
**By: Chairman, Ways and Means Committee (Departmental - Education) and Delegates
Stup, Hecht, and Cryor**

Introduced and read first time: February 14, 1996

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 1996

CHAPTER _____

1 AN ACT concerning

2 Education - Expulsion for Bringing a Firearm onto School Property

3 FOR the purpose of requiring a county superintendent of schools to expel an identified
4 student with disabilities under certain circumstances for a certain period of time,
5 who has brought a firearm onto school property; authorizing a county
6 superintendent of schools to specify on a case by case basis a shorter period of
7 expulsion or an alternative educational setting for an identified student with
8 disabilities who has brought a firearm onto school property under certain
9 circumstances; requiring the county superintendent to follow certain procedures in
10 making the expulsion determination; providing for a certain contingency; and
11 generally relating to the expulsion of identified students with disabilities.

12 BY repealing and reenacting, with amendments,
13 Article - Education
14 Section 7-304
15 Annotated Code of Maryland
16 (1992 Replacement Volume and 1995 Supplement)

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

19 **Article - Education**

20 7-304.

21 (a) (1) In accordance with the rules and regulations of the county board, each
22 principal of a public school may suspend for cause, for not more than 5 school days, any
23 student in the school who is under the direction of the principal.

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1 (2) The student or his parent or guardian promptly shall be given a
2 conference with the principal and any other appropriate personnel during the suspension
3 period.

4 (b) At the request of a principal, a county superintendent may suspend a student
5 for more than 5 school days or expel him.

6 (c) (1) If a principal finds that a suspension of more than 5 schooldays or
7 expulsion is warranted, he immediately shall report the matter in writing to the county
8 superintendent.

9 (2) The county superintendent or his designated representative promptly
10 shall make a thorough investigation of the matter.

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

14 (4) If after the conference the county superintendent or his designated
15 representative finds that a suspension of more than 10 school days or expulsion is
16 warranted, the student or his parent or guardian may:

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

18 (ii) Be heard before the county board or its designated committee; and

19 (iii) Bring counsel and witnesses to the hearing.

20 (5) Unless a public hearing is requested by the parent or guardian of the
21 student, a hearing shall be held out of the presence of all individuals except those whose
22 presence is considered necessary or desirable by the board.

23 (6) The appeal to the county board does not stay the decision of the county
24 superintendent.

25 (7) The decision of the county board is final.

26 (d) (1) This subsection applies to Prince George's County only.

27 (2) Any student expelled or suspended from school shall remain away from
28 the school premises during those hours each school day when the school the student
29 attends is in session.

30 (3) The expelled or suspended student may return to the school premises
31 during the prohibited hours only for attendance at a previously scheduled appointment,
32 and if the student is a minor then only if accompanied by his parent or guardian.

33 (4) Any person who violates any provision of this subsection is guilty of a
34 misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.

35 (e) (1) In this subsection, "firearm" means a firearm as defined in 18 U.S.C. §
36 921.

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

5 (3) The County Superintendent may specify, on a case by case basis, a
6 shorter period of expulsion or an alternative educational setting, if alternative
7 educational settings have been approved by the County Board, for a student who has
8 brought a firearm onto school property.

9 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS
10 PARAGRAPH, IF THE PROCEEDINGS CONDUCTED UNDER THIS SUBSECTION
11 INVOLVE AN IDENTIFIED STUDENT WITH DISABILITIES WHO IS DETERMINED TO
12 HAVE BROUGHT A FIREARM TO SCHOOL, THE STUDENT MAY BE PLACED IN AN
13 INTERIM ALTERNATIVE EDUCATIONAL SETTING IN ACCORDANCE WITH STATE LAW
14 PROCEDURES, FOR NOT MORE THAN THE MAXIMUM NUMBER OF DAYS SPECIFIED
15 IN THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT, 20 U.S.C. 1415(E)
16 OR THE IMPROVING AMERICA'S SCHOOLS ACT.

17 (II) THE INTERIM ALTERNATIVE EDUCATIONAL SETTING SHALL
18 BE DECIDED BY THE ADMISSION, REVIEW, AND DISMISSAL COMMITTEE.

19 (III) IF A PARENT OR GUARDIAN OF AN IDENTIFIED STUDENT WITH
20 DISABILITIES REQUESTS A DUE PROCESS HEARING, THE STUDENT SHALL REMAIN IN
21 THE ALTERNATIVE EDUCATIONAL SETTING DESCRIBED ABOVE DURING THE
22 PENDENCY OF ANY PROCEEDINGS CONDUCTED UNDER THIS SUBSECTION, UNLESS
23 THE PARENTS AND THE LOCAL SCHOOL SYSTEM AGREE OTHERWISE.

24 (IV) THIS SUBSECTION DOES NOT SUPERSEDE THE PROVISIONS OF §
25 14601 OF THE FEDERAL ELEMENTARY AND SECONDARY EDUCATION ACT IF THE
26 CONDUCT OF THE IDENTIFIED STUDENT WITH DISABILITIES IS UNRELATED TO THE
27 STUDENT'S DISABILITY, EXCEPT THAT, IN THOSE CIRCUMSTANCES, THE
28 PROCEDURES UNDER STATE AND FEDERAL LAW SHALL BE FOLLOWED.

29 [(4)] (5) The State Board shall adopt regulations to implement this
30 subsection.

31 (f) (1) [A handicapped] FOR ANY OTHER NONFIREARM DISCIPLINARY
32 ACTION A student WITH A DISABILITY may not be removed from the student's current
33 educational placement for more than 10 school days each school year unless:

34 (i) The admission, review, and dismissal committee has determined
35 that the conduct which prompted the disciplinary action was not a manifestation of the
36 student's [handicapping condition] DISABILITY and the student's parents have not
37 appealed the determination;

38 (ii) The admission, review, and dismissal committee has determined in
39 accordance with regulations adopted by the State Board of Education that the cumulative
40 effect of 2 or more suspensions totaling more than 10 school days each school year does
41 not create a pattern of exclusion that significantly impacts upon the student's educational
42 program and the student's parents have not appealed the determination;

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1 (iii) The student's parents have agreed to an alternative or interim
2 educational placement; or

3 (iv) 1. The maintenance of the student's current educational
4 placement is substantially likely to result in injury to the student or to others;

5 2. The student's parents have not agreed to an alternative or
6 interim educational placement; and

7 3. A court of competent jurisdiction has temporarily enjoined
8 the student from remaining in the student's current educational placement.

9 (2) In injunctive proceedings under paragraph (1)(iv)3 of this subsection,
10 there is a presumption in favor of maintaining the student's current educational
11 placement. The county superintendent or the superintendent's designated representative
12 may overcome this presumption by showing that maintaining the student's current
13 educational placement is substantially likely to result in injury either to the student or to
14 others.

15 (3) Whenever a student has been enjoined from attending the student's
16 current educational placement under paragraph (1)(iv)3 of this subsection, the county
17 superintendent shall ensure that the student continues to receive appropriate educational
18 and related services to the extent practicable.

19 SECTION 2. AND BE IT FURTHER ENACTED, That should Public Law
20 103-382, Section 14601 et seq. of the United States Code, Improving America's Schools
21 Act of 1994, be repealed or otherwise found unenforceable, § 7-304(e) of the Education
22 Article, as enacted by this Act, shall be abrogated and of no further force and effect, with
23 no further action required by the General Assembly.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 1996.