

TO: Members of the Maryland State Board of Education

FROM: Bernard J. Sadusky, Ed. D. *BJS*

DATE: August 30, 2011

SUBJECT: COMAR 13A.08.01.17 (AMEND)
School Use of Reportable Offenses
PERMISSION TO PUBLISH

PURPOSE:

To obtain permission to publish COMAR 13A.08.01.17, **School Use of Reportable Offenses, (ATTACHMENT I)**.

BACKGROUND/HISTORICAL PERSPECTIVE:

In its 2010 session, the Maryland General Assembly passed House Bill 1160, Safe Schools Act of 2010 which was enrolled as Chapter 188, Safe Schools Act of 2010 (ATTACHMENT II). One component of the law repealed and reenacted, with amendments, Education Article 7-303, Annotated Code, Arrest for Reportable Offenses. To meet the requirements of this component, it is necessary to amend COMAR 13A.08.01.17, School Use of Reportable Offenses, to include the required changes.

The additions to the existing regulation are as follows: 1. adds violations of the Criminal Law Articles §3-203 (Assault), §6-301 (Willful and malicious destruction, injury or defacement of the real or personal property of another), §9-302, §9-303, or §9-305 (Threaten to harm another, or damage or destroy property with intent to influence a victim or witness to testify falsely or without testimony), and §7-105 (Knowingly and willfully take a motor vehicle out of the owner's lawful custody, control, or use without the owner's consent) as reportable offenses; 2. defines school principal to mean the principal of the public or non-public school in which a student is enrolled, or a designee of the principal who is an administrator; 3. defines school security officer to include a principal, other school administrator, a law enforcement officer, or other individual employed by a local school system or a local government who is designated by the county superintendent or a school principal to help maintain the security and safety of a school (school security officer does not include a teacher; other staff precluded from designation suggested by the workgroup were school counselors, school psychologists, or school social workers).

The amended regulation must also include provisions for ensuring that reportable offense information is transmitted only to the school personnel of the school in which the student is enrolled and is destroyed when the student graduates, otherwise permanently leaves school, or turns 22 years old. Other conditions recommended by the workgroup were if the criminal case involving the reportable offense is dismissed, if the student is found not guilty of the reportable offense, or if the student pleads to a lesser offense that is not a reportable offense.

Two other conditions were added which require specific responses from a superintendent and school principal: 1. if a student is arrested for a reportable offense involving rape or a sexual offense, then the superintendent and principal shall consider prohibiting that student from attending the same school or riding the same bus as the alleged victim; and 2. if a student is arrested for a reportable offense involving rape or a sexual offense and is convicted or adjudicated delinquent for the rape or sexual offense, then the student may not attend the same school or ride the same bus as the victim. Finally, each public school that enrolls students in grades six through twelve in the State shall designate at least one school security officer.

EXECUTIVE SUMMARY:

A committee (**ATTACHMENT III**) convened on September 21, 2011 to develop recommendations for an amended COMAR regulation that is in compliance with the current law. This DRAFT COMAR regulation was also shared with all 24 local school system superintendents and directors of student services for their comment (**ATTACHMENT IV**). COMAR 13A.08.01.17 contains the implementing State regulations for School Use of Reportable Offenses. The proposed amendments align the COMAR provisions with the requirements of Education Article 7-303, Annotated Code, Arrest for Reportable Offenses.

ACTION:

Request permission to publish COMAR 13A.08.01.17, **School Use of Reportable Offenses**.

DMR:BJS:sd
Attachments

.17 School Use of Reportable Offenses.

A. Terms Defined. In this regulation the following terms have the meanings indicated:

(1) "Appropriate educational programming" means a regular or alternative education program that allows a student the opportunity to continue the student's education within the public school system and, if in secondary school, the opportunity to receive credit.

(2) "*Criminal gang*" has the meaning stated in *Criminal Law Article, §9-801, Annotated Code of Maryland.*

(3) "*Law enforcement agency*" means the law enforcement agencies listed in *Public Safety Article, § 3-101(e), Annotated Code of Maryland.*

(4) "*Local school system*" means the schools and school programs under the supervision of the local superintendent.

(5) "*Local superintendent*" means the county superintendent, for the county in which a student is enrolled, or a designee of the superintendent, who is an administrator.

[(2)] (6) "Related services" means any supportive intervention that is available through the local school system.

[(3)] (7) "Reportable offense" means:

(a) A crime of violence, as defined in *Criminal Law Article, §14-101, Annotated Code of Maryland;*

(b) Any of the offenses enumerated in *Courts and Judicial Proceedings Article, §3-8A-03(d)(4), Annotated Code of Maryland;*

(c) A violation of *Criminal Law Article, [§]§4-101, 4-102, 4-203, or 4-204, Annotated Code of Maryland;*

(d) A violation of *Criminal Law Article, §§5-602—5-609, 5-612—5-614, 5-617, 5-618, 5-627, or 5-628, Annotated Code of Maryland; or*

(e) A violation of *Criminal Law Article, [§]§4-503, 9-504, or 9-505, Annotated Code of Maryland.*

(f) *A violation of Criminal Law Article, § 6-102, 6-103, 6-104, or 6-105, Annotated Code of Maryland;*

(g) A violation of Criminal Law Article, § 9–802 or 9–803, Annotated Code of Maryland;

(h) A violation of Criminal Law Article § 3–203, Annotated Code of Maryland;

(i) A violation of Criminal Law Article § 6–301, Annotated Code of Maryland;

(j) A violation of Criminal Law Article § 9–302, 9–303, or 9–305, Annotated Code of Maryland; or

(k) A violation of Criminal Law Article § 7–105, Annotated Code of Maryland.

(l) An offense related to membership in a criminal gang.

(8) "School Principal" means the principal of the public or nonpublic school in which a student is enrolled, or a designee of the principal, who is an administrator.

(9) "School Security Officer" means an individual designated to maintain the security and safety of a school.

