

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 890 (Delegate Kaufman, *et al.*)
 Ways and Means

Public Schools - Discipline-Related Data - Collection and Publication

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 as specified. MSDE must report this data to the Governor and the General Assembly on or before August 1, 2025, and annually each August 1 thereafter. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: General fund expenditures increase by \$91,079 in FY 2025 for staffing. Future year expenditures reflect annualization, inflation, and ongoing costs. Revenues are not affected.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	91,100	109,600	114,500	119,500	124,700
Net Effect	(\$91,100)	(\$109,600)	(\$114,500)	(\$119,500)	(\$124,700)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: 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, as specified, and annually report the data to the Governor and the 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. “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 maintain a risk ratio and State comparison threshold of 2.0 to identify action under federal regulations that implement the federal Individuals with Disabilities Education Act (IDEA) for schools with high disproportionality.

Current Law:

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, first, or second grade 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 second grade 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 (SBE) 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. In December 2018, the board established a Task Force on Student Discipline Regulations to review the guidelines and regulations. The task force issued its [final report](#) in August 2019, but no changes to the regulations or guidelines were made as a result.

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.

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. The discrepancy model uses a risk ratio of 3.0 as the threshold for determining whether disproportionality exists; a risk ratio of 3.0 means that a target population (*e.g.*, Black males) is three times more likely than a control population (*e.g.*, all other males) to be identified for special education services or disciplined in some manner. A risk ratio over 1.0 indicates overrepresentation. 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 SBE 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. See the Additional Comments section below for more information on the State’s use of risk ratios.

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.

Reportable Offenses

If a student is arrested for certain crimes, a law enforcement agency is required by law to notify the student’s school principal, local school superintendent, and if applicable, school resource officer. These crimes are known as “reportable offenses.” Chapter 742 of 2022 required the principal or local school superintendent to invite a student’s attorney to participate in a conference between school officials, the student, and the student’s parent or guardian if the student is being removed or excluded from the student’s regular school program for a reportable offense, including a child with a disability. Annually, local boards of education must provide reports to MSDE regarding information about each reportable offense and school disruptions that occur on public school grounds for the immediately preceding school year. MSDE must provide separate reports on this information each year to the specified entities.

State Expenditures: MSDE advises that it currently does not collect, analyze, or report discipline data for alternative schools and programs, as required by the bill. It also requires additional staff resources to collect, maintain, and make available the data it collects in a disaggregated format. Therefore, general fund expenditures increase by \$91,079 in fiscal 2025 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, 2024 effective date. It includes a salary and fringe benefits for the educational specialist, one-time start-up costs, and other ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$83,823
Operating Expenses	<u>7,256</u>
Total FY 2025 State Expenditures	\$91,079

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

Additional Comments: MSDE advises that, consistent with federal requirements and the bill’s provisions, it uses a risk ratio of 2.0 as the threshold for determining disproportionality with regard to the implementation of the federal IDEA. However, as noted above, State reporting and accountability related to disproportionality in student discipline uses a risk ratio of 3.0 as the threshold, which is not affected by the bill.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland State Department of Education; Department of Legislative Services

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