

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 328
 Ways and Means

(Delegate Washington, *et al.*)

Education, Health, and Environmental Affairs

State Department of Education - School Discipline - Data Collection

This bill requires the Maryland State Department of Education (MSDE) to make available, as a data download on its website, disaggregated discipline-related data at the State, local school system, and school levels. For all data made publicly available, MSDE must include disaggregated data related to any disproportional disciplinary practices of a local school system or public school, and annually report the data to the Governor and General Assembly. MSDE must report the disproportionality data for any school identified as “high suspending” as specified and include alternative schools and programs and public separate day schools in any calculation of disproportionality data. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: General fund expenditures increase by \$72,500 in FY 2021 to hire one educational specialist to implement the bill. Future year expenditures reflect ongoing costs for the position. No effect on revenues.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	72,500	86,800	88,900	92,000	95,100
Net Effect	(\$72,500)	(\$86,800)	(\$88,900)	(\$92,000)	(\$95,100)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None. The bill does not alter the data that local school systems must collect and report.

Small Business Effect: None.

Analysis

Bill Summary: “High suspending” includes an elementary school that suspends 10% or more of its students in each subgroup and a secondary school that suspends 25% or more of its students in each subgroup, disaggregated by race, ethnicity, disability status, and English language proficiency.

MSDE must lower the risk ratio and State comparison threshold used for identifying action under federal regulations that implement the Individuals with Disabilities Education Act for schools with high disproportionality from 3.0 to 2.0.

Current Law/Background:

Suspension and Expulsion in General

In accordance with rules developed by each local school board, a principal may suspend a student for cause for up to 10 school days. The principal must provide the suspended student and the student’s parents with a conference during the suspension period and a list of community resources. Upon request by a principal, a local superintendent may suspend a student for more than 10 days or expel a student, subject to investigation, conferencing, and appeal procedures in statute. A student may not be suspended or expelled only for attendance-related offenses but may be subject to in-school suspension for those offenses.

A student who has been suspended or expelled may not return to the classroom until the principal confers with (1) the teacher(s) who referred the student (if appropriate); (2) other appropriate school personnel; (3) the student; and (4) the student’s parent or guardian.

If disruptive behavior results in action less than suspension, the principal or designee must confer with the teacher who referred the student prior to the student returning to the teacher’s classroom.

Suspension and Expulsion of Young Children

Chapters 843 and 844 of 2017 prohibit a student in public prekindergarten, kindergarten, or 1st or 2nd grades from being suspended or expelled, except that:

- a student in those grades may be expelled if required by federal law (generally, for bringing a firearm to school); and
- a student in those grades may be suspended for up to five 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.

For a student in prekindergarten through grade 2 who is suspended or who commits an act that would otherwise be grounds for suspension, local school systems must provide intervention and support to address the student's behavior. Intervention and support include (1) positive behavior interventions and supports; (2) a behavior intervention plan; (3) a referral to a student support team; (4) a referral to an individualized education program; and (5) a referral for appropriate community-based services.

The school system must remedy the effect of a student's behavior through appropriate intervention methods including restorative practices. Restorative practices are 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:

- are conducted by trained staff;
- focus on repairing the harm to the community through dialogue that emphasizes individual accountability; and
- help build a sense of belonging, safety, and social responsibility in the school community.

A public elementary school that has a suspension rate that exceeds 10% must implement a positive behavioral interventions and support (PBIS) program or an alternative behavior modification program in collaboration with MSDE. An elementary school that has already implemented a PBIS program or a behavior modification program must expand its existing program if it has a suspension rate that exceeds 10%.

Discipline Guidelines

The State Board of Education must establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards. The guidelines were last updated in 2014. The State board must also (1) upon request, provide technical assistance and training to local school boards on the use of restorative practices and (2) assist each local school board with implementing the guidelines. Each local school board must adopt regulations designed to create and maintain within schools the atmosphere of order and discipline necessary for effective learning. The local regulations must state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational. They must also provide for educational and behavioral interventions, restorative approaches, counseling, student and parent conferencing, and alternative programs.

MSDE Task Force

In December 2018, the State Board of Education formed the Task Force on Student Discipline Regulations to:

- consider the impact that current discipline regulations have on Maryland students, teachers, classrooms, learning environments, and schools;
- identify patterns of practice in implementing State regulations/policies;
- determine best practices in student discipline inside and outside of Maryland, including, but not limited to, restorative justice and PBIS;
- evaluate recommendations and findings from other groups and commissions, including, but not limited to, the Kirwan Commission and the Commission on the School to Prison Pipeline; and
- based on consideration of the foregoing and the understanding that all students in Maryland should receive an education in a safe school, make recommendations to the State board on any regulatory, policy, or guidance changes that should be adopted to improve the disciplinary environment in Maryland schools.

