gang activity or similar destructive or illegal group behavior;

(8) Information about the types of support services, including family support services, for a student suspected of participating in gang activity; and

(9) Recommendations concerning gang prevention and intervention services and programs for students that maximize community participation and the use of federal funding.

(d) Policy or regulations by local school system.

(1) Each local school system shall establish a policy or regulations to address gangs, gang activity, and similar destructive or illegal group behavior in schools based on the model policy.

(2) The policy or regulations shall address the components of the model policy specified in subsection (c) of this section.

(3) Each local school system shall develop the policy or regulations in consultation with representatives of the following groups:

(i) Parents or guardians of students;

(ii) School employees and administrators;

(iii) School volunteers;

(iv) Students;

(v) Local law enforcement;

(vi) Gang prevention and intervention programs;

(vii) The Office of the Public Defender;

(viii) The Maryland State's Attorneys Association; and

(ix) Members of the community.

(e) Policy or regulations by local school system - Submission to State Superintendent. Each local school system shall submit its policy or regulations to the State Superintendent by September 1, 2011.

(f) Policy or regulations by local school system - Publication. Each local school system shall publicize its policy or regulations in student handbooks, on school system Web sites, and at any other location or venue the local school system determines is necessary or appropriate.

(g) Policy or regulations by local school system - Education programs. Each local school system shall develop the following educational programs in its efforts to address gangs, gang activity, and similar destructive or illegal group behavior in schools:

- (1) An educational gang awareness program for students, staff, volunteers, and parents; and
- (2) A teacher and administrator development program that trains teachers and administrators to implement the policy or regulations.

(h) Reporting of gang activity.

(1) A school employee shall report any incidence of suspected gang activity or similar destructive or illegal group behavior promptly to the principal and, for a school that has a school security officer, to the school security officer.

(2) The principal and the school security officer may take appropriate action to maintain a safe and secure school environment, including the provision of appropriate intervention services.

(i) Meetings.

(1) Each county superintendent shall require regular school security meetings for each middle school and high school to ensure coordination of gang prevention, intervention, and suppression efforts.

(2) The following individuals shall participate in the meetings described in paragraph (1) of this subsection:

- (i) School principals;
- (ii) School security officers;
- (iii) Guidance counselors;
- (iv) Local law enforcement officers;
- (v) Representatives from the county State's Attorney's Office;
- (vi) Representatives from the Office of the Public Defender;
- (vii) Gang prevention and intervention program representatives; and
- (viii) Any other individuals that the county superintendent considers appropriate.

(j) Coordination of efforts. Each county superintendent shall enter into a memorandum of understanding with the county State's Attorney's Office to foster coordination of gang prevention, intervention, and suppression efforts.

(k) Report. On or before January 1, 2011, and each year thereafter, the Department shall submit a report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the implementation of State and local policies and regulations to address gangs, gang activity, and similar destructive or illegal group behavior described in this section.

## **REGULATIONS**

### **13A.08.01.08. Substance Use or Distribution.**

D. Coordination with Local Law Enforcement.

(1) The local board of education shall notify local law enforcement officials of the local board of education's alcohol and other drugs policy.

(2) The local board of education, to the extent possible and consistent with applicable law, shall coordinate efforts with local law enforcement officials to:

- (a) Prevent alcohol and other drug abuse by students;
- (b) Detect the possession of alcohol or illegal drugs by students on school premises;
- (c) Adopt standard operating procedures regarding the reporting of activity related to alcohol and other drug abuse on school premises;
- (d) Adopt standard operating procedures regarding the investigation of activity related to alcohol and other drug abuse on school premises; and
- (e) Adopt standard operating procedures regarding the seizure and storage of contraband.

**13A.08.01.12. Arrests on school premises.**

- A. When possible and appropriate, arrest by police should be made during nonschool hours and away from the school premises.
- B. When an arrest on school premises during the school hours is necessary, the responsible school official shall ascertain the facts from the arresting officer which will enable the school official to fully advise the parent or guardians and other school officials of the nature of the charge, the identity of the arresting officer, and the location of the student.
- C. When an arrest has taken place on school premises or during school hours, every effort shall be made by school officials to inform the parent or guardians immediately and thereafter promptly to advise the local superintendent of schools.
- D. Arrest on school premises during school hours shall be effectuated in such a manner as to avoid both embarrassment to the student being arrested and jeopardizing the safety and welfare of other students.
- E. School officials may not permit questioning of a student under arrest on the school premises and shall request the arresting officer to remove the student from the premises as soon as practicable after the arrest is made.
- F. Beginning in the 2015-2016 school year, data on school arrests shall be reported in a manner and format developed by the Department, in consultation with local school systems, and approved by the State Board.

**13A.08.01.12-1. Bringing or possessing a firearm on school property.**

- D. Administrative Procedures.
  - (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.

**13A.08.01.13. Questioning on school premises.**

- A. Police investigations involving the questioning of students may not be permitted on school premises unless in connection with a crime committed on the premises or in connection with an investigation which, if not immediately permitted, would compromise the success of that investigation or endanger the lives or safety of the students or other persons, provided, however, that a school official should be present throughout that questioning.
- B. A local school system shall permit personnel from a local department of social services or a police officer to question a student on school premises during the school day in an investigation involving suspected child neglect or suspected child abuse under Family Law Article, Title 5, Subtitle 7, Annotated Code of Maryland. The following apply:
  - (1) The local superintendent or the superintendent's designee shall determine, after consultation with the individual from the local department of social services or the police officer, whether a school official shall be present during the questioning of a student pursuant to this section.

(2) Records and reports concerning child abuse or neglect are confidential, and unauthorized disclosure is a criminal offense under Article 88A, §6(b), Annotated Code of Maryland.

C. Except as provided in §D of this regulation, whenever investigative questioning of students is permitted on the premises, the school official shall promptly advise the parent or guardians and the local superintendent's office of the nature of the investigation and such other details as may be required.

D. School officials are not required to notify parents or guardians of investigations on school premises involving suspected child neglect and suspected child abuse under Family Law Article, Title 5, Subtitle 7, Annotated Code of Maryland.

E. In the absence of an arrest, school officials may not authorize the removal of a student from school for the purpose of investigative questioning without the consent of the parent or guardians, except as provided below:

(1) A student may be removed from school premises if that student is a suspected victim of child abuse or neglect and the local department of social services has guardianship of the child or a court order to remove the child;

(2) The Superintendent or the Superintendent's designee shall ensure that prompt notification of a student's removal from school under this section is made to the student's parent or guardians.

#### **13A.08.01.14. Searches.**

D. Police officers shall conduct searches of students and the school premises in accordance with their established policies and procedures.

E. A school official may not conduct a search of the person of a student at the request of a police officer unless a search warrant has been issued authorizing the search.

#### **13A.08.01.15. 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.

#### **13A.08.01.17. 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.08.03.11. Referral to law enforcement.**

- A. A public agency may report a crime committed by a student with a disability to appropriate law enforcement authorities consistent with State law and 34 CFR §300.535.
- B. The public agency shall ensure that copies of the student's special education and disciplinary records are transmitted to the appropriate authorities to whom the public agency reported the crime, to the extent permitted, in accordance with COMAR 13A.08.02.

## **Disclosure of school records**

### **LAWS**

**4-131. Student data privacy.**

- (a) Definitions.
  - (1) In this section the following words have the meanings indicated.
  - (2)(i) "Covered information" means information or material that:
    - 1. Personally identifies an individual student in this State or that is linked to information or material that personally identifies an individual student in this State; and
    - 2. Is gathered by an operator through the operation of a site, a service, or an application.
  - (ii) "Covered information" includes a student's:
    - 1. Educational and disciplinary record;
    - 2. First and last name;
    - 3. Home address and geolocation information;
    - 4. Telephone number;
    - 5. Electronic mail address or other information that allows physical or online contact;
    - 6. Test results, grades, and student evaluations;
    - 7. Special education data;
    - 8. Criminal records;
    - 9. Medical records and health records;

10. Social Security number;
11. Biometric information;
12. Socioeconomic information;
13. Food purchases;
14. Political and religious affiliations;
15. Text messages;
16. Student identifiers;
17. Search activity;
18. Photos; and
19. Voice recordings.

(3) "Operator" means a person who is operating in accordance with a contract or an agreement with a public school or local school system in the State to provide an Internet Web site, an online service, an online application, or a mobile application that:

- (i) Is used primarily for a PreK-12 school purpose;
- (ii) Is issued at the direction of a public school, a teacher, or any other employee of a public school, local school system, or the Department; and
- (iii) Was designed and marketed primarily for a PreK-12 school purpose.

(4) "Persistent unique identifier" means a unique reference number used as an identifier in computer software that is stored across different usage sessions.

(5)(i) "PreK-12 school purpose" means an activity that:

1. Takes place at the direction of a public school, a teacher, an administrator, or a local school system; or
2. Aids in the administration of public school activities.

(ii) "PreK-12 school purpose" includes:

1. Instruction in the classroom;
2. Home instruction;
3. Administrative activities;
4. Collaboration among students, public school employees, and parents;
5. Maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application; and
6. An activity that is for the use and benefit of the public school.

(6)(i) "Targeted advertising" means presenting advertisements to an individual student that are selected based on information obtained or inferred from the student's online behavior, usage of applications, or covered information.

(ii) "Targeted advertising" does not include advertisements presented to an individual student at an online location:

1. Based on the student's current visit to the online location without collection or retention of the student's online activities over time; or
2. In response to a single search query without collection or retention of the student's online activities over time.

