

**Report to Maryland State Board of Education
on the School Discipline Regulations Workgroup
June 14, 2013**

By

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At the direction of the Maryland State Board of Education (“State Board”), the School Discipline Regulations Workgroup (“workgroup”) convened during April 2013 and May 2013. The following is a summary of the workgroup’s meetings and discussions, and a description of the resulting recommended changes to the Code of Maryland Regulations.

BACKGROUND

The State Board has been engaged in a comprehensive school discipline reform effort for the last three years. During that time, the State Board has issued two reports on the issue and has gathered extensive input from stakeholders across Maryland through public meetings and public comment periods on the proposed regulations. Following the public comment period on the November 2012 proposal to amend the school discipline regulations, the State Board withdrew the proposal and asked for the creation of a School Discipline Regulations Workgroup to address four issues that had garnered particular attention in the public comments:

1. The timelines contained in the section of the regulations dealing with appeals;
2. The 10 day return to school regulation dealing with when a student would be precluded from returning to school after the 10th day;
3. The regulations that address the conduct for which expulsion and extended suspension is appropriate; and
4. The minimum education services regulation to address delivery of minimum education services to students suspended from 1-3 days.

Those four issues became the limited charge of the workgroup.

WORKGROUP PROCESS

The workgroup, appointed by Maryland State Department of Education staff, comprised 28 members, including school administrators, school board members, parents, teachers, advocates, school support personnel, a student, a school board attorney, and experts in school discipline alternatives. The meetings were open to the public, and many community members came to observe. The appointed Co-Chairs of the workgroup were Dr. D’Ette Devine, Superintendent of Cecil County Public Schools, and Diana Morris, Director of the Open Society Institute – Baltimore. Jim Freeman was hired as a consultant to facilitate the workgroup meetings.

The workgroup met three times, for three hours each on April 9, 2013, April 26, 2013, and May 7, 2013. The process was structured as follows:

- Meeting One – Following introductions from Dr. Charlene Dukes, President of the Maryland State Board of Education, and State Superintendent Dr. Lillian Lowery, the workgroup engaged in large group discussion on the four issues. The objectives of the meeting were to: (a) gather detailed information relevant to the four issues from workgroup members; and (b) allow workgroup members to share their perspectives on the assigned issues.

- Meeting Two – Prior to the meeting, Mr. Freeman and the Co-Chairs developed proposed recommendations for each issue, based on the input from the first meeting and on the comments cited in Dr. Lowery’s memo to the State Board dated January 22, 2012. To provide more opportunities for an exchange of views among workgroup members, workgroup members discussed the proposals in two small groups moderated by the Co-Chairs. The objective of this meeting was to discuss the assigned issues in more detail and to identify areas of agreement, areas requiring greater clarification, and possible modifications.
- Meeting Three – Prior to the meeting, Mr. Freeman and the Co-Chairs refined the proposals based on feedback from the second meeting. The group was divided into two different small groups and provided detailed commentary and suggestions on each issue.

Following the third workgroup meeting, the Co-Chairs met to discuss the feedback from workgroup members and finalize their proposed recommendations. They then worked with Mr. Freeman to produce this report for the State Board.

RECOMMENDATIONS

Below are the Co-Chairs’ recommended changes to the November 2012 proposed regulations on each of the four issues, followed by a summary of the relevant workgroup discussion.

Issue #1 - The timelines contained in the section of the regulations dealing with appeals

Recommended Edits to November 2012 State Board Proposed Regulations

C.(3)(f) If an appeal is filed, ~~it shall be heard before the local board or its designated committee or hearing officer and completed within 30~~ will have 45 days from of the date the appeal was received to hear the appeal and issue a decision. This time period may be extended if the parent, guardian, or his/her representative requests additional time.

(i) This timeline also will apply in the event that the local board elects to use a hearing examiner.

...

C.(3)(h) ~~The local board shall issue its decision within 10 days after the close of the hearing. If, due to extraordinary circumstances or unusual complexity of a particular appeal, the local board determines that it will be unable to hear an appeal and issue a decision within 45 days, it may petition the State Superintendent for an extension.~~

Discussion

During our discussion of timelines for disciplinary appeals, the group took particular note of the following:

- Both policies and practices around disciplinary appeal timelines vary dramatically across Maryland districts.
- Students and their parents/guardians often encounter lengthy delays of several months in having their appeals heard and resolved.
- Districts have different established practices around hearing disciplinary appeals.
- The vast majority of appeals can be, and are, resolved in a timely fashion, but occasionally there are appeals that require more time.