(a) School Security Officer includes:

(i) A school principal or other school administrator;

(ii) A law enforcement officer; or

(iv) Other individual employed by a local school system or a local government who is designated by the county superintendent or a school principal to help maintain the security and safety of a school.

(b) School School Security Officer does not include:

(i) A teacher;

(ii) A school counselor;

(iii) A school psychologist; or

(iv) A school social worker.

[(4)] (10) "Student" means an individual enrolled in a public school system in the State who is 5 years old or older and younger than 22 years old.

B. Administrative Procedures.

(1) Promptly upon receipt of information from a law enforcement agency of an arrest of a student for a reportable offense, the local [school] superintendent shall provide the *school* principal of the school in which the student is enrolled with the arrest information, including the charges. If the student who has been arrested is an identified student with disabilities who has been enrolled by the public school system in a nonpublic school program, the local superintendent shall provide the principal of the nonpublic school with the arrest information, including the charges.

(2) The school principal [or designee] with appropriate staff members shall immediately develop a plan that addresses appropriate educational programming and related services for the student and that maintains a safe and secure school environment for all students and school personnel. *The school principal shall request that the student's parent or guardian:*

(a) Participate in the development of the plan; and

(b) Submit information that is relevant to developing the plan.

(3) If the plan results in a change to the student's educational program, the school principal [or designee] shall promptly schedule a conference to inform the parent or guardian of the plan. The plan shall be implemented not later than 5 school days after receipt of the arrest information.

(4) The school principal [or designee] and appropriate staff shall review the plan and the student's status and make adjustments as appropriate:

(a) Immediately upon notification from the State's [a]Attorney of the disposition of the reportable offense; or

(b) Pending notification from the State's [a]Attorney, at a minimum on a quarterly basis.

(5) The parent or guardian shall be informed of any adjustments to the plan.

(6) Each local school system shall provide a review process to resolve any disagreement that arises in the implementation of this regulation.

C. General Provisions.

(1) Except by order of a juvenile court or other court upon good cause shown or as provided in §C(2) of this regulation, the reportable [arrest] *offense* information is confidential and may not be redisclosed by subpoena or otherwise and may not be made part of the student's permanent educational record.

(2) If the disposition of the reportable offense was a conviction, an adjudication of delinquency, or the criminal charge or delinquency petition is still pending, a local school

superintendent *or school principal* may transmit the information obtained under this regulation as a confidential file to the local school superintendent of another public school system *or to another nonpublic school* in the state in which the student has enrolled or *has [been]* transferred, to carry out the purposes of this regulation[;].

(3) A local school superintendent *or school principal* who transmits information about a student under §C(2) of this regulation shall include in the confidential transmittal information on any educational programming and related services provided to the student.

(4) A fee may not be charged to the student or parent or guardian for the alternative educational programming or related services that are developed for the student.

(5) Notice of the reportable offense charge alone may not be the basis for suspension or expulsion of the student. However, nothing in this regulation is intended to limit the manner in which a school obtains information or uses information obtained by any lawful means other than through notice of the arrest.

(6) Appropriate educational programming and related services shall be provided to an identified student with disabilities in accordance with the Individuals with Disabilities Education Act and State special education law and regulations, including COMAR 13A.05.01.

(7) *The reportable offense information obtained by a local superintendent, school principal or school security officer shall be:*

(a) Transmitted only to school personnel of the school in which the student is enrolled as necessary to carry out the purposes set forth in this regulation; and

(b) Destroyed when the first of the following occurs:

(i) The student graduates;

(ii) The student otherwise permanently leaves school;

(iii) The student turns 22 years old;

(iv) The criminal case involving the reportable offense is dismissed;

(v) The student is found not guilty of the reportable offense; or

(vi) The student pleads to a lesser offense that is not a reportable offense.

(8) Reportable offense involving rape or a sexual offense.

(a) Except as otherwise provided in paragraph §C(8)(b) of this regulation, the local superintendent and the school principal shall consider prohibiting a student who is arrested for a reportable offense involving rape or a sexual offense from attending the same school or riding on the same school bus as the alleged victim of the reportable offense if such

action is necessary or appropriate to protect the physical or psychological well-being of the alleged victim.

(b) If a student is arrested for a reportable offense involving rape or a sexual offense and is convicted of or adjudicated delinquent for the rape or sexual offense, the student may not attend the same school or ride on the same school bus as the victim.

(9) Nothing in this regulation is intended to limit the manner in which a local school obtains information or uses information obtained by any lawful means other than that set forth in §C(2) of this regulation.

(10) Each public school that enrolls students in grades six through twelve in the state shall designate at least one school security officer.

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Martin O'Malley, Governor

Ch. 188

Chapter 188

(House Bill 1160)

AN ACT concerning

Safe Schools Act of 2010

FOR the purpose of ~~requiring~~ *clarifying the authority of* the juvenile court to notify a certain school ~~official~~ *officials* that a child has been found to be delinquent, in need of assistance, or in need of supervision and committed to a certain agency under certain circumstances; ~~requiring~~ *authorizing a court to notify certain school officials if a child found to be delinquent, in need of assistance, or in need of supervision is no longer committed to the custody of certain agencies;* ~~requiring that certain information transmitted by the juvenile court to certain school officials relating to a child found to be delinquent, in need of assistance, or in need of supervision is confidential and may not be made part of the student's permanent educational record; authorizing a local superintendent of schools to transmit certain information as a confidential file to certain persons under certain circumstances;~~ adding certain offenses to a list of offenses for which a student is arrested that are required to be reported to certain school officials under certain circumstances; requiring a certain local law enforcement agency to notify a school security officer of the arrest of a student for a certain offense within a certain period of time under certain circumstances; authorizing a certain law enforcement agency to notify the State's Attorney of the arrest of a student for a certain offense; requiring the State Board of Education to adopt certain regulations; requiring a local school superintendent and a school principal to consider prohibiting a student who is arrested for a reportable offense *involving rape or a sexual offense* from attending the same school or riding on the same school bus as the alleged victim under certain circumstances; prohibiting a student who is convicted of or adjudicated delinquent for a reportable offense involving rape or a sexual offense from attending the same school or riding on the same school bus as the victim; ~~requiring each public middle and high school~~ certain public schools to designate at least one school security officer; requiring the State Board of Education to develop a model policy to address gangs ~~and gang-like activity,~~ *gang activity, and similar destructive or illegal group behavior* in schools; specifying the components of the model policy; ~~requiring each county board of education~~ local school system to establish a policy or regulations to address gangs ~~and gang-like activity,~~ *gang activity, and similar destructive or illegal group behavior;* requiring each ~~county board~~ local school system to develop the policy or regulations in consultation with certain groups; requiring each ~~county board~~ local school system to publicize its policy or regulations in a certain manner; requiring each ~~county board~~ local school system to submit its policy or regulations to the State Board by a certain date; requiring each ~~county board~~ local school system to develop certain