(b) Applicability. This section does not apply to a general audience Internet Web site, general audience online service, general audience online application, or general audience mobile application, even if log-in

credentials created for an operator's site, service, or application may be used to access the general audience site, service, or application.

(c) Operators - Duties. An operator shall:

- (1) Protect covered information from unauthorized access, destruction, use, modification, or disclosure;
- (2) Implement and maintain reasonable security procedures and practices to protect covered information; and
- (3) If covered information is under the authority of a public school or local school system in accordance with a contract or an agreement, delete within a reasonable time the covered information if the public school or local school system requests deletion of the covered information.

(d) Operators - Prohibited activities.

(1) An operator may not knowingly engage in any of the following activities with respect to the operator's site, service, or application:

- (i) Engage in targeted advertising if the advertising is based on information, including covered information and persistent unique identifiers, that the operator has acquired because of the use of the operator's site, service, or application;
- (ii) Except in furtherance of a PreK-12 school purpose, use information, including covered information and persistent unique identifiers, created or gathered by the operator's site, service, or application, to make a profile about a student;
- (iii) Subject to paragraph (2) of this subsection and except as provided in subsection (f) of this section, sell a student's information; or
- (iv) Except as provided in subsection (e) of this section, disclose covered information.

(2) Nothing in this subsection shall be construed to prohibit the operator's use of information for maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application.

(3) For purposes of paragraph (1)(ii) of this subsection, making a profile of a student does not include the collection and retention of account information that remains under the authority of a student, a student's parent or guardian, a public school, or a local school system.

(e) When disclosure permitted. Notwithstanding subsection (d)(1)(iv) of this section, an operator may disclose a student's covered information:

(1) If the disclosure is made only in furtherance of the PreK-12 school purpose of the site, service, or application and the recipient of the covered information:

- (i) Does not further disclose the information; and
- (ii) Is legally required to comply with subsections (c) and (d)(1) of this section;

(2) To ensure legal or regulatory compliance;

(3) To take precautions against liability;

(4) To respond to or participate in judicial process;

(5) To protect the safety of users or others or the security or integrity of the site, service, or application;

(6) To a service provider, provided the operator contractually:

(i) Prohibits the service provider from using any covered information for any purpose other than providing the contracted service to, or on behalf of, the operator;

(ii) Except for a purpose expressly permitted under this subsection, prohibits the service provider from disclosing covered information provided by the operator with a third party; and

(iii) Requires the service provider to comply with the requirements of subsections (c) and (d)(1)(i) through (iii) of this section;

- (7) If subsection (d)(1)(i) through (iii) of this section is not violated;
  - (8) If federal or State law requires the operator to disclose the information, and the operator complies with the requirements of federal and State law in protecting and disclosing the information;
  - (9) For a legitimate research purpose as:
    - (i) Required by federal or State law; or
    - (ii) Allowed by federal or State law and under the direction of a public school, local school system, or the Department, if a student's covered information is not used for advertising or to make a profile on the student for a purpose other than a PreK-12 school purpose; or
  - (10) To a State or local education agency, including public schools and local school systems, for a PreK-12 school purpose, as permitted by federal and State law.
- (f) Successor entities to operators subject to section. If an operator of a site, a service, or an application used for a PreK-12 school purpose is merged with or acquired by another entity, the successor entity is subject to this section for previously collected covered information.
- (g) Operators - Permitted actions. Nothing in this section prohibits an operator from:
- (1) Using aggregated or de-identified covered information:
    - (i) To develop or improve an educational product or service within any site, service, or application the operator owns; or
    - (ii) To demonstrate the effectiveness of the operator's products or services; or
  - (2) Sharing aggregated or de-identified covered information for the development or improvement of educational sites, services, or applications.
- (h) Use or disclosure of covered information by operator.
- (1) Except for subsection (d)(1)(iii) of this section and subject to paragraph (2) of this subsection, nothing in subsections (d) and (e) of this section may be construed to prohibit the use or disclosure of a student's covered information by an operator.
  - (2) An operator may use or disclose covered information under paragraph (1) of this subsection if the operator:
    - (i) Provided clear and conspicuous notice of the use or disclosure of the student's covered information to the student or the student's parent or guardian; and
    - (ii) Obtained the affirmative consent of the student, if the student is at least 18 years old, or the student's parent or guardian to use or disclose the student's covered information.
- (i) Authority of law enforcement agency to obtain content or information. This section may not be construed to limit the authority of a law enforcement agency to obtain content or information from an operator as authorized by federal or State law or in accordance with an order of a court of competent jurisdiction.
- (j) Use of information for adaptive or customized student learning purposes; permitted uses for other purposes. This section does not limit the ability of an operator to:
- (1) Use a student's covered information for adaptive learning or customized student learning purposes;
  - (2) Use recommendation engines to recommend to a student additional content or services relating to an educational, other learning, or employment opportunity purpose within an operator's site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party;
  - (3) Respond to a student's search query, other request for information, or request for feedback if the information or response is not determined in whole or in part by payment or other consideration from a third party; or

- (4) Use or retain covered information to:
  - (i) Ensure legal or regulatory compliance; or
  - (ii) Take precautions against liability.
- (k) Direct marketing to parents. This section may not be construed to prohibit an operator of an Internet Web site, an online service, an online application, or a mobile application from marketing educational products directly to parents if the marketing was not a result of the use of covered information obtained by the operator through the provision of services covered under this section.
- (l) Duty of software or application providers. This section may not be construed to impose a duty on a provider of an electronic store, a gateway, marketplace, or any other means of purchasing or downloading software or applications to review or enforce compliance of this section.
- (m) Duty of third-party providers of interactive services. This section may not be construed to impose a duty on a provider of an interactive computer service, as defined in Chapter 5, Title 47 of the United States Code, to review or enforce compliance with this section by third-party content providers.
- (n) Students handling student's own data. This section may not be construed to impede the ability of students to download, export, transfer, or otherwise save or maintain their own data or documents.
- (o) Internet service providers. The provisions of this section may not be construed to prohibit an Internet service provider from providing Internet connectivity to public schools, students, or students' families.

**7-303. Arrest for reportable offense.**

- (d) Information confidential. Except by order of a juvenile court or other court upon good cause shown, the information obtained by an individual pursuant to subsections (b) and (c) of this section:
  - (1) Is confidential and may not be redisclosed by subpoena or otherwise except as provided pursuant to subsections (e) and (f) of this section; and
  - (2) May not be made part of the student's permanent educational record.
- (e) Information confidential. Exception.
  - (1) Notwithstanding the provisions of subsection (d) of this section, nothing shall prohibit a local superintendent or school principal from transmitting the information obtained pursuant to subsections (b) and (c) of this section as a confidential file to the local superintendent of another public school system in the State or another nonpublic school in the State in which the student has enrolled or been transferred in order to carry out the purposes of this section if the disposition of the reportable offense was a conviction or an adjudication of delinquency or the criminal charge or delinquency petition is still pending.
  - (2) A local superintendent or school principal who transmits information about a student under this subsection shall include in the transmittal information regarding any educational programming and related services provided to the student.
- (f) Regulations in limiting use of information. - The State Board shall adopt regulations to ensure that information obtained by a local superintendent, a school principal, or a school security officer under subsections (b), (c), and (e) of this section is:
  - (1) Used to provide appropriate educational programming and related services to the student and to maintain a safe and secure school environment for students and school personnel;
  - (2) Transmitted only to school personnel of the school in which the student is enrolled as necessary to carry out the purposes set forth in item (1) of this subsection; and
  - (3) Destroyed when the student graduates or otherwise permanently leaves school or turns 22 years old, whichever occurs first.

**24-701. Definitions.**

- (a) In general. In this subtitle the following words have the meanings indicated.
- (b) Center. "Center" means the Maryland Longitudinal Data System Center.
- (c) De-identified data. "De-identified data" means a data set in which parent and student identity information, including the State Assigned Student Identifier and student Social Security number, has been removed.
- (d) Governing Board. "Governing Board" means the Governing Board of the Maryland Longitudinal Data System Center.
- (e) State Assigned Student Identifier or SASID. "State Assigned Student Identifier" or "SASID" means the identifier assigned to each student by:
  - (1) A local education agency based on the identifier system developed by the State Department of Education; or
  - (2) An institution of higher education, if the student has not been assigned an identifier by a local education agency.
- (f) Student data.
  - (1) "Student data" means data relating to or impacting student performance.
  - (2) "Student data" includes:
    - (i) State and national assessments;
    - (ii) Course-taking and completion;
    - (iii) Grade point average;
    - (iv) Remediation;
    - (v) Retention;
    - (vi) Degree, diploma, or credential attainment;
    - (vii) Enrollment;
    - (viii) Demographic data;
    - (ix) Juvenile delinquency records; and
    - (x) Elementary and secondary school disciplinary records.
  - (3) "Student data" does not include:
    - (i) Criminal and CINA records; and
    - (ii) Medical and health records
- (g) Workforce data. "Workforce data" means data relating to:
  - (1) Employment status;
  - (2) Wage information;
  - (3) Geographic location of employment; and
  - (4) Employer information.

**24-702. Maryland longitudinal data system.**

- (a) Established. The State Department of Education, Maryland Higher Education Commission, University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Department of Labor, Licensing, and Regulation jointly shall establish the Maryland Longitudinal Data System that shall be fully operational by December 31, 2014.