Group discussion centered around how to establish a baseline standard that would allow for the most timely and accurate resolution of appeals, without being unduly burdensome on school districts. While the State Board's proposed regulation allowed 30 days to hold a hearing and 10 days to issue a decision, workgroup members agreed that there need not be separate timelines for the two phases of the process. Rather, to provide districts with flexibility in allocating their time throughout the appeals process, members suggested that the regulation create a single timeline in which to complete the entire process. The majority of workgroup members felt that 45 days allowed sufficient time to resolve nearly every appeal that comes before local boards.

Nevertheless, there was some concern among some workgroup members that unusually complex appeals could not adequately be considered and resolved within that timeframe. Thus, the workgroup's recommendation was that, for those rare occasions in which 45 days was insufficient, there be an option to petition the State Superintendent to approve an extension of the timeline on a case-by-case basis.

Issue #2 – The regulations that address the conduct for which expulsion and extended suspension is appropriate

Recommended Edits to November 2012 State Board Proposed Regulations

- B.(2) "Expulsion" means the ~~total~~ exclusion of a student from the student's regular school program for 45 school days or longer ~~for conduct that the superintendent determines, on a case-by-case basis, is violent or poses a serious danger of physical harm to others in the school, which may occur only under the following circumstances:~~
- (a) The superintendent or designated representative has determined that the student's return to his or her regular school program prior to the completion of the expulsion period would pose an imminent threat of serious harm to other students or staff.
 - (b) The superintendent or designated representative limits the duration of the exclusion to the greatest extent practicable.
 - (c) The school district provides the excluded student with alternative educational services and appropriate behavioral support services.
- B.(3) "Extended suspension" means the ~~exclusion temporary removal~~ of a student from the student's regular school program for a period of time between 11 and 45 school days ~~for conduct that the superintendent determines, on a case-by-case basis, poses a danger of harm to others in the school, which may occur only under the following circumstances:~~
- (a) The superintendent or designated representative has determined that:
 - (i) the student's return to his or her regular school program prior to the completion of the suspension period would pose an imminent threat of serious harm to other students or staff; or
 - (ii) the student has engaged in chronic and extreme disruption of the educational process that has created a substantial barrier to learning for other students across the school day and other available and appropriate behavioral and disciplinary interventions have been exhausted.
 - (b) The superintendent or designated representative limits the duration of the exclusion to the greatest extent practicable.

(c) The school district provides the excluded student with alternative educational services and appropriate behavioral support services.

Discussion

The workgroup was guided by the following findings of the State Board:

- Students frequently receive extended suspensions and expulsions for behavior that does not pose an ongoing threat to school safety.
- Out-of-school suspensions carry severe consequences for students, including making them far more likely to drop out or enter the juvenile justice system. This is especially true for longer periods of school exclusion, as in extended suspensions and expulsions.

Most members of the workgroup believed that local administrators should have considerable discretion in school discipline matters, but that disciplinary consequences should serve educational purposes and should not be used to punish students. Thus, in discussing when an expulsion could be appropriate, workgroup members focused on whether a student's return to school would have continuing effects on school safety rather than on the conduct for which students were initially suspended. In other words, the assessment of whether a student should receive an expulsion should be prospective, not retrospective.

The workgroup thought the same school safety analysis was appropriate for extended suspensions. Additionally, there was a contingent within the workgroup – comprised primarily of school administrators and school board members – who felt extended suspensions should also be an option for disruptive behavior that interferes with other students' learning. Another contingent – comprised of advocates and some parents – disagreed with this view. Their view was that extended suspensions are an inappropriate response to classroom disruptions as there are alternate methods for addressing that behavior. A significant percentage of the workgroup's meetings were spent discussing this issue, but we were unable to achieve consensus. Thus, our recommendation reflects a compromise position in which school disruptions are permissible justifications for extended suspensions, but only in the *very rare* circumstances described in the recommended language above.