educational programs to address gangs ~~and gang-like activity~~, gang activity, and similar destructive or illegal group behavior in schools; requiring a school employee to report suspected ~~gang or gang-like activity~~ gang activity or similar destructive or illegal group behavior to certain school officials; authorizing certain school officials to take certain actions; requiring each county superintendent of schools to require certain school security meetings for certain schools; requiring the participation of certain individuals in school security meetings; requiring each county superintendent to enter into a certain memorandum of understanding with the county State's Attorney's Office; requiring the State Department of Education to submit a certain report to the General Assembly on or before a certain date each year; requiring the Governor's Office of Crime Control and Prevention to perform certain actions and submit a certain report to the General Assembly on or before a certain date; requiring the Administrative Office of the Courts, the Department of Human Resources, the Department of Juvenile Services, and the State Department of Education to report to the Governor, the General Assembly, and certain legislative committees on or before a certain date regarding a certain process, certain notification, and certain recommendations; defining certain terms; repealing a certain definition; altering a certain definition; making certain clarifying and conforming changes; and generally relating to school safety, gang prevention and intervention in schools, and truancy.

BY repealing and reenacting, with amendments,
 Article – Courts and Judicial Proceedings
 Section 3-819(b-1) and 3-8A-19(d)(5)
 Annotated Code of Maryland
 (2006 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 7-302
Annotated Code of Maryland
(2008 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,
 Article – Education
 Section ~~7-302 and~~ 7-303
 Annotated Code of Maryland
 (2008 Replacement Volume and 2009 Supplement)

BY adding to
 Article – Education
 Section 7-424.2
 Annotated Code of Maryland
 (2008 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Courts and Judicial Proceedings

3-819.

(b-1) (1) If the court finds that a child ENROLLED IN A PUBLIC ELEMENTARY OR SECONDARY SCHOOL is in need of assistance and commits the child to the custody of a local department, the court ~~[may]~~ ~~SHALL~~ notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child has been found to be in need of assistance and has been committed to the custody of a local department.

(2) IF THE COURT RESCINDS THE COMMITMENT ORDER FOR A CHILD ENROLLED IN A PUBLIC ELEMENTARY OR SECONDARY SCHOOL, THE COURT SHALL MAY NOTIFY THE COUNTY SUPERINTENDENT, THE SUPERVISOR OF PUPIL PERSONNEL, OR ANY OTHER OFFICIAL DESIGNATED BY THE COUNTY SUPERINTENDENT OF THE FACT THAT THE CHILD IS NO LONGER COMMITTED TO THE CUSTODY OF A LOCAL DEPARTMENT OF SOCIAL SERVICES.

~~(3)~~ (3) The notice ~~REQUIRED~~ AUTHORIZED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION may not include any order or pleading related to the child in need of assistance case.

~~(4) EXCEPT BY ORDER OF A JUVENILE COURT OR OTHER COURT ON GOOD CAUSE SHOWN, THE INFORMATION OBTAINED BY AN INDIVIDUAL UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION:~~

~~(i) IS CONFIDENTIAL AND MAY NOT BE REDISCLOSED BY SUBPOENA OR OTHERWISE EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION; AND~~

~~(ii) MAY NOT BE MADE PART OF THE STUDENT'S PERMANENT EDUCATIONAL RECORD.~~

~~(5) A LOCAL SUPERINTENDENT MAY TRANSMIT THE INFORMATION OBTAINED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION AS A CONFIDENTIAL FILE TO THE LOCAL SUPERINTENDENT OF ANOTHER PUBLIC SCHOOL SYSTEM IN THE STATE OR A NONPUBLIC SCHOOL IN THE STATE IN WHICH THE STUDENT HAS ENROLLED OR BEEN TRANSFERRED IF THE STUDENT IS STILL COMMITTED TO THE CUSTODY OF A LOCAL DEPARTMENT.~~

~~(6) THE STATE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT PARAGRAPHS (4) AND (5) OF THIS SUBSECTION.~~

3-8A-19.

(d) (5) (i) If the court finds that a child ENROLLED IN A PUBLIC ELEMENTARY OR SECONDARY SCHOOL is DELINQUENT OR in need of supervision and commits the child to the custody or under the guardianship of the Department of Juvenile Services, the court ~~{may}~~ ~~SHALL~~ notify the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent of the fact that the child has been found to be DELINQUENT OR in need of supervision and has been committed to the custody or under the guardianship of the Department of Juvenile Services.

(II) IF THE COURT RESCINDS THE COMMITMENT ORDER FOR A CHILD ENROLLED IN A PUBLIC ELEMENTARY OR SECONDARY SCHOOL, THE COURT SHALL MAY NOTIFY THE COUNTY SUPERINTENDENT, THE SUPERVISOR OF PUPIL PERSONNEL, OR ANY OTHER OFFICIAL DESIGNATED BY THE COUNTY SUPERINTENDENT OF THE FACT THAT THE CHILD IS NO LONGER COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF JUVENILE SERVICES.

