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**By: Senator Astle**

Introduced and read first time: February 24, 1997

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Education - Public Schools - Hearing Examiners for Proceedings Involving Students**

3 FOR the purpose of authorizing the county boards of education in the State to have  
4 certain proceedings involving the suspension or expulsion of students that come  
5 before the boards take place before a hearing examiner.

6 BY repealing and reenacting, without amendments,  
7 Article - Education  
8 Section 4-205(c) and 6-202  
9 Annotated Code of Maryland  
10 (1997 Replacement Volume)

11 BY repealing and reenacting, with amendments,  
12 Article - Education  
13 Section 6-203(b) and 7-305  
14 Annotated Code of Maryland  
15 (1997 Replacement Volume)

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

18 **Article - Education**

19 4-205.

20 (c) (1) This subsection does not apply to Baltimore City.

21 (2) Subject to the authority of the State Board under § 2-205(e) of this  
22 article, each county superintendent shall explain the true intent and meaning of:

23 (i) The school law; and

24 (ii) The applicable bylaws of the State Board.

25 (3) Subject to the provisions of § 6-203 and Subtitle 4 of Title 6 of this  
26 article and without charge to the parties concerned, each county superintendent shall  
27 decide all controversies and disputes that involve:

28 (i) The rules and regulations of the county board; and

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1 (ii) The proper administration of the county public school system.

2 (4) A decision of a county superintendent may be appealed to the county  
3 board if taken in writing within 30 days after the decision of the county superintendent.  
4 The decision may be further appealed to the State Board if taken in writing within 30 days  
5 after the decision of the county board.

6 6-202.

7 (a) (1) On the recommendation of the county superintendent, a county board  
8 may suspend or dismiss a teacher, principal, supervisor, assistant superintendent, or other  
9 professional assistant for:

10 (i) Immorality;

11 (ii) Misconduct in office, including knowingly failing to report  
12 suspected child abuse in violation of § 5-704 of the Family Law Article;

13 (iii) Insubordination;

14 (iv) Incompetency; or

15 (v) Willful neglect of duty.

16 (2) Before removing an individual, the county board shall send the  
17 individual a copy of the charges against him and give him an opportunity within 10 days to  
18 request a hearing.

19 (3) If the individual requests a hearing within the 10 day period:

20 (i) The county board promptly shall hold a hearing, but a hearing may  
21 not be set within 10 days after the county board sends the individual a notice of the  
22 hearing; and

23 (ii) The individual shall have an opportunity to be heard before the  
24 county board, in person or by counsel, and to bring witnesses to the hearing.

25 (4) The individual may appeal from the decision of the county board to the  
26 State Board. In Baltimore City, this paragraph does not apply to the suspension and  
27 removal of assistant superintendents and higher levels.

28 (5) In Baltimore City the suspension and removal of assistant  
29 superintendents and higher levels shall be as provided by the city charter.

30 (b) Except for personnel of the Baltimore City public schools at the level of  
31 assistant superintendent or above, this section does not prohibit the State Board from  
32 adopting bylaws to provide for a probationary period of employment of 2 years or less.

33 6-203.

34 (b) (1) For all proceedings before a county board under §§ 4-205(c) [and],  
35 6-202, AND 7-305 of this article, the county board may have the proceedings heard first by  
36 a hearing examiner.

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1 (2) In Baltimore City the Board of School Commissioners may have  
 2 proceedings under § 6-202 heard first by a hearing examiner except as otherwise provided  
 3 by the city charter.

4 7-305.

5 (a) (1) In accordance with the rules and regulations of the county board, each  
 6 principal of a public school may suspend for cause, for not more than 10 school days, any  
 7 student in the school who is under the direction of the principal.

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

11 (b) At the request of a principal, a county superintendent may suspend a student  
 12 for more than 10 school days or expel him.

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

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

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

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

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

25 (ii) Be heard before the county board or its [designated committee]  
 26 DESIGNEE; and

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

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

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

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

34 (d) (1) Any student expelled or suspended from school:

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

37 (ii) May not participate in school sponsored activities.

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

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

7                   (4) (i) If a student has been suspended or expelled, the principal or a  
8 designee of the principal may not return the student to the classroom without conferring  
9 with the teacher who referred the student to the principal, if the student was referred by  
10 a teacher, other teachers as appropriate, other appropriate school personnel, the student,  
11 and the student's parent or guardian.

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

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

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

21                   (e) (1) In this subsection, "firearm" means a firearm as defined in 18 U.S.C. §  
22 921.

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

27                   (3) The county superintendent may specify, on a case by case basis, a shorter  
28 period of expulsion or an alternative educational setting, if alternative educational  
29 settings have been approved by the county board, for a student who has brought a firearm  
30 onto school property.

31                   (4) (i) Except as provided in subparagraph (iii) of this paragraph, if the  
32 proceedings conducted under this subsection involve an identified student with  
33 disabilities who is determined to have brought a firearm to school, the student may be  
34 placed in an interim alternative educational setting in accordance with State law  
35 procedures, for not more than the maximum number of days specified in the federal  
36 Individuals with Disabilities Education Act, 20 U.S.C. 1415(e) or the Improving  
37 America's Schools Act.

38                   (ii) The interim alternative educational setting shall be decided by the  
39 Admission, Review, and Dismissal Committee.

40                   (iii) If a parent or guardian of an identified student with disabilities  
41 requests a due process hearing, the student shall remain in the alternative educational

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1 setting described above during the pendency of any proceedings conducted under this  
2 subsection, unless the parents and the local school system agree otherwise.

3 (iv) This subsection does not supersede the provisions of § 14601 of the  
4 federal Elementary and Secondary Education Act if the conduct of the identified student  
5 with disabilities is unrelated to the student's disability, except that, in those  
6 circumstances, the procedures under State and federal law shall be followed.

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

8 (f) (1) For any other nonfirearm disciplinary action a student with a disability  
9 may not be removed from the student's current educational placement for more than 10  
10 school days each school year unless:

11 (i) The Admission, Review, and Dismissal Committee has determined  
12 that the conduct which prompted the disciplinary action was not a manifestation of the  
13 student's disability and the student's parents have not appealed the determination;

14 (ii) The Admission, Review, and Dismissal Committee has determined  
15 in accordance with regulations adopted by the State Board of Education that the  
16 cumulative effect of 2 or more suspensions totaling more than 10 school days each school  
17 year does not create a pattern of exclusion that significantly impacts upon the student's  
18 educational program and the student's parents have not appealed the determination;

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

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

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

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

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

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

37 (g) (1) This subsection does not apply if the student is referred to the  
38 Department of Juvenile Justice.

39 (2) If a student violates a State or local law or regulation and during or as a  
40 result of the commission of that violation damaged, destroyed, or substantially decreased

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1 the value of school property or property of another that was on school property at the  
2 time of the violation, as part of a conference on the matter with the student, the student's  
3 parent or guardian and any other appropriate person, the principal shall require the  
4 student or the student's parent to make restitution.

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

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 July 1, 1997.