The task force met six times and issued its recommendations to the State board in August 2019. In recognizing the disproportionality in discipline referrals, suspensions, and expulsions between student groups, the task force included among its 15 recommendations that schools should seek ways to train all staff to include support staff and implement practices in addressing the various needs of identified student groups.

State and Local Report Card

Under the federal Every Student Succeeds Act (ESSA), the most recent version of the Elementary and Secondary Education Act, both states and local school districts receiving Title I, Part A funds must prepare and widely disseminate an annual report card. Among other requirements, information submitted to the Civil Rights Data Collection biennial survey regarding in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, chronic absenteeism, and incidents of violence (including bullying and harassment) must be reported within the report card. ESSA requires that accountability data be reported for all students and for the following “subgroups” of students: economically disadvantaged students; students from major racial and ethnic groups; children with disabilities; and English learners.

Addressing Disproportionate and Discrepant Impacts of School Discipline

State regulations require MSDE to develop a method to analyze local school system discipline data to determine whether there is a disproportionate impact on minority

students. MSDE may use the discrepancy model to assess the impact of discipline on special education students. If MSDE 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 must prepare and present to the State Board of Education a plan to reduce the impact within one year and eliminate it within three years. A local school system must report its progress annually to the State board.

MSDE advises that it has developed a method of identifying the presence of disproportionalities for student groups in schools. The Maryland model involves two complementary measures, which are risk ratio and the State comparison measure. As a result of review of current practice and research, the State board determined that 3.0 would be the threshold for disproportionality in Maryland. The bill does not define "risk ratio," but it requires the risk ratio to be lowered from 3.0 to 2.0; it is assumed that the intent of the bill is to lower this threshold.

The risk ratio measure compares the removal rate of each student group in a school to the removal rate of all other students in the school. (MSDE applies this analysis to the same "subgroups" identified under ESSA.) The risk ratio measure captures whether the "risk" of an out-of-school suspension or expulsion for a student in one student group is lower or higher than the risk of removal for a student in the comparison group. Risk, in this context, refers to the likelihood that a student will receive an out-of-school suspension or expulsion. A risk ratio above 1.0 means the risk is higher and, therefore, disproportionate to some degree. The State comparison measure compares the removal rate of each student group in a school to a statewide removal rate. The statewide removal rate is a three-year cumulative rate based on the prior three years of Maryland's out-of-school suspension/expulsion and enrollment data.

For the past five years, a team from MSDE has been analyzing data, sharing the data with local school systems, implementing the plan presented to the State board in January 2017, and preparing for full implementation in the 2019-2020 school year. Full implementation includes identification of schools and submission of action plans by local school systems to reduce in one year and ultimately eliminate the disproportionality in three years. MSDE disseminated its guidance document on *Reducing and Eliminating Disproportionality in School Discipline* to local school systems in October 2019.

MSDE has entered into a memorandum of understanding with the Regional Educational Laboratory (REL) Mid-Atlantic for the purpose of examining trends in school removals, characteristics of schools with discipline disproportionality, and potential refinements to the model, specifically the number of years to be used for identification. MSDE continues to work with REL.

Data Collection and Presentation

MSDE must collect data on alternative school discipline practices in public schools for each local school system, including (1) the types of alternative school discipline practices that are used in a local school system and (2) the type of misconduct for which an alternative discipline practice is used. Also, MSDE must disaggregate the information in any MSDE student discipline data report by race, ethnicity, gender, disability status, eligibility for free or reduced-price meals or an equivalent measure of socioeconomic status, and English language proficiency for (1) the State; (2) each local school system; and (3) each public school. Special education-related data in any such report must be disaggregated by race, ethnicity, and gender.

During the 2018-2019 school year, 7,905 students (0.9% of total enrollment) were suspended in school a total of 11,868 times. In addition, 40,393 students (4.7%) were subject to out-of-school suspension or expulsion a total of 67,550 times.

State Expenditures: General fund expenditures increase by \$72,513 in fiscal 2021 for MSDE to hire one education program specialist to perform data and program analysis, report local school system data, and provide technical assistance as needed. This estimate reflects a 90-day start-up delay from the bill's July 1, 2020 effective date. It includes salary and fringe benefits for the educational specialist, one-time start-up costs, and other ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$67,147
Operating Expenses	5,366
Total FY 2021 State Expenditures	\$72,513

Future year expenditures reflect annualization, annual increases, employee turnover, ongoing operating expenses, and elimination of one-time costs.

Additional Information

Prior Introductions: HB 950 of 2019, a bill with similar provisions, was heard by the House Ways and Means Committee, but no further action was taken.

Designated Cross File: None.

Information Source(s): Maryland State Department of Education; Anne Arundel County Public Schools; Frederick County Public Schools; Montgomery County Public Schools; Department of Legislative Services

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