(b) In general. The Maryland Longitudinal Data System is a statewide data system that contains individual-level student data and workforce data from all levels of education and the State's workforce, and allows the Center to:

- (1) Effectively organize, manage, disaggregate, and analyze individual student data; and
- (2) Examine student progress and outcomes over time, including preparation for postsecondary education and the workforce.

(c) Time period for linkage of student data and workforce data. The linkage of student data and workforce data for the purposes of the Maryland Longitudinal Data System shall be limited to no longer than 20 years from the date of latest attendance in any educational institution in the State.

(d) Purpose. The purpose of the Maryland Longitudinal Data System is to:

- (1) Generate timely and accurate information about student performance that can be used to improve the State's education system and guide decision makers at all levels; and
- (2) Facilitate and enable the linkage of student data and workforce data.

**24-703. Maryland longitudinal data system center.**

(a) Established. There is a Maryland Longitudinal Data System Center.

(b) Status. The Center is an independent unit within State government.

(c) Placement and location. The organizational placement and location of the Center shall be determined by the Governing Board.

(d) Head; additional staff.

- (1) The head of the Center is the Executive Director, who shall be appointed by the Governing Board.
- (2) The Center may employ the additional staff necessary to carry out the Center's functions as provided in the State budget.

(e) Authorized representative. The Center shall be considered an authorized representative of the State Department of Education and the Maryland Higher Education Commission under applicable federal and State statutes for purposes of accessing and compiling student record data for research purposes.

(f) Functions and duties. The Center shall perform the following functions and duties:

- (1) Serve as a central repository of student data and workforce data in the Maryland Longitudinal Data System, including data sets provided by:
  - (i) The State Department of Education;
  - (ii) Local education agencies;
  - (iii) The Maryland Higher Education Commission;
  - (iv) Institutions of higher education;
  - (v) The Department of Labor, Licensing, and Regulation; and
  - (vi) The Department of Juvenile Services;
- (2) Oversee and maintain the warehouse of the Maryland Longitudinal Data System data sets;
- (3) Ensure routine and ongoing compliance with the federal Family Educational Rights and Privacy Act and other relevant privacy laws and policies, including:
  - (i) The required use of de-identified data in data research and reporting;
  - (ii) The required disposition of information that is no longer needed;
  - (iii) Providing data security, including the capacity for audit trails;
  - (iv) Providing for performance of regular audits for compliance with data privacy and security standards; and

- (v) Implementing guidelines and policies that prevent the reporting of other potentially identifying data;
- (4) Conduct research using timely and accurate student data and workforce data to improve the State's education system and guide decision making by State and local governments, educational agencies, institutions, teachers, and other education professionals;
- (5) Conduct research relating to:
  - (i) The impact of State and federal education programs;
  - (ii) The performance of educator preparation programs; and
  - (iii) Best practices regarding classroom instruction, education programs and curriculum, and segment alignment;
- (6) Fulfill information and data requests to facilitate State and federal education reporting with existing State agencies as appropriate; and
- (7) Fulfill approved public information requests.
- (g) Access, use, release, and sale of data.
  - (1) Direct access to data in the Maryland Longitudinal Data System shall be restricted to authorized staff of the Center.
  - (2) The Center may only use de-identified data in the analysis, research, and reporting conducted by the Center.
  - (3) The Center may only use aggregate data in the release of data in reports and in response to data requests.
  - (4) Data that may be identifiable based on the size or uniqueness of the population under consideration may not be reported in any form by the Center.
  - (5) The Center may not release or sell information that may not be disclosed under the federal Family Educational Rights and Privacy Act and other relevant privacy laws and policies.
- (h) Funding. The Center may receive funding from the following sources:
  - (1) State appropriations;
  - (2) Grants or other assistance from local education agencies and institutions of higher education;
  - (3) Federal grants; and
  - (4) Any other grants or contributions from public or private entities received by the Center.

**24-703.1. Maryland longitudinal data system center - reports.**

The Center shall report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly on or before December 15 of each year, disaggregated by local school system, regarding:

- (1) The number of students who are dually enrolled under Title 18, Subtitle 14A of this article; and
- (2) The number and course name of the courses in which a student under item (1) of this section dually enrolls at the high school and at the public institution of higher education.

**24-704. Governing board.**

- (a) Established. There is a Governing Board of the Center.
- (b) Members. The Governing Board shall include the following members:
  - (1) The Secretary of Higher Education, or the Secretary's designee;
  - (2) The Chancellor of the University System of Maryland, or the Chancellor's designee;
  - (3) The President of Morgan State University, or the President's designee;

- (4) The State Superintendent of Schools, or the Superintendent's designee;
  - (5) The Secretary of Juvenile Services, or the Secretary's designee;
  - (6) The Secretary of Labor, Licensing, and Regulation, or the Secretary's designee;
  - (7) A representative of local superintendents of schools, appointed by the Governor with the advice and consent of the Senate;
  - (8) The Executive Director of the Maryland Association of Community Colleges, or the Executive Director's designee;
  - (9) The President of the Maryland Independent College and University Association, or the President's designee; and
  - (10) Four members of the public, appointed by the Governor with the advice and consent of the Senate.
- (c) Public member. One of the public members of the Governing Board shall have expertise in large data systems and data security.
- (d) Chair. The Governor shall appoint a chair of the Governing Board from among its members.
- (e) Term. A member appointed by the Governor:
- (1) Serves at the pleasure of the Governor;
  - (2) Serves for a term of 3 years and until a successor is appointed and qualifies; and
  - (3) May be reappointed but may not serve more than two consecutive terms.
- (f) Compensation and reimbursement for expenses. A member of the Governing Board:
- (1) May not receive compensation as a member of the Governing Board; but
  - (2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (g) Responsibilities. The Governing Board shall:
- (1) Establish the organizational placement and location of the Center after seeking and evaluating proposals from interested entities based on criteria that shall include:
    - (i) The ability of the entity to support the operation of a large data system;
    - (ii) Strength of funding support; and
    - (iii) Expertise in data security;
  - (2) Develop an implementation plan to phase in the establishment and operation of the Maryland Longitudinal Data System and the Center;
  - (3) Provide general oversight and direction to the Center;
  - (4) Approve the annual budget for the Center;
  - (5) Establish the policy and research agenda of the Center;
  - (6) Before the incorporation of any individual data in the Maryland Longitudinal Data System:
    - (i) Create an inventory of the individual student data:
      - 1. Proposed to be maintained in the system; and
      - 2. Required to be reported by State and federal education mandates;
    - (ii) Develop and implement policies to comply with the federal Family Educational Rights and Privacy Act and any other privacy measures, as required by law or the Governing Board; and
    - (iii) Develop a detailed data security and safeguarding plan that includes:
      - 1. Authorized access and authentication for authorized access;
      - 2. Privacy compliance standards;

3. Privacy and security audits;
  4. Breach notification and procedures; and
  5. Data retention and disposition policies;
- (7) Oversee routine and ongoing compliance with the federal Family Educational Rights and Privacy Act and other relevant privacy laws and policies;
- (8) Ensure that any contracts that govern databases that are outsourced to private vendors include express provisions that safeguard privacy and security and include penalties for noncompliance;
- (9) Designate a standard and compliance timeline for electronic transcripts that includes the use of SASID to ensure the uniform and efficient transfer of student data between local education agencies and institutions of higher education; and
- (10) Review research requirements and set policies for the approval of data requests from State and local agencies, the Maryland General Assembly, and the public.

**24-705. Report.**

- (a) Annual report. The Governing Board shall report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly on or before December 15 of each year.
- (b) Contents. The report shall include:
- (1) An update on the implementation of the Maryland Longitudinal Data System and the Center's activities;
  - (2) A list of all studies performed by the Center during the reporting period;
  - (3) A list of currently warehoused data that is determined to be no longer necessary to carry out the mission of the Center;
  - (4) Any proposed or planned expansion of data maintained in the database; and
  - (5) Any other recommendations made by the Governing Board.

**24-706. Regulations.**

The Center shall adopt regulations to implement the provisions of this subtitle.

**24-707. Transfer of student data and workforce data.**

- (a) Agencies, community colleges and public senior higher education institutions. Local education agencies, community colleges, public senior higher education institutions, and State agencies shall:
- (1) Make every effort to comply with the data requirements and implementation schedule for the Maryland Longitudinal Data System as set forth by the Governing Board; and
  - (2) Transfer student data and workforce data to the Maryland Longitudinal Data System in accordance with the data security and safeguarding plan developed under § 24-704(g)(6) of this subtitle.
- (b) Private secondary schools. Private secondary schools may transfer student data and workforce data to the Maryland Longitudinal Data System in accordance with the data security and safeguarding plan developed under § 24-704(g)(6) of this subtitle.
- (c) For-profit and private nonprofit institutions of higher education, and institutions of post-secondary education.
- (1) For-profit institutions of higher education, private nonprofit institutions of higher education that do not receive State funds, and institutions of higher education that are required to register under § 11-202.2 of this article shall transfer student-level enrollment data, degree data, and financial aid data for all Maryland residents to the Maryland Longitudinal Data System in accordance with the data security and safeguarding plan developed under § 24-704(g)(6) of this subtitle.

(2) Private nonprofit institutions of higher education that receive State funds shall transfer student-level enrollment data, degree data, financial aid data, and credit data for all students to the Maryland Longitudinal Data System in accordance with the data security and safeguarding plan developed under § 24-704(g)(6) of this subtitle.

