

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 495

(Delegate Ebersole, *et al.*)

Ways and Means

Education, Health, and Environmental Affairs

Education - Student-Organized Peaceful Demonstrations - Student Discipline
and Policy

This bill bars a public school from, under specified conditions, (1) prohibiting a student from organizing or participating in a student-organized peaceful demonstration; (2) imposing limits that substantially inhibit a student's right to free speech while participating in a student-organized peaceful demonstration; and (3) disciplining a student for organizing or participating in a student-organized demonstration. A school may impose reasonable limitations on the time and place of a student-organized peaceful demonstration to minimize disruptions and protect the health, safety, and welfare of students and school personnel. Each local board of education must develop a written policy as specified regarding student-organized peaceful demonstrations. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: None.

Local Effect: Local school boards and schools can develop the required policy and implement the bill with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: "Student-organized peaceful demonstration" is defined as a nonviolent demonstration intended to express the viewpoint of a student. The definition excludes a demonstration that incites a student to create a clear and present danger to the health, safety, or welfare of the school community or commit an unlawful or dangerous act.

If the school administration is notified of a student's intent to engage in a student-organized peaceful demonstration at least 48 hours in advance and the student complies with the school board's required written policy, a public school may not discipline a student for organizing or participating in such an event. If a student does not comply with these requirements, a school may not impose a disciplinary action of greater magnitude than an unlawful absence.

The written policy each local board must develop must include guidelines for the time, place, and manner of expression for a student-organized peaceful protest. Additionally, the policy must define what constitutes reasonable requirements for the time and place of a student-organized demonstration, and reasonable guidelines for the time, place, and manner of expression by a student engaging in a peaceful demonstration. The policy *may* include limitations on language that has the intent to harass, threaten, or intimidate other people.

Current Law: Currently, school boards are not required to have a policy on student-organized peaceful demonstrations. Students may be disciplined for an unlawful absence if they participate in a student-organized peaceful demonstration.

School Absences

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. 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. Chapters 345 and 346 of 2021 expanded parenting-related lawful absences to include the use of a lactation space to nurse or express breast milk.

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.

Penalties for not meeting standards for regular attendance requirements include actions taken by school system staff when a student is unlawfully absent or accumulates an equivalent number of excessive or unlawful absences that exceeds the standard for regular school attendance. The penalties should be identified and should reflect a continuum of excessive or unlawful absences.

School Discipline

The State Board of Education must establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards. The guidelines were last updated in 2014. The State board must also (1) upon request, provide technical assistance and training to local school boards on the use of restorative practices and (2) assist each local school board with implementing the guidelines. Each local school board must adopt regulations designed to create and maintain within schools the atmosphere of order and discipline necessary for effective learning. The local regulations must state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational. They must also provide for educational and behavioral interventions, restorative approaches, counseling, student and parent conferencing, and alternative programs.

Each principal of a public school may suspend for cause, for not more than 10 school days, any student in the school who is under the direction of the principal.

Additional Information

Prior Introductions: HB 753 passed the House with amendments and received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

Designated Cross File: SB 519 (Senator Washington) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland State Department of Education; Department of Legislative Services

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