

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1208
Ways and Means

(Delegate Swain, *et al.*)

Education - Suspension and Expulsion - Restrictions and Alternative Disciplinary Options

This bill prohibits a school principal from suspending a student or recommending a student for expulsion unless (1) the student's behavior cannot be corrected with specified alternative disciplinary methods or (2) the student commits specified acts. A principal must keep a record of all efforts to correct a student's behavior with alternative disciplinary methods. A principal may use discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the student's specific behavior. The bill specifies that a student who helped to inflict physical injury on another person may not be expelled unless the student has been adjudged by a juvenile court to have been an accomplice to a crime of physical violence in which the victim suffered serious bodily injury.

Fiscal Summary

State Effect: None.

Local Effect: Local school systems can comply with the bill's requirements with existing budgeted resources.

Small Business Effect: None.

Analysis

Bill Summary: Except as otherwise provided in law, a principal may suspend a student or recommend a student for expulsion if the student has:

- engaged in an act of bullying, harassment, or intimidation;
- carried or possessed a firearm;
- carried or possessed a knife, an explosive, or any other deadly weapon unless the student obtained written permission to possess the item from the principal or local superintendent;
- unlawfully possessed, used, sold, or been under the influence of a controlled dangerous substance or an alcoholic beverage;
- unlawfully possessed or unlawfully offered or negotiated to sell drug paraphernalia;
- possessed or used a tobacco product;
- committed or attempted to commit robbery or extortion;
- stole or attempted to steal school property or private property;
- knowingly received stolen school property or private property; or
- committed specified sexual offenses.

A principal may suspend a student or recommend a student for expulsion for committing an act listed only if the act occurred (1) while on school property or on a school bus; (2) while at a school event or activity; or (3) during a lunch or break period on or off school property.

Alternative disciplinary methods to address and correct a student's behavior include (1) a conference between school personnel, the student's parent or guardian, and the student; (2) a referral to the school counselor, psychologist, social worker, or other school support service personnel for case management and counseling; (3) a referral for a comprehensive psychosocial or psychoeducational assessment; (4) enrollment in a program for teaching prosocial behavior or anger management; (5) enrollment in a restorative justice program; and (6) enrollment in an after-school program that addresses specific behavioral issues or exposes students to positive activities and behaviors.

Current Law: Each local board of education must establish special programs for public school students who exhibit disruptive classroom behavior. For cause, a public school principal may suspend a student in the principal's school for up to 10 days. A suspension

for longer than 10 days or an expulsion must be made by the local superintendent of schools at the request of a principal, and a student may appeal the suspension or expulsion to the local board of education.

The student or the student's parent or guardian must be promptly given a conference with the principal and any other appropriate personnel during the suspension period. The student or the student's parent or guardian must be promptly given a community resource list provided by the local board of education.

If after the conference, the local superintendent or the local superintendent's designee finds that a suspension of more than 10 school days or expulsion is warranted, the student or the student's parent or guardian may (1) appeal to the local board within 10 days after the determination; (2) be heard before the local board, its designated committee, or a hearing examiner, in accordance with the procedures established under law; and (3) bring counsel and witnesses to the hearing.

Unless a public hearing is requested by the parent or guardian of the student, a hearing must be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the local board of education. The appeal to the local board does not stay the decision of the local superintendent. The decision of the local board is final.

A student may not be suspended or expelled from school solely for attendance-related offenses.

Except as provided below, if the local superintendent or their designee finds that a student has brought a firearm onto school property, the student must be expelled for a minimum of one year. The local superintendent may specify, on a case by case basis, a shorter period of expulsion or an alternative educational setting, if alternative educational settings have been approved by the local board, for a student who has brought a firearm onto school property.

The discipline of a child with a disability, including the suspension, expulsion, or interim alternative placement of the child for disciplinary reasons, must be conducted in conformance with the requirements of the Individuals with Disabilities Education Act. If a child with a disability is being considered for suspension or expulsion, the child or the child's parent or guardian must be given a community resources list attached to the procedural safeguards notice required by regulation of the State Board of Education

Except as otherwise provided, if the student has a disability, a student in the Baltimore City School System may be transferred to the Baltimore City Alternative Learning Center

if the student (1) assaults a teacher, teacher's aide, student teacher, other professional or paraprofessional school employee, or other student; (2) carries a gun, rifle, knife, or other deadly weapon onto school property; or (3) commits any other act that would be a crime if committed by an adult. The center director must review recommendations for admission of a student to the center and admit or deny admission for each student based on an assessment of the student's amenability to the services, programs, and treatment available in the center.

Background: There were approximately 70,000 student suspensions and expulsions and 25,000 in-school suspensions from Maryland public schools in the 2012-2013 school year. Information on out-of-school suspensions and expulsions for public school students in Maryland is available on the MSDE website at the following web address:

http://www.marylandpublicschools.org/MSDE/divisions/planningresultstest/doc/20122013Student/susp13_sch_comb.pdf

In January 2014, the Maryland State Board of Education approved new regulations guiding student discipline. The regulations are designed to keep students in school and maintain progress toward graduation, while strengthening school safety. The regulations require local school systems to adopt policies that reduce long-term out-of-school suspensions and expulsions, and use such actions only when a student poses an imminent threat of serious harm to other students or staff, or when a student is engaged in chronic or extreme disruptive behavior. In addition, the regulations seek to expedite the student discipline appeal process by allowing local boards of education to hear and decide school discipline appeals with an opportunity to extend that time period in complex cases.

In implementing the regulations, MSDE will develop a method to analyze local school discipline data to measure whether there is a disproportionate impact of disciplinary actions on minority and special education students. Local boards of education will be required to update their student discipline policies based on the new regulations by the beginning of the 2014-15 school year.

According to the regulations, the new policies and regulations at a minimum must (1) reflect a discipline philosophy based on the goals of fostering, teaching, and acknowledging positive behavior; (2) be designed to keep students connected to school so that they may graduate college and career ready; (3) describe the conduct that may lead to in-school and out-of-school suspension or expulsion; (4) allow for discretion in imposing discipline; (5) address the ways the educational and counseling needs of suspended students will be met; and (6) explain why and how long-term suspensions or expulsions are last-resort options.

The Maryland State Board of Education's new regulations come weeks after federal officials called for a similar rethinking of student discipline nationwide and issued the first set of federal discipline guidelines.

Additional Information

Prior Introductions: None.

Cross File: SB 866 (Senator Benson) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland State Department of Education, Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Department of Legislative Services

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