(3) An institution that transfers or discloses student-level data under paragraph (1) or (2) of this subsection is not liable for a breach of confidentiality or for a disclosure, use, retention, or destruction of the data that results from an act or omission by:

- (i) The Maryland Longitudinal Data System Center;
- (ii) A State agency; or
- (iii) A person provided access to the data by the Maryland Longitudinal Data System Center or a State agency.

(4) If the Maryland Independent College and University Association transfers or discloses student-level data to the Maryland Longitudinal Data System or a State agency on behalf of a private nonprofit institution of higher education under paragraph (1) or (2) of this subsection, the association is not liable for a breach of confidentiality or for a disclosure, use, retention, or destruction of the data that results from an act or omission by:

- (i) The Maryland Longitudinal Data System Center;
- (ii) A State agency; or
- (iii) A person provided access to the data by the Maryland Longitudinal Data System Center or a State agency.

## **REGULATIONS**

### **13A.08.01.11. Disciplinary action.**

#### **C. Suspension and Expulsion.**

(9) 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.

### **13A.08.01.17. School use of reportable offenses.**

#### **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.

## **Data collection, review, and reporting of disciplinary policies and actions**

### **LAWS**

#### **7-302. Report of absences and maladjustment.**

(a) Immediate report required. - The principal or head teacher of each public or private school in this State shall report immediately to the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent the name of each child enrolled in his school who has been absent or irregular in attendance, without lawful excuse, or who shows evidence of maladjustment, so that the causes may be studied and solutions worked out.

(c) Student information. - The county superintendent, the superintendent's designee, or the supervisor of pupil personnel shall provide to the local education agency information regarding the number of students identified as being habitually truant.

#### **7-306. Corporal punishment; State code of discipline.**

(e) Disaggregation of data. -

(1) On or before October 1 each year, the Department shall submit to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly, a student discipline data report that includes a description of the uses of restorative approaches in the State and a review of disciplinary practices and policies in the State.

(2) The Department shall disaggregate the information in any student discipline data report prepared by the Department by race, ethnicity, gender, disability status, eligibility for free or reduced price meals or an equivalent measure of socioeconomic status, English language proficiency, and type of discipline for:

(i) The State;

(ii) Each local school system; and

(iii) Each public school.

(3) Special education-related data in any report prepared under this subsection shall be disaggregated by race, ethnicity, and gender.

(f) Collection of data on alternative school discipline practices. -

(1) In this subsection, "alternative school discipline practice" means a discipline practice used in a public school that is not an in-school suspension or an out-of-school suspension.

(2) The Department shall collect data on alternative school discipline practices in public schools for each local school system, including:

(i) The types of alternative school discipline practices that are used in a local school system; and

(ii) The type of misconduct for which an alternative discipline practice is used.

#### **7-424. Reporting incidents of harassment or intimidation against students.**

(a) Definitions.

(1) In this section the following words have the meanings indicated.

(2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:

(i) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:

1. Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, or physical or mental ability or disability; or

2. Threatening or seriously intimidating; and

(ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or

2. Substantially disrupts the orderly operation of a school.

(3) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.

(b) Report required.

(1) The Department shall require a county board to report incidents of bullying, harassment, or intimidation against students attending a public school under the jurisdiction of the county board.

(2) An incident of bullying, harassment, or intimidation may be reported by:

(i) A student;

(ii) The parent, guardian, or close adult relative of a student; or

(iii) A school staff member.

(c) Contents; distribution.

(1) The Department shall create a standard victim of bullying, harassment, or intimidation report form.

(2) Each victim of bullying, harassment, or intimidation report form shall:

(i) Identify the victim and the alleged perpetrator, if known;

(ii) Indicate the age of the victim and alleged perpetrator;

(iii) Describe the incident, including alleged statements made by the alleged perpetrator;

(iv) Indicate the location of the incident;

(v) Identify any physical injury suffered by the victim and describe the seriousness and any permanent effects of the injury;

- (vi) Indicate the number of days a student is absent from school, if any, as a result of the incident;
- (vii) Identify any request for psychological services initiated by the victim or the victim's family due to psychological injuries suffered; and
- (viii) Include instructions on how to fill out the form and the mailing address to where the form shall be sent.

(3) A county board shall distribute copies of the victim of bullying, harassment, or intimidation report form to each public school under the county board's jurisdiction.

(d) Anonymous two-way electronic tip program.

(1) A county board may establish an anonymous two-way electronic tip program to allow the reporting of an act of bullying, harassment, or intimidation of a student.

(2) The purpose of the anonymous two-way electronic tip program is for a student, a parent, guardian, or close adult relative of a student, or a school staff member to report acts of bullying, harassment, or intimidation.

(3) Each county board that establishes an anonymous two-way electronic tip program shall publicize the anonymous two-way electronic tip program in student handbooks, school system Web sites, and other locations that the county board determines are necessary or appropriate.

(4) On receipt of a report of an act of bullying, harassment, or intimidation from an anonymous two-way electronic tip, the recipient of the report or the recipient's designee shall:

(i) Complete a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section; and

(ii) Provide a transcript of the conversation to a designated person in the school.

(5) The Governor may include funding in the State budget to provide grants to county boards to establish an anonymous two-way electronic tip program.

(e) County boards to provide annual summaries of reports to State Board; confidentiality.

(1) Each county board shall submit summaries of report forms filed with the county board to the State Board on or before January 31 each year.

(2) A county board shall delete any information that identifies an individual.

(f) Confidentiality. The information contained in a victim of bullying, harassment, or intimidation report form in accordance with subsection (c) of this section or received from an anonymous two-way electronic tip in accordance with subsection (d) of this section:

(1) Is confidential and may not be redisclosed except as otherwise provided under the Family Educational Rights and Privacy Act or this section; and

(2) May not be made a part of a student's permanent educational record.

(g) Departmental reporting to General Assembly.

(1) The Department shall submit a report on or before March 31 each year to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee, in accordance with § 2-1257 of the State Government Article, consisting of a summary of the information included in the victim of bullying, harassment, or intimidation report forms filed with the county boards the previous year.

(2) The report submitted by the Department shall include, to the extent feasible:

(i) A description of the act constituting the bullying, harassment, or intimidation;

(ii) The age of the victim and alleged perpetrator;

(iii) The allegation of the alleged perpetrator's motive;

- (iv) A description of the investigation of the complaint and any corrective action taken by the appropriate school authorities;
- (v) The number of days a student is absent from school, if any, as a result of the incident; and
- (vi) The number of false allegations reported.

**7-424.2. Gangs and gang activity.**

(k) Report. On or before January 1, 2011, and each year thereafter, the Department shall submit a report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the implementation of State and local policies and regulations to address gangs, gang activity, and similar destructive or illegal group behavior described in this section.

**7-438. Community-partnered school behavioral health services programs.**

(a) Definitions.

(1) In this section the following words have the meanings indicated.

(2) "Behavioral health services" means prevention, intervention, and treatment services for the social-emotional, psychological, behavioral, and physical health of students, including mental health and substance abuse disorders.

(3) (i) "Community-partnered school behavioral health services program" means a program that provides behavioral health services to students by community behavioral health providers in partnership with public schools and families that augment the behavioral health services and supports provided by public schools.

(ii) "Community-partnered school behavioral health services program" does not include school-based health centers.

(b) Standardized reporting system.

(1) The Department, in consultation with the Maryland Department of Health, county boards, and other interested stakeholders, as determined by the Department, shall develop and implement a standardized reporting system to determine the effectiveness of community-partnered school behavioral health services programs.

(2) The standardized reporting system developed under paragraph (1) of this subsection shall use measures that collect data on the outcomes of students who receive behavioral health services from community-partnered school behavioral health services programs, including a student's academic, behavioral, social, and emotional functioning and progress.

(c) Report to Governor and General Assembly. On or before December 1, 2017, and every 2 years thereafter, the Department shall submit a report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly that provides an analysis of the effectiveness of community-partnered school behavioral health services programs.

**7-1102. Reports and guidance.**

Beginning with the 2018-2019 school year, on or before December 1 each year:

(1) Each public agency and nonpublic school shall submit to the Department a report for the prior school year on the number of physical restraint and seclusion incidents, disaggregated by the student's jurisdiction, disability, race, gender, age, and type of placement.

(2) Each public agency and nonpublic school shall submit to the Department a report for the prior school year on the professional development provided to designated school personnel related to positive behavioral interventions, strategies, and supports and trauma-informed interventions.

(3) Each public agency and nonpublic school shall:

- (i) Personally observe and review seclusion rooms;
  - (ii) Review training plans for the use of seclusion; and
  - (iii) Report to the Department regarding findings made under items (i) and (ii) of this paragraph.
- (4) The Department shall:
- (i) Provide guidance to public agencies and nonpublic schools regarding the requirements of the use of seclusion and rooms for seclusion; and
  - (ii) Report to the General Assembly, in accordance with § 2-1257 of the State Government Article, regarding findings and recommendations reported to the Department under this section.

## **REGULATIONS**

### **13A.08.01.11. 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.

### **13A.08.01.12. Arrests on school premises.**

A. When possible and appropriate, arrest by police should be made during nonschool hours and away from the school premises.

F. Beginning in the 2015-2016 school year, data on school arrests shall be reported in a manner and format developed by the Department, in consultation with local school systems, and approved by the State Board.