~~(iii)~~ (III) The notice REQUIRED AUTHORIZED UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH may not include any order or pleading related to the DELINQUENCY OR child in need of supervision case.

~~(IV) EXCEPT BY ORDER OF A JUVENILE COURT OR OTHER COURT ON GOOD CAUSE SHOWN, THE INFORMATION OBTAINED BY AN INDIVIDUAL UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH:~~

~~1. IS CONFIDENTIAL AND MAY NOT BE REDISCLOSED BY SUBPOENA OR OTHERWISE EXCEPT AS PROVIDED IN SUBPARAGRAPH (V) OF THIS SUBSECTION; AND~~

~~2. MAY NOT BE MADE PART OF THE STUDENT'S PERMANENT EDUCATIONAL RECORD.~~

~~(V) A LOCAL SUPERINTENDENT MAY TRANSMIT THE INFORMATION OBTAINED UNDER SUBPARAGRAPHS (I) AND (II) OF THIS SUBSECTION AS A CONFIDENTIAL FILE TO THE LOCAL SUPERINTENDENT OF ANOTHER PUBLIC SCHOOL SYSTEM IN THE STATE OR A NONPUBLIC SCHOOL IN THE STATE IN WHICH THE STUDENT HAS ENROLLED OR BEEN TRANSFERRED IF THE STUDENT IS STILL COMMITTED TO THE CUSTODY OF A LOCAL DEPARTMENT.~~

~~(VI) THE STATE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT SUBPARAGRAPHS (IV) AND (V) OF THIS PARAGRAPH.~~

Article - Education

7-302.

(a) The principal or head teacher of each public or private school in this State shall report immediately to the county superintendent, the supervisor of pupil personnel, or any other official designated by the county superintendent the name of each child enrolled in his school who has been absent or irregular in attendance, without lawful excuse, or who shows evidence of maladjustment, so that the causes may be studied and solutions worked out.

(b) On receipt of a report from a principal or head teacher of a public school that a student has been habitually truant without lawful excuse, the appropriate representative of the school system:

- (1) Shall initiate an investigation into the cause of the child's truancy;
- (2) May provide counseling regarding the availability of social, health, and educational services; and
- (3) Following the investigation or intervention:
 - (i) May notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse;
 - (ii) ~~{Shall} FOR A STUDENT DESCRIBED IN § 3-819(B-1) OF THE COURTS ARTICLE, SHALL~~ notify the appropriate local department that the student has been habitually truant, without lawful excuse~~}, if a court has given the notice authorized by § 3-819(b-1) of the Courts Article};~~ and
 - (iii) ~~{Shall} FOR A STUDENT DESCRIBED IN § 3-8A-19(D)(5) OF THE COURTS ARTICLE, SHALL~~ notify the Department of Juvenile Services that the student has been habitually truant, without lawful excuse~~}, if a court has given the notice authorized by § 3-8A-19(d)(5) of the Courts Article};~~

(c) The county superintendent, the superintendent's designee, or the supervisor of pupil personnel shall provide to the local education agency for inclusion in the report of the local education agency under § 7-304(f)(1) of this subtitle information regarding the number of students identified as being habitually truant.

7-303.

- (a) (1) In this section the following words have the meanings indicated.

(2) "Criminal gang" has the meaning stated in § 9-801 of the Criminal Law Article.

(3) "Law enforcement agency" means the law enforcement agencies listed in § 3-101(e) of the Public Safety Article.

(4) "Local school system" means the schools and school programs under the supervision of the local superintendent.

(5) "Local superintendent" means:

(i) The county superintendent, for the county in which a student is enrolled, or a designee of the superintendent, who is an administrator; or

(ii) The superintendent of schools for the:

1. Archdiocese of Baltimore;
2. Archdiocese of Washington; and
3. Catholic Diocese of Wilmington.

[(6) "Nonpublic school principal" means the principal of the nonpublic school in which a student is enrolled, or a designee of the principal, who is an administrator.]

[(7)] (6) "Reportable offense" means:

(i) A crime of violence, as defined in § 14-101 of the Criminal Law Article;

(ii) Any of the offenses enumerated in § 3-8A-03(d)(4) of the Courts Article;

(iii) A violation of § 4-101, § 4-102, § 4-203, or § 4-204 of the Criminal Law Article;

(iv) A violation of §§ 5-602 through 5-609, §§ 5-612 through 5-614, § 5-617, § 5-618, § 5-627, or § 5-628 of the Criminal Law Article;

(v) A violation of § 4-503, § 9-504, or § 9-505 of the Criminal Law Article;

(vi) A violation of § 6-102, § 6-103, § 6-104, or § 6-105 of the Criminal Law Article; [or]

Article; (vii) A violation of § 9-802 or § 9-803 of the Criminal Law

ARTICLE; OR (VIII) A VIOLATION OF § 3-203 OF THE CRIMINAL LAW

ARTICLE; (IX) A VIOLATION OF § 6-301 OF THE CRIMINAL LAW

(X) A VIOLATION OF § 9-302, § 9-303, OR § 9-305 OF THE CRIMINAL LAW ARTICLE; OR

(XI) A VIOLATION OF § 7-105 OF THE CRIMINAL LAW ARTICLE.

(7) "SCHOOL PRINCIPAL" MEANS THE PRINCIPAL OF THE PUBLIC OR NONPUBLIC SCHOOL IN WHICH A STUDENT IS ENROLLED, OR A DESIGNEE OF THE PRINCIPAL, WHO IS AN ADMINISTRATOR.

(8) (I) ~~"SCHOOL SECURITY OFFICER" MEANS AN INDIVIDUAL DESIGNATED BY THE COUNTY SUPERINTENDENT OR A SCHOOL PRINCIPAL TO HELP MAINTAIN THE SECURITY AND SAFETY OF A SCHOOL~~ INCLUDES A SCHOOL PRINCIPAL, ANOTHER SCHOOL ADMINISTRATOR, A LAW ENFORCEMENT OFFICER, OR OTHER INDIVIDUAL EMPLOYED BY A LOCAL SCHOOL SYSTEM OR A LOCAL GOVERNMENT WHO IS DESIGNATED BY THE COUNTY SUPERINTENDENT OR A SCHOOL PRINCIPAL TO HELP MAINTAIN THE SECURITY AND SAFETY OF A SCHOOL.