The workgroup concluded that all excluded students should be provided alternative educational services and appropriate behavioral support services while they are out of school and that the requirement to provide these services should be reflected in the regulation. Additionally, the group felt strongly that such behavioral support services should receive additional funding support from the state.

Issue #3 – The 10 day return to school regulation dealing with when a student would be precluded from returning to school after the 10th day

Recommended Edits to November 2012 State Board Proposed Regulations

C.(3)(d) The process described . . . shall be completed by the 10th school day of the initial suspension. If additional time is necessary to complete the process, the student must be allowed to return to school, unless the local superintendent or designated representative determines that the ~~conduct at issue was violent, dangerous, or a threat to the safety of the school~~ student's return to school would pose an imminent threat of serious harm to other students or staff.

- (i) If the student is not allowed to return to school after the 10th day, the superintendent or designee shall notify the student and his/her parent or guardian within 24 hours and provide the reasons for the delay and the denial of reentry.

Discussion

The workgroup discussed the following:

- When there is a recommendation for an extended suspension or expulsion, current state policy does not provide a timeline for the local superintendent's (or designee's) investigation, conference with the student and parent/guardian, and decision, leaving it to the discretion of local districts.
- As a result, some students and their parents/guardians encounter significant delays in the completion of that process.
- The State Board concluded that, as a general rule, but with some limited exceptions, students should be allowed to return to school when the superintendent's process has not been completed by the end of the 10th day.

The workgroup concluded that students should not be punished for bureaucratic delays, but that school safety should not be compromised simply because a timeline has expired. Thus, the workgroup elected to use the same school safety standard from Issue #2 to determine eligibility to return. Additionally, the workgroup added a notice requirement to ensure that students and their parents or guardians are properly informed, should reentry be denied.

Issue #4 – The minimum education services regulation to address delivery of minimum education services to students suspended from 1-3 days

Recommended Edits to November 2012 State Board Proposed Regulations

- F. Minimum Education Services – Short-Term Suspensions. Local boards of education shall ensure the following:
- (1) All schools under their jurisdiction shall provide all students who receive short-term suspensions with the opportunity to complete the academic work they miss during the suspension period without penalty.
 - (2) All schools under their jurisdiction shall provide all students who receive short-term suspensions, and their parents or guardians, with the contact information for a school employee who will be responsible for ensuring that the requirement described in section (F)(1) is met.
 - (3) All other aspects of the process for suspended students receiving missed assignments, completing missed assignments, and making up tests shall be identical with each school's established policy or practice for makeup work in the event of any other excused absence.

The workgroup was guided by the following State Board findings:

- Out-of-school suspensions are considered excused absences, meaning students are entitled to make up the work they have missed.
- During the 2010-2011 school year, education services were provided in only about 23% of the out-of-school suspension incidents.

- Students and their parents/guardians frequently encounter difficulties in accessing class and homework assignments.

Workgroup members agreed that students who receive short-term suspensions should be allowed to stay on track with schoolwork so that they can reintegrate effectively into the educational program of the district following the suspension period. Thus, there was strong agreement that the regulation should be explicit that suspended students should not be penalized academically.

Additionally, there was general agreement that students and their parents or guardians should be provided a primary contact person at the school in the event of a short-term suspension. This person would be responsible for ensuring that the student is able to receive and submit their missed assignments without penalty or delay. While the workgroup thought this was a critical function, they recognized that it is potentially distinct from the liaison provided for in the State Board's proposed regulations for students who receive long-term suspensions (though the same person could serve both roles).

Beyond that additional requirement, the workgroup suggested that all other aspects of the process for making up schoolwork be identical to each individual school system's policy or practice for other excused absences. In other words, if a district allows students who are absent because of illness to make up homework and tests within three days, then a student who is absent because of short-term suspension should be provided the same three days.

CONCLUSION

The workgroup provided a rare opportunity to engage deeply around critical school discipline issues with thoughtful colleagues representing diverse perspectives. We are grateful to the State Board for the opportunity to promote our shared goal of improving educational quality across Maryland through participation in this process. It is our hope that the results of the workgroup process will advance the State Board's school discipline objectives and ensure that disciplinary practices throughout Maryland are promoting school safety, positive school climates, and academic success for all students.