### **13A.08.01.12-1. Bringing or possessing a firearm on school property.**

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.

**13A.08.01.15. 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.08.01.21 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.

## ***School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers***

### **Authority and power to implement school arrest**

#### **LAWS**

##### **4-318. Baltimore City School Police Force.**

(a) "Baltimore City school police officer" defined. In this section, "Baltimore City school police officer" means any person who, when acting in an official capacity, is authorized by law to make arrests and who is a member of the Baltimore City School Police Force.

(b) Established. There is a Baltimore City School Police Force.

(c) Members. The members of the Baltimore City School Police Force shall be employees of and be appointed by the Baltimore City Board of School Commissioners.

(d) Powers; limitations; carrying a weapon.

(1) Except as provided in paragraph (3) of this subsection, a Baltimore City school police officer has all the powers of a law enforcement officer in the State.

(2)(i) A Baltimore City school police officer may act in an official capacity only on the premises of schools and any other property used for educational purposes owned, leased, or operated by, or under the control of the Baltimore City Board of School Commissioners.

(ii) A Baltimore City school police officer may not act in an official capacity on any other property unless:

1. Engaged in fresh pursuit of a suspected offender;
2. Requested or authorized to do so by the Police Commissioner of Baltimore City;
3. The exercise of power is necessary to facilitate the orderly flow of traffic to and from property owned, leased, operated by, or under the control of the Baltimore City School System; or
4. Ordered to do so by the Mayor of Baltimore City.

(3)(i) Notwithstanding any other provision of law, a Baltimore City school police officer whose permanent or temporary assignment is at a school or on school property may carry a firearm on the premises of the school to which the officer is assigned before or after regular school hours on school days and on days other than school days. § 26-102. Trespass on the grounds of a public institution of elementary, secondary, or higher education.

##### **7-303. Arrest for reportable offense.**

(a)(8)(i) "School security officer" includes a school principal, another school administrator, a law enforcement officer, or 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.

(ii) "School security officer" does not include a teacher.

(i) Designation of school security officer. Each public school that enrolls students in grades six through twelve in the State shall designate at least one school security officer.

##### **7-307. Principals, teachers, and school security guards intervening in fights.**

(a) Authority to intervene; degree of force.

(1) A principal, teacher, school security guard, or other school system personnel in any public school may take reasonable action necessary to prevent violence on school premises or on a school-sponsored trip, including intervening in a fight or physical struggle that takes place in his or her presence, whether the fight is among students or other individuals.

(2) The degree and force of the intervention may be as reasonably necessary to prevent violence, restore order and to protect the safety of the combatants and surrounding individuals.

**26-102. Trespass on the grounds of a public institution of elementary, secondary, or higher education.**

(a) "School resource officer" defined. In this section, "school resource officer" means a law enforcement officer as defined under § 3-101(e) of the Public Safety Article who has been assigned to a school in accordance with a memorandum of understanding between the chief of a law enforcement agency as defined under § 3-101(b) of the Public Safety Article and the local education agency.

(b) Denial of access to school grounds. The governing board, president, superintendent, principal, or school resource officer of any public institution of elementary, secondary, or higher education, or a person designated in writing by the board or any of these persons, may deny access to the buildings or grounds of the institution to any other person who:

(1) Is not a bona fide, currently registered student, or staff or faculty member at the institution, and who does not have lawful business to pursue at the institution;

(2) Is a bona fide, currently registered student at the institution and has been suspended or expelled from the institution, for the duration of the suspension or expulsion; or

(3) Acts in a manner that disrupts or disturbs the normal educational functions of the institution.

(c) Staff may demand identification. Administrative personnel, authorized employees of any public institution of elementary, secondary, or higher education, and persons designated in subsection (b) of this section may demand identification and evidence of qualification from any person who desires to use or enter the premises of the institution.

(d) Agreement with law enforcement agencies. The governing board of any public institution of elementary, secondary, or higher education may enter into an agreement with appropriate law enforcement agencies to carry out the responsibilities of this section when:

(1) The institution is closed; or

(2) None of the persons designated in subsection (b) of this section are present in the buildings or on the grounds of the institution.

(e) Penalty. A person is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 1,000, imprisonment not exceeding 6 months, or both if he:

(1) Trespasses on the grounds of any public institution of elementary, secondary, or higher education;

(2) Fails or refuses to leave the grounds of any of these institutions after being requested to do so by a person designated in subsection (b) of this section as being authorized to deny access to the buildings or grounds of the institution; or

(3) Willfully damages or defaces any building, furnishing, statue, monument, memorial, tree, shrub, grass, or flower on the grounds of any of these institutions.

**REGULATIONS**

No relevant regulations found.

## Certification or training

### LAWS

#### **4-318. Baltimore City School Police Force.**

(d) Powers; limitations; carrying a weapon.-

(3)(ii) The Baltimore City Board of School Commissioners shall establish policies to implement the provisions of subparagraph (i) of this paragraph.

(e) Requirements; standards for performance.

(1) In consultation with the Maryland Police Training Commission, the Civil Service Commission of Baltimore City shall adopt:

(i) Requirements for education, training, human and public relations skills, and moral character that an applicant must meet to qualify for employment as a Baltimore City school police officer; and

(ii) Standards for the performance of duties.

(2) Any requirements adopted by the Civil Service Commission on or after July 1, 1991 may not affect the status of any individual who is a qualified Baltimore City school police officer on that date.

#### **7-430. Cultural competency model training curriculum.**

(a) Development. - The Maryland Police Training and Standards Commission, in consultation with the Department, shall develop a cultural competency model training curriculum for law enforcement officers assigned to public schools.

(b) Contents. -

(1) The cultural competency model training curriculum shall teach behaviors, attitudes, and policies that enable law enforcement officers to understand, communicate with, and effectively interact with the individuals, organizations, and institutions in the community in which the public school to which a law enforcement officer is assigned is located.

(2) The cultural competency model training curriculum shall include:

(i) Personal exposure to the individuals, organizations, and institutions within the assigned community; and

(ii) Knowledge of government and community services available to help prevent juvenile arrests.

(c) Officer assigned to patrol school. - A law enforcement officer who is assigned to patrol a school building or school grounds is encouraged to complete the cultural competency model training curriculum established under subsection (b) of this section before the law enforcement officer begins an assignment in a public school.

### REGULATIONS

#### **13A.08.04.05. General Requirements for the Use of Restraint or Seclusion.**

A. Use of Restraint.

(c) Physical restraint shall be applied only by school personnel who are trained in the appropriate use of physical restraint consistent with Regulation .06C of this chapter.

B. Use of Seclusion.

(5) Seclusion shall only be applied by school personnel trained in the appropriate use of seclusion consistent with Regulation .06C of this chapter.

## **MOUs, authorization, and/or funding**

### **LAWS**

#### **7-1501. Definitions.**

(j) School resource officer. - "School resource officer" means:

- (1) A law enforcement officer as defined under § 3-101(e) of the Public Safety Article who has been assigned to a school in accordance with a memorandum of understanding between the chief of a law enforcement agency as defined under § 3-101(b) of the Public Safety Article and the local education agency; or
- (2) A Baltimore City school police officer, as defined in § 4-318 of this article.

#### **26-102. Trespass on the grounds of a public institution of elementary, secondary, or higher education.**

(a) "School resource officer" defined. In this section, "school resource officer" means a law enforcement officer as defined under § 3-101(e) of the Public Safety Article who has been assigned to a school in accordance with a memorandum of understanding between the chief of a law enforcement agency as defined under § 3-101(b) of the Public Safety Article and the local education agency.

### **REGULATIONS**

#### **13A.08.01.17. School use of reportable offenses.**

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

(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.

C. General Provisions.

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

## ***State Education Agency Support***

### **State model policies and implementation support**

#### **LAWS**

##### **7-306. Corporal punishment; State code of discipline.**

- (c) Standards of conduct; implementation. - The State Board shall:
- (1) Establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards;
  - (2) On request, provide technical assistance and training to county boards regarding the use of restorative approaches; and
  - (3) Assist each county board with the implementation of the guidelines.

##### **7-424.1. Model policy prohibiting bullying, harassment and intimidation.**

- (a) Definitions.
- (1) In this section the following words have the meanings indicated.
  - (2) "Bullying, harassment, or intimidation" means intentional conduct, including verbal, physical, or written conduct, or an intentional electronic communication, that:
    - (i) Creates a hostile educational environment by substantially interfering with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being and is:
      1. Motivated by an actual or a perceived personal characteristic including race, national origin, marital status, sex, sexual orientation, gender identity, religion, ancestry, physical attribute, socioeconomic status, familial status, or physical or mental ability or disability; or
      2. Threatening or seriously intimidating; and
    - (ii) 1. Occurs on school property, at a school activity or event, or on a school bus; or
    2. Substantially disrupts the orderly operation of a school.
  - (3) (i) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, or pager.
    - (ii) "Electronic communication" includes a social media communication.
- (b) In general.
- (1) By March 31, 2009, the State Board, after consultation with and input from local school systems, shall develop a model policy prohibiting bullying, harassment, or intimidation in schools.
  - (2) The model policy developed under paragraph (1) of this subsection shall include:
    - (i) A statement prohibiting bullying, harassment, and intimidation in schools;
    - (ii) A statement prohibiting reprisal or retaliation against individuals who report acts of bullying, harassment, or intimidation;
    - (iii) A definition of bullying, harassment, or intimidation that is either the same as set forth in subsection (a)(2) of this section or a definition that is not less inclusive than that definition;
    - (iv) Standard consequences and remedial actions for persons committing acts of bullying, harassment, or intimidation and for persons engaged in reprisal or retaliation;
    - (v) Standard consequences and remedial actions for persons found to have made false accusations;
    - (vi) Model procedures for reporting acts of bullying, harassment, and intimidation;

(vii) Model procedures for the prompt investigation of acts of bullying, harassment, and intimidation;

(viii) Information about the types of support services available to the student bully, victim, and any bystanders;

(ix) Information regarding the availability and use of the bullying, harassment, or intimidation form under § 7-424 of this subtitle; and

(x) Information regarding the availability and use of an anonymous two-way electronic tip program established under § 7-424 of this subtitle.