(II) "SCHOOL SECURITY OFFICER" DOES NOT INCLUDE A TEACHER.

[(8)] (9) "Student" means an individual enrolled in a public school system or nonpublic school in the State who is 5 years of age or older and under 22 years of age.

(b) If a student is arrested for a reportable offense or an offense that is related to the student's membership in a criminal gang, the law enforcement agency making the arrest:

(1) [shall] SHALL notify [either] THE FOLLOWING INDIVIDUALS OF THE ARREST AND THE CHARGES WITHIN 24 HOURS OF THE ARREST OR AS SOON AS PRACTICABLE:

(I) [the] THE local superintendent [or];

(II) [the] THE [nonpublic] school principal [of the arrest and the charges within 24 hours of the arrest or as soon as practicable]; AND

(III) FOR A SCHOOL THAT HAS A SCHOOL SECURITY OFFICER, THE SCHOOL SECURITY OFFICER; AND

(2) MAY NOTIFY THE STATE'S ATTORNEY OF THE ARREST AND CHARGES.

(c) The State's Attorney shall promptly notify either the local superintendent or the [nonpublic] school principal of the disposition of the reportable offense required to be reported under subsection (b) of this section.

(d) Except by order of a juvenile court or other court upon good cause shown, the information obtained by [a local superintendent or nonpublic school principal] AN INDIVIDUAL pursuant to subsections (b) and (c) of this section:

(1) Is confidential and may not be redisclosed by subpoena or otherwise except as provided pursuant to subsections (e) and (f) of this section; and

(2) May not be made part of the student's permanent educational record.

(e) (1) Notwithstanding the provisions of subsection (d) of this section, nothing shall prohibit a local superintendent or [nonpublic] school principal from transmitting the information obtained pursuant to subsections (b) and (c) of this section as a confidential file to the local superintendent of another public school system in the State or another nonpublic school in the State in which the student has enrolled or been transferred in order to carry out the purposes of this section if the disposition of the reportable offense was a conviction or an adjudication of delinquency or the criminal charge or delinquency petition is still pending.

(2) A local superintendent or [nonpublic] school principal who transmits information about a student under this subsection shall include in the transmittal information regarding any educational programming and related services provided to the student.

(f) The State Board shall adopt regulations to ensure that information obtained by a local superintendent [or nonpublic school principal], A SCHOOL PRINCIPAL, OR A SCHOOL SECURITY OFFICER under subsections (b), (c), and (e) of this section is:

(1) Used to provide appropriate educational programming and related services to the student and to maintain a safe and secure school environment for students and school personnel; ~~and~~

(2) Transmitted only to [the school principal of the school in which the student is enrolled and other] school personnel **OF THE SCHOOL IN WHICH THE STUDENT IS ENROLLED AS** necessary to carry out the purposes set forth in item (1) of this subsection; **AND**

(3) DESTROYED WHEN THE STUDENT GRADUATES OR OTHERWISE PERMANENTLY LEAVES SCHOOL OR TURNS 22 YEARS OLD, WHICHEVER OCCURS FIRST.

(G) (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE LOCAL SUPERINTENDENT AND THE SCHOOL PRINCIPAL SHALL CONSIDER PROHIBITING A STUDENT WHO IS ARRESTED FOR A REPORTABLE OFFENSE INVOLVING RAPE OR A SEXUAL OFFENSE FROM ATTENDING THE SAME SCHOOL OR RIDING ON THE SAME SCHOOL BUS AS THE ALLEGED VICTIM OF THE REPORTABLE OFFENSE IF SUCH ACTION IS NECESSARY OR APPROPRIATE TO PROTECT THE PHYSICAL OR PSYCHOLOGICAL WELL-BEING OF THE ALLEGED VICTIM.

(2) IF A STUDENT IS ARRESTED FOR A REPORTABLE OFFENSE INVOLVING RAPE OR A SEXUAL OFFENSE AND IS CONVICTED OF OR ADJUDICATED DELINQUENT FOR THE RAPE OR SEXUAL OFFENSE, THE STUDENT MAY NOT ATTEND THE SAME SCHOOL OR RIDE ON THE SAME SCHOOL BUS AS THE VICTIM.

[(g)] (H) Nothing in this section is intended to limit the manner in which a local school obtains information or uses information obtained by any lawful means other than that set forth in subsections (b), (c), and (e) of this section.

(I) EACH PUBLIC ~~MIDDLE SCHOOL AND HIGH SCHOOL~~ SCHOOL THAT ENROLLS STUDENTS IN GRADES SIX THROUGH TWELVE IN THE STATE SHALL DESIGNATE AT LEAST ONE SCHOOL SECURITY OFFICER.

7-424.2.

(A) (1) IN THIS SECTION, "SCHOOL SECURITY OFFICER" ~~MEANS AN INDIVIDUAL DESIGNATED BY THE COUNTY SUPERINTENDENT OR A SCHOOL PRINCIPAL TO HELP MAINTAIN THE SECURITY AND SAFETY OF A SCHOOL~~ INCLUDES A SCHOOL PRINCIPAL, ANOTHER SCHOOL ADMINISTRATOR, A LAW ENFORCEMENT OFFICER, OR OTHER INDIVIDUAL EMPLOYED BY A LOCAL SCHOOL SYSTEM OR A LOCAL GOVERNMENT WHO IS DESIGNATED BY THE

COUNTY SUPERINTENDENT OR A SCHOOL PRINCIPAL TO HELP MAINTAIN THE SECURITY AND SAFETY OF A SCHOOL.

(2) “SCHOOL SECURITY OFFICER” DOES NOT INCLUDE A TEACHER.

