

Chapter 843

(Senate Bill 651)

AN ACT concerning

Public Schools – Suspensions and Expulsions

FOR the purpose of prohibiting the suspension or expulsion of prekindergarten, kindergarten, first grade, or second grade students from public schools with certain exceptions for an expulsion required by federal law or a suspension for not more than a certain number of days under certain circumstances; requiring the principal or school administration to contact a student's parent or guardian under certain circumstances; authorizing the suspension or expulsion of students in kindergarten, first grade, or second grade under certain circumstances; requiring the school to return a suspended student to school under a certain manner; requiring the school to provide certain supports to address the student's behavior; requiring the school system to remedy the impact of the student's behavior through certain intervention methods; requiring the State Department of Education to adopt certain regulations on or before a certain date; defining certain terms; and generally relating to the suspension and expulsion of students in public schools.

BY repealing and reenacting, with amendments,
 Article – Education
 Section 4–319(d) and 7–305
 Annotated Code of Maryland
 (2014 Replacement Volume and 2016 Supplement)

BY adding to
 Article – Education
 Section 7–305.1
 Annotated Code of Maryland
 (2014 Replacement Volume and 2016 Supplement)

Preamble

WHEREAS, Maryland public schools should provide practices that build fair processes into decision making, facilitate student learning, and allow for accountability and skill building, cooperation, and mutual understanding; and

WHEREAS, It is the intent of the General Assembly that school systems shall utilize restorative practices as an alternative to traditional school disciplinary practices to ensure that developmentally appropriate, age-appropriate, and proportional consequences are applied to a child's misbehavior in a way that supports personal growth and positive learning opportunities for all students; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Education

4–319.

(d) (1) Except as otherwise provided in [§ 7–305(g)] **§§ 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.

7–305.

(a) (1) Except as provided in subsection (b) of this section **AND § 7–305.1 OF THIS SUBTITLE**, in accordance with the rules and regulations of the county 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.

(2) 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.

(3) The student or the student’s parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7–310 of this subtitle.

(b) (1) Except as provided in paragraph (2) of this subsection, a student may not be suspended or expelled from school solely for attendance–related offenses.

(2) Paragraph (1) of this subsection does not apply to in–school suspensions for attendance–related offenses.

(c) [At] **EXCEPT AS PROVIDED IN § 7-305.1 OF THIS SUBTITLE, AT** the request of a principal, a county superintendent may suspend a student for more than 10 school days or expel the student.

(d) (1) If a principal finds that a suspension of more than 10 school days or expulsion is warranted, the principal immediately shall report the matter in writing to the county superintendent.

(2) The county superintendent or the county superintendent's designated representative promptly shall make a thorough investigation of the matter.

(3) If after the investigation the county superintendent finds that a longer suspension or expulsion is warranted, the county superintendent or the county superintendent's designated representative promptly shall arrange a conference with the student and his parent or guardian.

(4) The student or the student's parent or guardian promptly shall be given a community resources list provided by the county board in accordance with § 7-310 of this subtitle.

(5) If after the conference the county superintendent or the county superintendent's designated representative finds that a suspension of more than 10 school days or expulsion is warranted, the student or the student's parent or guardian may:

(i) Appeal to the county board within 10 days after the determination;

(ii) Be heard before the county board, its designated committee, or a hearing examiner, in accordance with the procedures established under § 6-203 of this article; and

(iii) Bring counsel and witnesses to the hearing.

(6) 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.

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

(8) The decision of the county board is final.

(e) (1) Any student expelled or suspended from school:

(i) Shall remain away from the school premises during those hours each school day when the school the student attends is in session; and

(ii) May not participate in school sponsored activities.

(2) 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 his parent or guardian.

(3) Any person who violates paragraph (1) or (2) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.

(4) (i) If a student has been suspended or expelled, the principal or a designee of 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.

(ii) If the disruptive behavior results in action less than suspension, the principal or a designee of the principal shall confer with the teacher who referred the student to the principal prior to returning the student to that teacher's classroom.

(5) A county superintendent may deny attendance to any student who is currently expelled from another school system for a length of time equal to that expulsion.

(6) A school system shall forward information to another school system relating to the discipline of a student, including information on an expulsion of the student, on receipt of the request for information.

(f) (1) In this subsection, "firearm" means a firearm as defined in 18 U.S.C. § 921.

(2) Except as provided in paragraph (3) of this subsection, if the county superintendent or the superintendent's designated representative finds that a student has brought a firearm onto school property, the student shall be expelled for a minimum of 1 year.

(3) The county superintendent may specify, 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 county board, for a student who has brought a firearm onto school property.

(4) The State Board shall adopt regulations to implement this subsection.

(g) (1) The discipline of a child with a disability, including the suspension, expulsion, or interim alternative placement of the child for disciplinary reasons, shall be conducted in conformance with the requirements of the Individuals with Disabilities Education Act of the United States Code.

(2) If a child with a disability is being considered for suspension or expulsion, the child or the child's parent or guardian shall be given a community resources list attached to the procedural safeguards notice required by regulation of the State Board.

(h) (1) This subsection does not apply if the student is referred to the Department of Juvenile Services.

(2) 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 any other appropriate person, the principal shall require the student or the student's parent to make restitution.

(3) The restitution may be in the form of monetary restitution not to exceed the lesser of the fair market value of the property or \$2,500, or the student's assignment to a school work project, or both.

7-305.1.

(A) (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) (1) A STUDENT MAY NOT BE SUSPENDED OR EXPELLED FROM SCHOOL IF THE STUDENT IS ENROLLED IN A PUBLIC PREKINDERGARTEN PROGRAM.~~

~~(2) A STUDENT MAY BE SUSPENDED OR EXPELLED FROM SCHOOL IF THE STUDENT:~~

~~(I) IS ENROLLED IN KINDERGARTEN, FIRST GRADE, OR SECOND GRADE; AND~~

~~(II) 1. HAS KNOWINGLY BROUGHT A FIREARM TO SCHOOL;~~
OR

~~2. HAS KNOWINGLY POSSESSED A FIREARM AT SCHOOL.~~

(B) (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) THE SCHOOL SHALL RETURN ANY STUDENT SUSPENDED UNDER SUBSECTION (B) OF THIS SECTION TO THE LOCAL SCHOOL SYSTEM BY A MEANS THAT MINIMIZES, TO THE GREATEST EXTENT POSSIBLE, ANY DISRUPTION OF THE STUDENT'S ACADEMIC INSTRUCTION.~~

~~(D)~~ (C) (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) ~~SUPPORT~~ 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.

~~(E)~~ (D) THE SCHOOL SYSTEM SHALL REMEDY THE IMPACT OF A STUDENT'S BEHAVIOR THROUGH APPROPRIATE INTERVENTION METHODS INCLUDING RESTORATIVE PRACTICES.

~~(F)~~ (E) ON OR BEFORE MAY 1, 2018, THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE REQUIREMENTS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 27, 2017.