

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1152
Ways and Means

(Delegates Washington and Ivey)

Public Schools - Student Bill of Rights and Prohibitions on Suspensions and
Expulsions

This bill establishes certain rights for each student in a public school. The bill also alters the types of conduct for which a public school student in grades three or higher may be suspended or expelled, such that they may be suspended or expelled only for unsafe behavior (instead of for cause). Unsafe behavior means any behavior that is dangerous to the health or safety of students or others. Unsafe behavior does not include an act (1) that the student intends only to be disruptive, as specified, or (2) that is disrespectful to an adult or other students but is nonthreatening and does not physically harm another. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: State finances are not directly affected.

Local Effect: Local school systems incur minimal additional costs to train staff in new student rights, to the extent that these rights vary from those expressed in each school system's current document on student rights and responsibilities and differ from guarantees under current State and federal law. Potentially, some local school systems incur additional legal fees and liabilities associated with any legal action related to a perceived violation of new rights under the bill. A precise estimate of any such expenditures cannot be made at this time.

Small Business Effect: None.

Analysis

Bill Summary: Each student in a public school in the State has the right to:

- a safe, caring, and welcoming school environment;
- support for student learning so that all students have a safe space to make mistakes;
- a school in which all students are accepted regardless of background or differences;
- a student voice, as specified;
- a school environment that accommodates specified student needs, recognizes the student's different abilities, and supports the exploration and expression of identity;
- be informed about and educated on disciplinary and use of force policies in operation at the student's school;
- consistent and equitable discipline practices;
- counselors who encourage the student to take coursework and access resources and classroom instruction that lead to college readiness;
- healthy and nutritious food; and
- equal access to school sports and school-sanctioned extracurricular activities.

Current Law: State regulations require each local board of education to have a document on student's responsibilities and rights that conforms to guidelines established by the State Board of Education. The document must be disseminated periodically to all members of the school community, as specified. There must be broad involvement of representatives of the school community in the review of the document.

Suspension and Expulsion in General

In accordance with rules developed by each local school board, a principal may suspend a student for cause for up to 10 school days. The principal must provide the suspended student and the student's parents with a conference during the suspension period and a list of community resources. Upon request by a principal, a local superintendent may suspend a student for more than 10 days or expel a student, subject to investigation, conferencing, and appeal procedures in statute. A student may not be suspended or expelled only for attendance-related offenses but may be subject to in-school suspension for those offenses.

A student who has been suspended or expelled may not return to the classroom until the principal confers with (1) the teacher(s) who referred the student (if appropriate); (2) other appropriate school personnel; (3) the student; and (4) the student's parent or guardian.

If disruptive behavior results in action less than suspension, the principal or designee must confer with the teacher who referred the student prior to the student returning to the teacher's classroom.

Suspension and Expulsion of Young Children

Chapters 843 and 844 of 2017 prohibit a student in public prekindergarten, kindergarten, first, or second grade from being suspended or expelled, except that:

- a student in those grades may be expelled if required by federal law (generally, for bringing a firearm to school); and
- a student in those grades may be suspended for up to five days if the school administration, in consultation with a school psychologist or other mental health professional, determines that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports.

For a student in prekindergarten through second grade who is suspended or who commits an act that would otherwise be grounds for suspension, local school systems must provide intervention and support to address the student's behavior. Intervention and support include (1) positive behavior interventions and supports; (2) a behavior intervention plan; (3) a referral to a student support team; (4) a referral to an individualized education program; and (5) a referral for appropriate community-based services.

The school system must remedy the effect of a student's behavior through appropriate intervention methods including restorative practices. Restorative practices are practices conducted in a whole-school ethos or culture that supports peacemaking and solves conflict by building a community and addressing harm in a school setting and that:

- are conducted by trained staff;
- focus on repairing the harm to the community through dialogue that emphasizes individual accountability; and
- help build a sense of belonging, safety, and social responsibility in the school community.

A public elementary school that has a suspension rate that exceeds 10% must implement a positive behavioral interventions and support (PBIS) program or an alternative behavior modification program in collaboration with MSDE. An elementary school that has already implemented a PBIS program or a behavior modification program must expand its existing program if it has a suspension rate that exceeds 10%.

School Athletic Programs

The Code of Maryland Regulations governs the athletic programs for all high school students in Maryland public secondary schools, which are members of the Maryland Public

Secondary Schools Athletic Association (MPSSAA). Local school systems may adopt rules governing their athletic programs that are more restrictive than those of MPSSAA. MPSSAA transgender guidance requires local school systems on a case-by-case basis to ensure all students are eligible to participate, irrespective of the gender listed on a student's record.

Under federal law – Title IX of the Education Amendments of 1972 – discrimination on the basis of sex in educational programs and activities is prohibited for all educational institutions receiving federal funding. Every institution that receives federal financial assistance is bound by Title IX; however, an educational institution that is controlled by a religious organization is exempt from Title IX when the law's requirements conflict with the organization's religious tenets.

School Meals

Local school systems are subject to federal law and regulations through participation in federal food and nutrition programs, including (among others) the National School Lunch Program, School Breakfast Program, and other programs for free and reduced-price meals and free milk in schools. The federal Healthy, Hunger-Free Kids Act of 2010 requires schools to offer nutritious, well-balanced, and age-appropriate meals to all the children they serve to improve their diets and safeguard their health.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore City Public Schools; Maryland State Department of Education; Maryland Center for School Safety; Department of Legislative Services

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