(B) BY ~~JANUARY 1, 2011~~ MARCH 31, 2011, THE STATE BOARD, AFTER CONSULTATION WITH AND INPUT FROM THE DEPARTMENT OF JUVENILE SERVICES, THE DEPARTMENT OF STATE POLICE, THE DEPARTMENT OF HUMAN RESOURCES, AND LOCAL SCHOOL SYSTEMS, SHALL DEVELOP A MODEL POLICY TO ADDRESS GANGS, GANG ACTIVITY, AND ~~GANG-LIKE ACTIVITY~~ SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR IN SCHOOLS.

(C) THE MODEL POLICY DEVELOPED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

- (1) A STATEMENT PROHIBITING GANG ACTIVITY IN SCHOOLS;
- (2) A STATEMENT PROHIBITING REPRISAL OR RETALIATION AGAINST INDIVIDUALS WHO REPORT SUSPECTED GANG ACTIVITY;
- (3) A DEFINITION OF GANG AND GANG ACTIVITY;
- (4) STANDARD CONSEQUENCES AND REMEDIAL ACTIONS FOR INDIVIDUALS ENGAGED IN ~~GANG OR GANG-LIKE ACTIVITY~~ GANG ACTIVITY OR SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR;
- (5) STANDARD CONSEQUENCES AND REMEDIAL ACTIONS FOR INDIVIDUALS FOUND TO HAVE MADE FALSE ACCUSATIONS;
- (6) MODEL PROCEDURES FOR REPORTING SUSPECTED ~~GANG OR GANG-LIKE ACTIVITY~~ GANG ACTIVITY OR SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR;
- (7) MODEL PROCEDURES FOR THE PROMPT INVESTIGATION OF SUSPECTED ~~GANG OR GANG-LIKE ACTIVITY~~ GANG ACTIVITY OR SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR;
- (8) INFORMATION ABOUT THE TYPES OF SUPPORT SERVICES, INCLUDING FAMILY SUPPORT SERVICES, FOR A STUDENT SUSPECTED OF PARTICIPATING IN GANG ACTIVITY; AND

(9) RECOMMENDATIONS CONCERNING GANG PREVENTION AND INTERVENTION SERVICES AND PROGRAMS FOR STUDENTS THAT MAXIMIZE COMMUNITY PARTICIPATION AND THE USE OF FEDERAL FUNDING.

(D) (1) EACH ~~COUNTY BOARD~~ LOCAL SCHOOL SYSTEM SHALL ESTABLISH A POLICY OR REGULATIONS TO ADDRESS GANGS, GANG ACTIVITY, AND ~~GANG-LIKE ACTIVITY~~ SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR IN SCHOOLS BASED ON THE MODEL POLICY.

(2) THE POLICY OR REGULATIONS SHALL ADDRESS THE COMPONENTS OF THE MODEL POLICY SPECIFIED IN SUBSECTION (C) OF THIS SECTION.

(3) EACH ~~COUNTY BOARD~~ LOCAL SCHOOL SYSTEM SHALL DEVELOP THE POLICY OR REGULATIONS IN CONSULTATION WITH REPRESENTATIVES OF THE FOLLOWING GROUPS:

- (I) PARENTS OR GUARDIANS OF STUDENTS;
- (II) SCHOOL EMPLOYEES AND ADMINISTRATORS;
- (III) SCHOOL VOLUNTEERS;
- (IV) STUDENTS;
- (V) LOCAL LAW ENFORCEMENT;
- (VI) GANG PREVENTION AND INTERVENTION PROGRAMS;
- (VII) THE OFFICE OF THE PUBLIC DEFENDER;
- ~~(VI)~~ (VIII) THE MARYLAND STATE'S ATTORNEYS ASSOCIATION; AND
- ~~(VII)~~ (IX) MEMBERS OF THE COMMUNITY.

(E) EACH ~~COUNTY BOARD~~ LOCAL SCHOOL SYSTEM SHALL SUBMIT ITS POLICY OR REGULATIONS TO THE STATE SUPERINTENDENT BY SEPTEMBER 1, 2011.

(F) EACH ~~COUNTY BOARD~~ LOCAL SCHOOL SYSTEM SHALL PUBLICIZE ITS POLICY OR REGULATIONS IN STUDENT HANDBOOKS, ON SCHOOL SYSTEM WEBSITES, AND AT ANY OTHER LOCATION OR VENUE THE ~~COUNTY BOARD~~ LOCAL SCHOOL SYSTEM DETERMINES IS NECESSARY OR APPROPRIATE.

(G) ~~EACH COUNTY BOARD~~ LOCAL SCHOOL SYSTEM SHALL DEVELOP THE FOLLOWING EDUCATIONAL PROGRAMS IN ITS EFFORTS TO ADDRESS GANGS, GANG ACTIVITY, AND ~~GANG LIKE ACTIVITY~~ SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR IN SCHOOLS:

(1) AN EDUCATIONAL GANG AWARENESS PROGRAM FOR STUDENTS, STAFF, VOLUNTEERS, AND PARENTS; AND

(2) A TEACHER AND ADMINISTRATOR DEVELOPMENT PROGRAM THAT TRAINS TEACHERS AND ADMINISTRATORS TO IMPLEMENT THE POLICY OR REGULATIONS.

(H) (1) A SCHOOL EMPLOYEE SHALL REPORT ANY INCIDENCE OF SUSPECTED ~~GANG OR GANG LIKE ACTIVITY~~ GANG ACTIVITY OR SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR PROMPTLY TO THE PRINCIPAL AND, FOR A SCHOOL THAT HAS A SCHOOL SECURITY OFFICER, TO THE SCHOOL SECURITY OFFICER.

(2) THE PRINCIPAL AND THE SCHOOL SECURITY OFFICER MAY TAKE APPROPRIATE ACTION TO MAINTAIN A SAFE AND SECURE SCHOOL ENVIRONMENT, INCLUDING THE PROVISION OF APPROPRIATE INTERVENTION SERVICES.