(3) By September 1, 2016, and every 5 years thereafter, the State Board, after consultation with local school systems, shall update the model policy required under paragraph (1) of this subsection.

(c) Development of policy by county boards.

(1) Each county board shall establish a policy prohibiting bullying, harassment, or intimidation at school based on the model policy.

(2) The policy shall address the components of the model policy specified in subsection (b)(2) of this section.

(3) A county board shall develop the policy in consultation with representatives of the following groups:

(i) Parents or guardians of students;

(ii) School employees and administrators;

(iii) School volunteers;

(iv) Students; and

(v) Members of the community.

(4) By January 1, 2017, and every 5 years thereafter, each county board shall update its policy based on the State Board's update of the model policy under subsection (b)(3) of this section.

(d) Publication of policy. Each county board shall publicize its policy in student handbooks, school system Web sites, and any other location or venue the county board determines is necessary or appropriate.

(e) Reporting procedure. Each county board policy shall include information on the procedure for reporting incidents of bullying, harassment, or intimidation, including:

(1) A chain of command in the reporting process; and

(2) The name and contact information for an employee of the Department, designated by the Department, who is familiar with the reporting and investigation procedures in the applicable school system.

(f) Submission of policy.

(1) By July 1, 2009, each county board shall submit its policy to the State Superintendent.

(2) By January 1, 2017, and every 5 years thereafter, each county board shall submit its updated policy to the State Superintendent.

(g) Educational programs. Each county board shall develop the following educational programs in its efforts to prevent bullying, harassment, and intimidation in schools:

(1) An educational bullying, harassment, and intimidation prevention program for students, staff, volunteers, and parents; and

(2) A teacher and administrator development program that trains teachers and administrators to implement the policy.

(h) Limitation of liability.

(1) A school employee who reports an act of bullying, harassment, or intimidation under this section in accordance with the county board's policy established under subsection (c) of this section is not civilly

liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation under this section.

(2) The provisions of this section may not be construed to limit the legal rights of a victim of bullying, harassment, or intimidation.

**7-424.2. Gangs and gang activity.**

(a) "School security officer" defined.

(1) In this section, "school security officer" includes a school principal, another school administrator, a law enforcement officer, or 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.

(2) "School security officer" does not include a teacher.

(b) Model policy. By March 31, 2011, the State Board, after consultation with and input from the Department of Juvenile Services, the Department of State Police, the Department of Human Services, and local school systems, shall develop a model policy to address gangs, gang activity, and similar destructive or illegal group behavior in schools.

(c) Model policy - Contents. The model policy developed under subsection (b) of this section shall include:

- (1) A statement prohibiting gang activity in schools;
- (2) A statement prohibiting reprisal or retaliation against individuals who report suspected gang activity;
- (3) A definition of gang and gang activity;
- (4) Standard consequences and remedial actions for individuals engaged in gang activity or similar destructive or illegal group behavior;
- (5) Standard consequences and remedial actions for individuals found to have made false accusations;
- (6) Model procedures for reporting suspected gang activity or similar destructive or illegal group behavior;
- (7) Model procedures for the prompt investigation of suspected gang activity or similar destructive or illegal group behavior;
- (8) Information about the types of support services, including family support services, for a student suspected of participating in gang activity; and
- (9) Recommendations concerning gang prevention and intervention services and programs for students that maximize community participation and the use of federal funding.

(d) Policy or regulations by local school system.

(1) Each local school system shall establish a policy or regulations to address gangs, gang activity, and similar destructive or illegal group behavior in schools based on the model policy.

(2) The policy or regulations shall address the components of the model policy specified in subsection (c) of this section.

(3) Each local school system shall develop the policy or regulations in consultation with representatives of the following groups:

- (i) Parents or guardians of students;
- (ii) School employees and administrators;
- (iii) School volunteers;
- (iv) Students;
- (v) Local law enforcement;

- (vi) Gang prevention and intervention programs;
- (vii) The Office of the Public Defender;
- (viii) The Maryland State's Attorneys Association; and
- (ix) Members of the community.

(e) Policy or regulations by local school system - Submission to State Superintendent. Each local school system shall submit its policy or regulations to the State Superintendent by September 1, 2011.

(f) Policy or regulations by local school system - Publication. Each local school system shall publicize its policy or regulations in student handbooks, on school system Web sites, and at any other location or venue the local school system determines is necessary or appropriate.

(g) Policy or regulations by local school system - Education programs. Each local school system shall develop the following educational programs in its efforts to address gangs, gang activity, and similar destructive or illegal group behavior in schools:

- (1) An educational gang awareness program for students, staff, volunteers, and parents; and
- (2) A teacher and administrator development program that trains teachers and administrators to implement the policy or regulations.

(h) Reporting of gang activity.

(1) A school employee shall report any incidence of suspected gang activity or similar destructive or illegal group behavior promptly to the principal and, for a school that has a school security officer, to the school security officer.

(2) The principal and the school security officer may take appropriate action to maintain a safe and secure school environment, including the provision of appropriate intervention services.

(i) Meetings.

(1) Each county superintendent shall require regular school security meetings for each middle school and high school to ensure coordination of gang prevention, intervention, and suppression efforts.

(2) The following individuals shall participate in the meetings described in paragraph (1) of this subsection:

- (i) School principals;
- (ii) School security officers;
- (iii) Guidance counselors;
- (iv) Local law enforcement officers;
- (v) Representatives from the county State's Attorney's Office;
- (vi) Representatives from the Office of the Public Defender;
- (vii) Gang prevention and intervention program representatives; and
- (viii) Any other individuals that the county superintendent considers appropriate.

(j) Coordination of efforts. Each county superintendent shall enter into a memorandum of understanding with the county State's Attorney's Office to foster coordination of gang prevention, intervention, and suppression efforts.

(k) Report. On or before January 1, 2011, and each year thereafter, the Department shall submit a report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the implementation of State and local policies and regulations to address gangs, gang activity, and similar destructive or illegal group behavior described in this section.

### **7-1102. Reports and guidance.**

Beginning with the 2018-2019 school year, on or before December 1 each year:

- (1) Each public agency and nonpublic school shall submit to the Department a report for the prior school year on the number of physical restraint and seclusion incidents, disaggregated by the student's jurisdiction, disability, race, gender, age, and type of placement.
- (2) Each public agency and nonpublic school shall submit to the Department a report for the prior school year on the professional development provided to designated school personnel related to positive behavioral interventions, strategies, and supports and trauma-informed interventions.
- (3) Each public agency and nonpublic school shall:
  - (i) Personally observe and review seclusion rooms;
  - (ii) Review training plans for the use of seclusion; and
  - (iii) Report to the Department regarding findings made under items (i) and (ii) of this paragraph.
- (4) The Department shall:
  - (i) Provide guidance to public agencies and nonpublic schools regarding the requirements of the use of seclusion and rooms for seclusion; and
  - (ii) Report to the General Assembly, in accordance with § 2-1257 of the State Government Article, regarding findings and recommendations reported to the Department under this section.

## **REGULATIONS**

### **13A.02.04.05. Tobacco-Free Guidelines.**

The State Department of Education shall develop guidelines to assist the local school systems in implementing a tobacco-free environment.

## **Funding appropriations**

## **LAWS**

### **4-1301. Definitions.**

- (a) In general. - In this subtitle the following words have the meanings indicated.
- (b) Executive Director. - "Executive Director" means the Executive Director of the Governor's Office of Crime Prevention, Youth, and Victim Services.
- (c) Fund. - "Fund" means the Student Peer Mediation Program Fund.
- (d) Student peer mediation program. - "Student peer mediation program" means a program that trains students in conflict resolution.

### **4-1302. Student peer mediation program fund.**

- (a) Established. - There is a Student Peer Mediation Program Fund.
- (b) Purpose. - The purpose of the Fund is to provide grant assistance to schools and community-based organizations in Baltimore City to establish student peer mediation programs to reduce juvenile violence.
- (c) Administration. - The Executive Director shall administer the Fund.
- (d) Status; management. -
  - (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately and the Comptroller, in conjunction with the Executive Director, shall account for the Fund.

(e) Composition. -

(1) The Fund consists of:

- (i) money appropriated in the State budget to the Fund;
- (ii) investment earnings of the Fund; and
- (iii) money from any other source accepted for the benefit of the Fund.

(2) The Governor annually shall appropriate at least \$ 50,000 for the Fund.

(f) Uses. - The Fund may be used only to provide grant assistance to schools and community-based organizations in Baltimore City to establish student peer mediation programs to reduce juvenile violence.

(g) Investments; interest earnings. -

(1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any interest earnings of the Fund shall be credited to the Fund.

