

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 26
Ways and Means

(Delegate Chang)

Attendance of Students - Lawful Absences - Mental Illness

This bill provides that a student's absence due to the student's mental illness is a lawful absence. Each local board of education must develop a written attendance policy for students with mental illness and must publish the policy on its website. The policy may identify a specific number of absences due to mental illness allowed within a marking period, semester, or school year. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: None. Maryland State Department of Education (MSDE) and the Maryland Department of Health operations and finances are not affected.

Local Effect: None. Local policies currently allow for absences related to a student illness. Local school systems can modify, publish, and implement these attendance policies using existing resources.

Small Business Effect: None.

Analysis

Current Law: A child age 5 to 17 must attend public school regularly unless the child is otherwise receiving regular, thorough instruction at an alternative setting (*i.e.*, a private or home school). An individual who has legal custody of a child age 5 to 17 and fails to see that the child attends school is guilty of a misdemeanor. Compulsory attendance does not apply to specified individuals, including an individual who is severely ill and requires home or hospital instruction.

A child who has a mental, emotional, or physical handicap must attend school unless the child's condition makes attending school harmful to the child's development or if the child may cause serious physical harm to others.

The local superintendent, with the advice of specified school officials and with the written recommendation of a licensed doctor or a MSDE certified or licensed psychologist, may provide other free education or permit the child to be withdrawn from school as long as the above conditions exist. If a child is withdrawn from school, the local board of education must make provisions for the education of the child.

Absences from school are classified as lawful or unlawful. The Code of Maryland Regulations (COMAR) specifies the conditions that constitute a lawful absence from school. Among these conditions are:

- illness of the student – the principal or pupil personnel worker must require a physician's certificate from the parent or guardian of a student reported continuously absent for illness; and
- other emergency or set of circumstances which, in the judgment of the superintendent or designee, constitute a good and sufficient cause for absence from school.

In addition to reasons stated in COMAR, Chapter 729 of 2017 requires that a student's absence due to a student's pregnancy or parenting needs is a lawful absence as specified.

COMAR also requires each local school system to develop a student attendance policy that includes rules, definitions, and procedures for policy implementation. Among other requirements, the policy must include reasons for lawful and unlawful absences and tardiness, including those reasons specified by COMAR and makeup work requirements.

Background: Comprehensive data on the rate of children's mental illness is not available. According to the Centers for Disease Control and Prevention, among the more common mental disorders that can be diagnosed in childhood are attention-deficit/hyperactivity disorder, anxiety, and behavior disorders. The percentage of children aged 6 to 17 years old who have "ever been diagnosed with anxiety or depression" has increased from 5.4% in 2003 to 8.4% in 2011 to 2012.

Recently, Oregon and Utah enacted legislation requiring a student's absence due to a student's mental health to be an excused absence.

Baltimore City Public Schools (BCPS) reports that its existing attendance policy references "illness" and does not differentiate between mental and other illnesses. Under its existing

policy, parental notes are acceptable for illness up to three days; a doctor's note is required for absences beyond three days. BCPS advises that differentiating between mental and physical illness in the attendance policy may inadvertently lead to stigmatization of a student who is mentally ill.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland State Department of Education; Maryland Department of Health; Baltimore City Public Schools; Baltimore County Public Schools; Anne Arundel County Public Schools; Frederick County Public Schools; Wicomico County Public Schools; Centers for Disease Control and Prevention; *The Washington Post*; Department of Legislative Services

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