(I) (1) EACH COUNTY SUPERINTENDENT SHALL REQUIRE REGULAR SCHOOL SECURITY MEETINGS FOR EACH MIDDLE SCHOOL AND HIGH SCHOOL TO ENSURE COORDINATION OF GANG PREVENTION, INTERVENTION, AND SUPPRESSION EFFORTS.

(2) THE FOLLOWING INDIVIDUALS SHALL PARTICIPATE IN THE MEETINGS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION:

- (I) SCHOOL PRINCIPALS;
- (II) SCHOOL SECURITY OFFICERS;
- (III) GUIDANCE COUNSELORS;
- (IV) LOCAL LAW ENFORCEMENT OFFICERS;
- (V) REPRESENTATIVES FROM THE COUNTY STATE'S ATTORNEY'S OFFICE;

(VI) REPRESENTATIVES FROM THE OFFICE OF THE PUBLIC DEFENDER;

~~(VI)~~ (VII) GANG PREVENTION AND INTERVENTION PROGRAM REPRESENTATIVES; AND

~~(VII)~~ (VIII) ANY OTHER INDIVIDUALS THAT THE COUNTY SUPERINTENDENT CONSIDERS APPROPRIATE.

(J) EACH COUNTY SUPERINTENDENT SHALL ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE COUNTY STATE'S ATTORNEY'S OFFICE TO FOSTER COORDINATION OF GANG PREVENTION, INTERVENTION, AND SUPPRESSION EFFORTS.

(K) ON OR BEFORE JANUARY 1, 2011, AND EACH YEAR THEREAFTER, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE IMPLEMENTATION OF STATE AND LOCAL POLICIES AND REGULATIONS TO ADDRESS GANGS, GANG ACTIVITY, AND ~~GANG LIKE ACTIVITY~~ SIMILAR DESTRUCTIVE OR ILLEGAL GROUP BEHAVIOR DESCRIBED IN THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2011, the Governor's Office of Crime Control and Prevention shall: (1) perform a community services survey to determine which gang prevention and intervention services exist in each county; (2) develop criteria for gang prevention and intervention programs that are evidence-based and produce measurable outcomes; (3) make recommendations for a pilot program to provide comprehensive gang prevention and intervention services for a high school where gang activity is prevalent and the high school's middle school feeder system; and (4) report its findings and recommendations to the General Assembly, in accordance with § 2-1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That on or before December 31, 2010, the Administrative Office of the Courts, the Department of Human Resources, the Department of Juvenile Services, and the State Department of Education, shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly, the Senate Education, Health, and Environmental Affairs Committee, the Senate Judicial Proceedings Committee, the House Judiciary Committee, and the House Committee on Ways and Means regarding:

(1) the process for notifying school officials under § 3-819 and § 3-8A-19 of the Courts and Judicial Proceedings Article;

(2) how often school officials are actually notified under these statutes;
and

(3) recommendations, if any, to improve this process and better serve these students.

SECTION ~~3~~ 4 AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2010~~ July 1, 2010.

Approved by the Governor, May 4, 2010.

School Use of Reportable Offense Committee
HB 1160

Principal

- **Donald Lilley**
Annapolis High School
410-266-5240
dlilley@aacps.org

Director of Student Services

- **Dana Falls**
Carroll County Public Schools
410-751-3123
dafalls@k12.carr.org

**Maryland Association of School Resource
Officers**

- **Mike Rudinski**
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301-985-1400
Mike.rudinski@pgcps.org
- **Jason Chance**
410-632-1111
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Chance0128@yahoo.com

Maryland State Department of Education

- **Dominic Romano**
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States Attorney Office

- **Lance Richardson**
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- **John McGinnis**
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Public Defender's Office

- **Jennifer Barmon**
240-602-7253
JBarmon@opd.state.md.us

Maryland State Department of Education

- **Chuck Buckler**
410-767-0292
cbuckler@msde.state.md.us

**MEETING DATE:
SEPTEMBER 21 @ 10:00**

**ANNAPOLIS HIGH SCHOOL
2700 RIVA ROAD
ANNAPOLIS, MD 21401
PHONE 410-266-5240**



Nancy S. Grasmick
State Superintendent of Schools

200 West Baltimore Street • Baltimore, MD 21201 • 410-767-0100 • 410-333-6442 TTY/TDD • MarylandPublicSchools.org

March 4, 2011

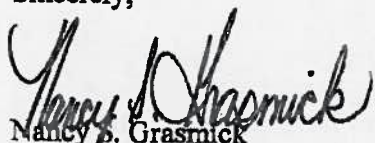
To Local Superintendents of Schools

A major component of the Safe Schools Act of 2010 is the requirement for the Maryland State Board of Education (MSBE) to develop, in consultation and collaboration with agencies and departments, a regulation on School Use of Reportable Offenses. A Safe Schools Act of 2010 Survey was sent to the 24 local Superintendents of Schools and their Directors of Student Services on August 13, 2010.

Following this survey, a draft regulation was developed by a diverse group of stakeholders including representatives from local school systems, the Maryland Association of School Resource Officers, States Attorney Office, Public Defender's Office, and Directors of Student Services. The purpose of this letter is to provide a copy of the draft *School Use of Reportable Offenses* regulation (attached) for your review and comments.

Please review the draft regulation and provide your comments on the attached response form by April 11, 2010, to: John McGinnis, Maryland State Department of Education, 200 West Baltimore Street, 4th Floor, Baltimore, MD 21201. If you have any questions or need additional information, please contact Mr. McGinnis, Pupil Personnel and School Social Worker Specialist, at (410) 767-0295 or email jmccginnis@msde.state.md.us.