(h) Expenditures. - Expenditures from the Fund may be made only in accordance with the State budget.

(i) Audit. - The accounts and transactions of the Fund shall be subject to audit by the Legislative Auditor as provided in § 2-1220 of the State Government Article.

#### **4-1303. Grants.**

(a) Procedures to apply. -

(1) The Executive Director shall establish procedures for schools and community-based organizations in Baltimore City to apply for grants from the Fund.

(2) A school or a community-based organization that applies for a grant from the Fund shall provide the Executive Director with:

- (i) a plan that details how the proposed program will train students in conflict resolution techniques; and
- (ii) any information the Executive Director deems necessary.

(b) In general. - The Executive Director shall make grants from the Fund to schools and community-based organizations in Baltimore City.

(c) Use of money disbursed. - Money disbursed from the Fund shall be used to supplement, and not supplant, any other funding that would otherwise be available to schools and community-based organizations in Baltimore City.

#### **REGULATIONS**

No relevant regulations found.

## ***Other or Uncategorized***

### **Professional immunity or liability**

#### **LAWS**

##### **5-803. School employees.**

###### **(a) Making reports.**

(1) Whether or not an individual receives compensation for the individual's services, an employee of a county health department or other local department or agency functioning as a school nurse or school health aide or a member of the administrative, educational, or support staff of, or an individual who serves under a contract for services to, any public, private, or parochial school is immune from liability for:

- (i) Making a report required by law, if the individual acts on reasonable grounds;
- (ii) Participating in a judicial proceeding that results from the individual's report; and
- (iii) Making a report to the appropriate school official or to a parent if the individual has reasonable grounds to suspect that a student is:
  - 1. Under the influence of alcoholic beverages or a controlled dangerous substance;
  - 2. In possession of alcoholic beverages or a controlled dangerous substance; or
  - 3. Involved in the illegal sale or distribution of alcoholic beverages or a controlled dangerous substance.

##### **7-307. Principals, teachers, and school security guards intervening in fights.**

###### **(a) Authority to intervene; degree of force.**

(1) A principal, teacher, school security guard, or other school system personnel in any public school may take reasonable action necessary to prevent violence on school premises or on a school-sponsored trip, including intervening in a fight or physical struggle that takes place in his or her presence, whether the fight is among students or other individuals.

(2) The degree and force of the intervention may be as reasonably necessary to prevent violence, restore order and to protect the safety of the combatants and surrounding individuals.

###### **(b) Compensation for injury and time lost from duties. A principal, teacher, school security guard, or other school system personnel who is hurt while taking preventive action or intervening in a fight under this section:**

(1) Shall be compensated by the county board for any necessary medical expenses that result directly from the preventive action or intervention; and

(2) May not lose any compensation for time lost from school duties that results directly from the preventive action or intervention, but compensation may be reduced by any payments made under the Maryland Workers' Compensation Act.

###### **(c) Legal counsel; indemnity. In any suit, claim, or criminal charge brought by a parent or other claimant of one of the combatants against the principal, teacher, school security guard, or other school system personnel because of the preventive action or intervention, the county board:**

(1) Shall provide legal counsel for the principal, teacher, school security guard, or other school system personnel or may provide reimbursement for the reasonable expenses of the legal defense of any criminal charge if the county board considers it appropriate; and

(2) Shall save the principal, teacher, school security guard, or other school system personnel harmless from any award or decree against him.

**7-424.1. Model policy prohibiting bullying, harassment and intimidation.**

(h) Limitation of liability.

(1) A school employee who reports an act of bullying, harassment, or intimidation under this section in accordance with the county board's policy established under subsection (c) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation under this section.

(2) The provisions of this section may not be construed to limit the legal rights of a victim of bullying, harassment, or intimidation.

**7-424.3. Bullying, harassment and intimidation policy.**

(g) Civil liability. An employee of a nonpublic school who reports an act of bullying, harassment, or intimidation in accordance with the nonpublic school's policy adopted under subsection (b) of this section is not civilly liable for any act or omission in reporting or failing to report an act of bullying, harassment, or intimidation in accordance with the policy.

(h) Construction of provisions. The provisions of this section may not be construed to:

(1) Limit the legal rights of a victim of bullying, harassment, or intimidation.

**REGULATIONS**

No relevant regulations found.

**Community input or involvement**

**LAWS**

**7-310. Dissemination of community resources list.**

(a) In general. Each county board shall develop and disseminate to each public school within the county board's jurisdiction a community resources list.

(b) Contents. The community resources list may include the name and contact information of local and statewide social services and nonprofit health care providers that provide nondiscriminatory services to children and families in need of assistance.

**7-424.1. Model policy prohibiting bullying, harassment and intimidation.**

(c) Development of policy by county boards.

(1) Each county board shall establish a policy prohibiting bullying, harassment, or intimidation at school based on the model policy.

(2) The policy shall address the components of the model policy specified in subsection (b)(2) of this section.

(3) A county board shall develop the policy in consultation with representatives of the following groups:

- (i) Parents or guardians of students;
- (ii) School employees and administrators;
- (iii) School volunteers;
- (iv) Students; and

(v) Members of the community.

(4) By January 1, 2017, and every 5 years thereafter, each county board shall update its policy based on the State Board's update of the model policy under subsection (b)(3) of this section.

**7-424.2. Gangs and gang activity.**

(d) Policy or regulations by local school system.

(1) Each local school system shall establish a policy or regulations to address gangs, gang activity, and similar destructive or illegal group behavior in schools based on the model policy.

(2) The policy or regulations shall address the components of the model policy specified in subsection (c) of this section.

(3) Each local school system shall develop the policy or regulations in consultation with representatives of the following groups:

(i) Parents or guardians of students;

(ii) School employees and administrators;

(iii) School volunteers;

(iv) Students;

(v) Local law enforcement;

(vi) Gang prevention and intervention programs;

(vii) The Office of the Public Defender;

(viii) The Maryland State's Attorneys Association; and

(ix) Members of the community.

(g) Policy or regulations by local school system - Education programs. Each local school system shall develop the following educational programs in its efforts to address gangs, gang activity, and similar destructive or illegal group behavior in schools:

(1) An educational gang awareness program for students, staff, volunteers, and parents; and

(2) A teacher and administrator development program that trains teachers and administrators to implement the policy or regulations.

(i) Meetings.

(1) Each county superintendent shall require regular school security meetings for each middle school and high school to ensure coordination of gang prevention, intervention, and suppression efforts.

(2) The following individuals shall participate in the meetings described in paragraph (1) of this subsection:

(i) School principals;

(ii) School security officers;

(iii) Guidance counselors;

(iv) Local law enforcement officers;

(v) Representatives from the county State's Attorney's Office;

(vi) Representatives from the Office of the Public Defender;

(vii) Gang prevention and intervention program representatives; and

(viii) Any other individuals that the county superintendent considers appropriate.

(j) Coordination of efforts. Each county superintendent shall enter into a memorandum of understanding with the county State's Attorney's Office to foster coordination of gang prevention, intervention, and suppression efforts.

**7-1502. Center established.**

(a) Established. - There is a Maryland Center for School Safety.

(b) Status. - The Center is an independent unit within the Department.

(c) Location. - The Center shall be based at the Maryland Coordination and Analysis Center.

(d) Executive director. - The head of the Center is the executive director, who shall be appointed by the Subcabinet.

(e) Staff. - The Center may employ the additional staff necessary to carry out the Center's functions as provided in the State budget.

(f) Satellite offices. - The Center shall establish a satellite office at Bowie State University.

(g) Functions and duties. - The Center shall perform the following functions and duties:

(1) Provide technical assistance and consultation to local school systems, State and local government, and community organizations on best practices for safe schools and violence prevention;

(2) Develop a website containing a searchable database of definitive research, books, videos, white papers, speakers, websites, and other school safety resources;

(3) Develop criteria that may be applied consistently and uniformly in local school systems for coding unsafe incidents and serious or violent offenses;

(4) Research and recommend the use of common assessment tools to be used to identify specific problems and needs of schools and neighborhoods to facilitate intervention before assessed findings become problematic;

(5) Assist local school systems to conduct a thorough assessment of their school safety data, school building layouts, and use of human resources for monitoring purposes to determine the need for:

(i) Surveillance and other security technology; and

(ii) Innovations to maximize the use of human resources to monitor activity and influence positive relationship building;

(6) Maintain and maximize relationships with emergency responders, law enforcement personnel, parents, and other emergency preparedness stakeholders to ensure seamless execution in an emergency event, including:

(i) Consolidate resources among stakeholders to maximize support and secure necessary skills to ensure emergency plan implementation;

(ii) Conduct collaborative training and preparation exercises; and

(iii) Identify improvements and ensure nonduplication of effort in emergency response procedures;

(7) Provide safety information on traveling to and from school to parents and students twice a year that includes data related to bus and pedestrian safety, strategies for ensuring personal safety, efforts of the local school system or school to improve safety, and information on the available options for reporting incidents or concerns;

(8) Utilize and update an existing clearinghouse of law enforcement resources that are available to support school safety to ensure that it includes information regarding the purpose and process for accessing available funding;

(9) Assist local school systems to improve and monitor traffic control measures in the immediate vicinity of schools to reduce the potential for pedestrian and vehicle accidents;

- (10) Assist the Department to evaluate and update current data systems to ensure they are best suited for providing useful information on school safety issues;
- (11) Assist local school systems to monitor local school system and individual school behavior data to ensure fairness in the application of consequences for student misbehavior;
- (12) Assist the Department and local school systems:
  - (i) To prepare an annual report that combines multiple school safety data systems into one format for public review; and
  - (ii) To incorporate new data points into existing data collection systems;
- (13) Assist in the development of safety and security criteria for the design and operation of school facilities;
- (14) Assist local school systems to identify resources and implement training for students and parents about relationship violence, identifying the signs of unhealthy relationships, and preventing relationship violence;
- (15) Provide technical assistance to local school systems in the review of safety and security audits and the implementation of improvements in school facilities;
- (16) Analyze data on school resource officers and develop guidelines and training for local school systems as required under Section 7-1508 of this subtitle;
- (17) Certify school safety coordinators as required under Section 7-1508 of this subtitle;
- (18) Submit to the General Assembly and the Governor a summary of reports on school resource officer and local law enforcement agency coverage in public schools as required under Section 7-1508 of this subtitle;
- (19) Consult with local school systems on safety evaluations developed under Section 7-1510 of this subtitle;
- (20) Review and comment on school emergency plans developed under Section 7-1510 of this subtitle; and
- (21) Report to the General Assembly and the Governor on life-threatening incidents as required under Section 7-1510 of this subtitle.

