
By: Senator Astle

Introduced and read first time: February 24, 1997

Assigned to: Rules

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 1997

CHAPTER ____

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 in accordance with certain
6 procedures.

7 BY repealing and reenacting, without amendments,
8 Article - Education
9 Section 4-205(c) and 6-202
10 Annotated Code of Maryland
11 (1997 Replacement Volume)

12 BY repealing and reenacting, with amendments,
13 Article - Education
14 Section 6-203(b) and 7-305
15 Annotated Code of Maryland
16 (1997 Replacement Volume)

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 4-205.

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

2

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

3 (i) The school law; and

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

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

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

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

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

14 6-202.

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

18 (i) Immorality;

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

21 (iii) Insubordination;

22 (iv) Incompetency; or

23 (v) Willful neglect of duty.

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

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

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

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

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

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

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

6 6-203.

7 (b) (1) For all proceedings before a county board under §§ 4-205(c) [and],
 8 6-202, AND 7-305 of this article, the county board may have the proceedings heard first by
 9 a hearing examiner.

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

13 7-305.

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

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

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

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

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

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

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

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

34 (ii) Be heard before the county board ~~or~~ its ~~designated~~
 35 committee ~~DESIGNEE, OR A HEARING EXAMINER, IN ACCORDANCE WITH THE~~
 36 PROCEDURES ESTABLISHED UNDER § 6-203 OF THIS ARTICLE; and

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (e) (1) In this subsection, "firearm" means a firearm as defined in 18 U.S.C. §
32 921.

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

37 (3) The county superintendent may specify, on a case by case basis, a shorter
38 period of expulsion or an alternative educational setting, if alternative educational

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1 settings have been approved by the county board, for a student who has brought a firearm
2 onto school property.

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

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

12 (iii) If a parent or guardian of an identified student with disabilities
13 requests a due process hearing, the student shall remain in the alternative educational
14 setting described above during the pendency of any proceedings conducted under this
15 subsection, unless the parents and the local school system agree otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

13 (2) If a student violates a State or local law or regulation and during or as a
14 result of the commission of that violation damaged, destroyed, or substantially decreased
15 the value of school property or property of another that was on school property at the
16 time of the violation, as part of a conference on the matter with the student, the student's
17 parent or guardian and any other appropriate person, the principal shall require the
18 student or the student's parent to make restitution.

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

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