Sincerely,


Nancy S. Grasmick
State Superintendent of Schools

NSG:JMCG:ct
Attachments

c: John McGinnis

DRAFT Regulation.School Use of Reportable Offenses. NSG to LSSs-March 2011-Comments/Feedback

Response Form
School Use of Reportable Offenses Regulation

Local School System (LSS): _____

LSS Point of Contact: _____

Phone: _____ **FAX:** _____

Email: _____

I have reviewed the *School Use of Reportable Offenses Regulation (Draft)* and

- Have no comments.**
- Submit the following comments (Please refer to the appropriate paragraph and page number and use additional pages as needed).**

Signature - Local Superintendent of Schools **Date**

Please return the completed form by April 11, 2011 to:

John McGinnis
Maryland State Department of Education
200 West Baltimore Street, 4th Floor
Baltimore, Maryland 21201

Phone: (410) 767-0295 FAX: (410) 333-8148 Email: jmcginnis@msde.state.md.us

Maryland State Department of Education's Response to Comments
COMAR 13A.08.01
Reportable Offense

DATE	COMMENTERS	AGENCY/SCHOOL SYSTEM	COMMENTS	MSDE RESPONSE
03/08/11	Dana Falls	Carroll County	Thanks for obtaining input and making appropriate revisions	
03/11/11	Stephen Lentowski	Harford County	No Comment	
03/14/11	Lynne Duncan	Talbot County	No Comment	
03/18/11	William Ryan	Howard Co.	<p>13. A.08.01 Page 3-iii. We object to the new language for two reasons. *First, we do not have the resources to find out the outcomes of all criminal cases. * Secondly, initial information obtained from police or courts, is often used as part of administrative action, which is warranted regardless of the criminal proceedings. In addition, we need to maintain records regarding administrative action taken.</p> <p>13A.08.01.B Administrative Procedures, Section 2.</p> <p>*Section 2 states that 'the school principal or designee...shall immediately develop a plan that addresses appropriate educational programming and related services for the student and that maintains a safe and secure school environment for all students and school personnel'. Not all students being arrested for reportable offenses require that the principal or designee develop a plan. The following should be inserted '... *shall immediately, if deemed necessary, develop a plan...</p>	<ul style="list-style-type: none"> • The outcome will be provided by the court or public agency to the LSS. • Disciplinary action can not be taken solely based on reportable offense information. • Schools can do this under the existing language by stating no plan is necessary.
03/22/11	Len Proden	Prince George's Co.	No Comment	<ul style="list-style-type: none"> • This will be added to the DRAFT.
03/25/11	Leon Washington	Anne Arundel Co.	No Comment	

**Maryland State Department of Education's Response to Comments
COMAR 13A.08.01
Reportable Offense**

03/28/11	Patricia Vaira	Charles Co.	No Comment	
04/01/11	Patsy Holmes	Baltimore Co.	No Comment	
04/01/11	Darlene Spurrer	Kent Co.	<p>*The provisions listed on page 3, paragraph 8 (h & i) would force us to use our alternative program as a placement for offending students. Technically our alternative students remain enrolled at our high school, but receive educational services at a different location</p>	<ul style="list-style-type: none"> Under H, it is a consideration but Darlene is correct about item 'I'. Kent only has 1 high school and one middle school.
04/04/11	Andres Alonso	Baltimore City	<p>*There is little educational purpose in receiving students' arrest and charge records. We believe this may put schools in an untenable position. Unlike correctional institutions, school systems are not equipped to handle any corrective action outside of education that students may need.</p> <p>*In addition, BCPSS is concerned that the regulation may expose students to unfair prejudice. We proposed adding additional language in the regulation that provides guidance to schools on how to appropriately transmit students' information and warns against unfairly asserting judgment based on the information.</p> <p>*Finally, we suggest using the student support team process and/or individual education plan process to assist students. Requiring schools to create another system could be time consuming and possibly unnecessary, given the support structures designed for similar purposes already working in schools.</p>	<ul style="list-style-type: none"> Disciplinary action can not be taken solely based on reportable offense information. Only certain school staff would know if a student has committed a reportable offense. Information is transmitted to limited recipients. Correct, existing PSTs or SSTs should be the deciding group. No other mechanism is necessary.

**Maryland State Department of Education's Response to Comments
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Reportable Offense**

04/06/11	Robert Hellmuth	Montgomery Co.	No Comments-Thank you for the opportunity to review the draft regulation. This draft was shared with and reviewed by appropriate staff. We do not have any comments or recommendations for changes at this time.	
04/07/11	Renee McLaughlin	Somerset Co.	No Comment	
04/11/11	Carol Costello	Washington Co.	No Comments	
04/11/11	Charles Ridgell	St. Mary's Co.	13A.08.01.17 – Tracking the disposition of court cases can be a challenge.	<ul style="list-style-type: none"> Courts and other agencies will provide this information.
04/12/11	Cathy Townsend	Wicomico Co.	<p>*Page 1-A(2) – Doesn't make sense *Page 1-A(3) – Doesn't make sense **Page 1 – A(5) (a-k) can descriptions of the codes be detailed? ***Page 2-A(8) (a) (iii) Change to local superintendent or designee and school principal ****Page 4—B(4) (a, b) Unclear</p>	<ul style="list-style-type: none"> Numbers 3 and 5 were erroneously inserted. We have removed them. Will forward a discretion list. The regulation's language must use legal terminology. *** Designee can be principal **** Clarifying language will be added.
04/19/11	Phillip Lauver	Garrett Co.	<p>*Page 2 – (8)(a),iii,iv, and (c) – To be consistent, it would be recommended that the law enforcement agency and State's Attorney should both notify the Superintendent or designee. *Page 3 – (h) and (i) – Garrett Co. only has two middle and two high schools, it may be difficult to move a student to the other facility. Bus transportation may not be provided. At times GCPS have separated students in the same building due to one having a peace order issued against the other student.</p>	<ul style="list-style-type: none"> The law enforcement agency makes the arrest. States Attorney Office may not immediately know of the arrest. Garrett is in the same plight as Kent and other smaller LEAs.

Maryland State Department of Education's Response to Comments
COMAR 13A.08.01
Reportable Offense

04/21/11	Frederick Grant	Worcester Co.	No Comment		