**7-1503. School Safety Subcabinet.**

- (a) Subcabinet established. - There is a School Safety Subcabinet.
- (b) Purpose. - The Subcabinet is the governing board of the Center.
- (c) Membership. - The Subcabinet consists of the following members:
  - (1) The State Superintendent, or the State Superintendent's designee;
  - (2) The Secretary of State Police, or the Secretary's designee;
  - (3) The Attorney General, or the Attorney General's designee;
  - (4) The Secretary of Disabilities, or the Secretary's designee;
  - (5) The Secretary of Health, or the Secretary's designee; and
  - (6) The Executive Director of the Interagency Commission on School Construction, or the executive director's designee.
- (d) Chair. - The State Superintendent, or the State Superintendent's designee, shall chair the Subcabinet.
- (e) Staff. - The Executive Director of the Center shall provide staff for the Subcabinet.
- (f) Meetings. - The Subcabinet shall meet regularly at such times and places as it determines.
- (g) Duties. - The Subcabinet shall:

- (1) Collaborate with local school systems in the State, law enforcement agencies, State and local government agencies, community organizations, parents, and other stakeholders to provide a comprehensive, coordinated approach to school safety;
  - (2) In partnership with the Advisory Board and other stakeholders:
    - (i) Disseminate information on best practices, programs, and resources;
    - (ii) Provide technical assistance and training to local jurisdictions and local school systems;
    - (iii) Collaborate on collection, analysis, and integration of statewide data; and
    - (iv) Promote interagency efforts that support safe schools for all students, school staff, parents, and community members;
  - (3) Establish a Safe School Information and Best Practices Clearinghouse of up-to-date, research-based, and data-driven information on effective strategies for creating and maintaining safe schools;
  - (4) Identify safe school professional staff development best practices;
  - (5) Initiate collaborative partnerships and facilitate coordination among local school systems, law enforcement agencies, State and local government, and community organizations to leverage existing resources to deliver school safety services uniformly to local school systems;
  - (6) Foster coordination among all entities responsible for ensuring the safety and security of school facilities in the State;
  - (7) Distribute grants from the Fund in accordance with Section 7-1512 of this subtitle;
  - (8) Collaborate with the Department on the model policy for an assessment team under Section 7-1507 of this subtitle;
  - (9) Adopt regulations to define a school security employee for the purpose of the training and report required for school security employees under Section 7-1508 of this subtitle;
  - (10) Provide general oversight and direction to the Center;
  - (11) Approve the annual budget for the Center;
  - (12) Adopt any regulations necessary to carry out the Subcabinet's duties under this subtitle; and
  - (13) Perform other duties assigned by the Governor.
- (h) Reports. -
- (1) The Subcabinet shall report to the Governor and, in accordance with Section 2-1257 of the State Government Article, the General Assembly on or before December 15 each year.
  - (2) The report shall include:
    - (i) A list of all the activities of the Center, including aggregate data on the information collected from each local school system under Section 7-1510 of this subtitle;
    - (ii) An update on the current status and effectiveness of the Center;
    - (iii) Data collected on school resource officers under Section 7-1508 of this subtitle; and
    - (iv) Recommendations made by the Subcabinet for improving school and student safety.

## **REGULATIONS**

No relevant regulations found.

## **Other or Uncategorized**

## **LAWS**

No relevant laws found.

## **REGULATIONS**

No relevant regulations found.

## State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Maryland provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Bullying Prevention, Maryland Department of Education	Provides an overview on bullying and links to reports, webinars, forms, and resources for educators on cyberbullying.	<a href="http://marylandpublicschools.org/about/Pages/DSFSS/SSSP/Bullying/index.aspx">http://marylandpublicschools.org/about/Pages/DSFSS/SSSP/Bullying/index.aspx</a>
Positive Behavioral Interventions and Supports (PBIS), Maryland Department of Education	Provides a guideline for PBIS in Maryland, including framework, implementation process, standards and protocols, schoolwide evaluation tool, inventory, and benchmarks of quality; and contact information to Maryland's PBIS Local Point(s) of contact.	<a href="http://marylandpublicschools.org/about/pages/dsfss/pbis/index.aspx">http://marylandpublicschools.org/about/pages/dsfss/pbis/index.aspx</a>
Student Services and Strategic Planning (SSSP), Maryland Department of Education	Provides technical assistance, emergency planning, and student services resources related to bullying, discipline, suicide prevention, teen pregnancy, mental health, and other related programs/services.	<a href="http://www.marylandpublicschools.org/about/Pages/DSFSS/SSSP/index.aspx">http://www.marylandpublicschools.org/about/Pages/DSFSS/SSSP/index.aspx</a>
Disproportionate Discipline, The Maryland Initiative, Maryland Department of Education	Provides technical assistance to Local School Systems related to Disproportionate Discipline.	<a href="http://marylandpublicschools.org/about/Pages/DSFSS/SSSP/DisproportionateDiscipline/index.aspx">http://marylandpublicschools.org/about/Pages/DSFSS/SSSP/DisproportionateDiscipline/index.aspx</a>
<i>Documents</i>		
A Framework for School-Wide Bullying Prevention and Safety, Maryland Department of Education	Framework for bullying prevention and safety for Maryland schools.	<a href="http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/Bullying/FrameworkSchoolWideBullyingPreventionSafety.pdf">http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/Bullying/FrameworkSchoolWideBullyingPreventionSafety.pdf</a>

Title	Description	Website address (if applicable)
Division of Special Education/Early Intervention Services: Strategic Plan, Moving Maryland Forward: Sharpen the Focus for 2020 (November 2016), Maryland Department of Education	Guidance document to support local school systems in preparing to implement the new requirements.	<a href="http://marylandpublicschools.org/stateboard/Documents/03262019/TabN-SpecialEducation.pdf">http://marylandpublicschools.org/stateboard/Documents/03262019/TabN-SpecialEducation.pdf</a>
Maryland's Model Policy to Address Bullying, Harassment, or Intimidation (July 2016), Maryland Department of Education	Model policy regarding bullying developed by Maryland State Department of Education.	<a href="http://www.marylandpublicschools.org/about/Documents/DSFSS/SSSP/ModelBullyingPolicy072016.pdf">http://www.marylandpublicschools.org/about/Documents/DSFSS/SSSP/ModelBullyingPolicy072016.pdf</a>
Student Behavior Interventions: Restraint and Seclusion, Maryland Department of Education	Guidance and definitions regarding restraint and seclusion practices in schools.	<a href="http://www.marylandpublicschools.org/about/Documents/DSFSS/SSSP/TA/GuidanceStudentBehaviorInterventionsRestraintSeclusion.pdf">http://www.marylandpublicschools.org/about/Documents/DSFSS/SSSP/TA/GuidanceStudentBehaviorInterventionsRestraintSeclusion.pdf</a>
Student Behavior Interventions: Physical Restraint and Seclusion Supplement on Students with Disabilities	Technical assistance for schools on the use of restraint and seclusion for special education students.	<a href="https://www.aacps.org/cms/lib/MD02215556/Centricity/Domain/238/StudentBehaviorSupplementSWD.pdf">https://www.aacps.org/cms/lib/MD02215556/Centricity/Domain/238/StudentBehaviorSupplementSWD.pdf</a>
Technical Assistance Bulletin for Implementing Maryland's Model Policy to Address Bullying, Harassment, or Intimidation (November 2013), Maryland Department of Education	Guidance document regarding bullying prevention/intervention guidance, clarification, and practice.	<a href="http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/BullyingPreventionTAB.pdf">http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/BullyingPreventionTAB.pdf</a>
The Maryland Guidelines for a State Code of Discipline (July 2014), Maryland Department of Education	Guidance document for Maryland local school systems to use in establishing local codes of conduct and in developing new discipline-related policies.	<a href="http://archives.marylandpublicschools.org/MSDE/divisions/studentschoolsvcs/student_services_alt/docs/MDGuidelinesforStateCodeDiscipline_08072014.pdf">http://archives.marylandpublicschools.org/MSDE/divisions/studentschoolsvcs/student_services_alt/docs/MDGuidelinesforStateCodeDiscipline_08072014.pdf</a>
<b><i>Other Resources</i></b>		
No relevant resources found.		