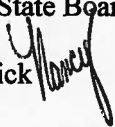




Nancy S. Grasmick
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TO: Members of the State Board of Education
FROM: Nancy S. Grasmick 
DATE: March 22, 2011
SUBJECT: Disciplinary Policies in Maryland Public Schools

PURPOSE:

To provide a summary of federal and State mandates affecting disciplinary policies and local school system disciplinary policies that may result in extended suspension and/or expulsion.

BACKGROUND/HISTORICAL PERSPECTIVE:

At its February 22, 2011 meeting, members of the Maryland State Board of Education discussed media accounts of the tragic suicide of a young man in a Virginia public school who had received disciplinary action for misbehavior. It is significant to note that school systems and schools are entrusted to maintain the confidentiality rights of students mandated by several federal laws, most notably, the Family Educational Rights and Privacy Act (20 USC 1223g) and its implementing regulations (34 CFR Part 99). Thus, consumers of media regarding stories dealing with students should realize that they are only getting a partial picture of a given story. School systems are hampered in providing essential details that might leave readers with a different impression of a given event. The Board requested a review of local school system (LSS) disciplinary policies which may have mandated consequences.

In Maryland, LSSs enjoy wide latitude in developing and implementing disciplinary policies. The process used involves a long period of meetings with school officials, members of the community, parents, and students to determine the policy before it is presented to the local board of education for consideration.

Two federal laws and a 2011 State law mandate particular consequences. They are described in ATTACHMENT I. LSSs must include in their local policies these mandates with the pre-determined actions required.

Moreover, the Maryland State Department of Education (MSDE) has long advocated for policies that provide a continuum of prevention and intervention activities and evidence-based programs with graduated sanctions that encourage and promote positive behavior and discipline. The 1996 Maryland General Assembly incorporated that concept into Section 7-304, *Special Programs for Disruptive Students*, in the Education Article of the **Annotated Code of Maryland**.

EXECUTIVE SUMMARY:

LSSs were surveyed on the question of “What acts committed by a student lead to an automatic consequence, such as expulsion, length of expulsion, and/or transfer to another school?”

A summary of their responses may be found in ATTACHMENT I. LSS superintendents were asked to give input into this question at their March meeting. Respondents continuously emphasized that each case is considered on an individual basis. Moreover, students enjoy a great many due process rights through legal case law and statute. Section 7-305, *Suspension and Expulsion*, Education Article of the **Annotated Code of Maryland** enumerates the process when a student is suspended or expelled.

If a suspension longer than ten days or expulsion is warranted, the Central Office becomes directly involved in the case. The LSS superintendent or his/her designee conducts an investigation. After the investigation, a conference is held with the student and parent and/or guardian. Also, a community resource list is provided to the family during that conference. If the superintendent or his/her designee finds that a long-term suspension or expulsion is warranted, the parent may file an appeal to the local board of education within ten days of the determination. A hearing ensues that includes the right of the parent/guardian to bring counsel or witnesses. Moreover, the decision of the county board of education may be appealed to the State Board of Education.

The most common misbehaviors reported by the LSSs that lead to consideration of a long-term suspension or expulsion include weapons violations, drug/alcohol violations, physical attack, and arson/fire. Two school systems provided lengthy responses to the survey. They are Allegany County Public Schools (ATTACHMENT II) and Baltimore County Public Schools (ATTACHMENT III).

The LSS superintendents and their staff emphasized that each case is considered on an individual basis. Moreover, every incident of misbehavior provides a teachable moment. Students need to understand that consequences serve as purposes. The term discipline is derived from a Latin word for ‘to teach.’ Much dialogue entailed the need to get parents as partners in teaching their children and youth what is considered appropriate behavior. Without such lessons being learned, often our youth fall victim to more serious behaviors that lead to involvement with the Department of Juvenile Services, the police, and the courts.

ACTION:

For information and discussion.

NSG:CJB
Attachments

(ATTACHMENT I)

Maryland Public Schools Disciplinary Policies

In Maryland, local school systems enjoy wide latitude in developing their disciplinary policies. Federal and State law, however, mandate certain consequences for certain types of situations that must be incorporated in local policies. Furthermore, the State has a long history of advocating for the development of a continuum model of prevention and intervention activities and programs that encourage and promote positive behavior and reduce disruption. The 1996 Maryland General Assembly incorporated that concept into Section 7-304, *Special Programs for Disruptive Students*, of the Education Article of the **Annotated Code of Maryland**. The following describes two federal mandates and one State mandate:

Federal Mandates

Gun Free Schools Act

20 USC 7151

Each state must have a law in effect mandating the expulsion for one calendar year a student who has brought, or possesses, a firearm to school. The local school system superintendent is allowed to modify such expulsion on a case-by-case basis and assign to an alternative school.

Maryland Law and Regulations: Section 7-305 of the Education Article, COMAR 13A.08.01.12-1

Unsafe School Choice Option

20 USC 7912

1. A victim of a crime of violence at his/her school must be allowed to transfer to another school.
2. A school deemed 'persistently dangerous' must allow all of its students a transfer option.

Maryland Regulations: COMAR 13A.08.01.18-20

Maryland Mandates

Arrest for Reportable Offense

Section 7-303, Education Article, Annotated Code of Maryland
COMAR 13A.08.01.17

1. A student accused of a reportable offense involving rape or a sexual offense is encouraged to be transferred to another school and not to ride the same school bus as the alleged victim.
2. A student adjudicated or convicted of a rape or sexual offense is not allowed to attend the same school or ride the same school bus as the victim.

Maryland Local School System Disciplinary Policies

LSS	Behavior	Consequence	Length
Allegany	See Attachment II		
Anne Arundel	Use of a Weapon Physical Attack (Serious Injury)	Expulsion	Minimum 36 weeks
Baltimore City	Arson, possession of a weapon, sexual assault	Extended suspension or expulsion	45 days
Baltimore	See Attachment III		
Calvert	No specific behavior leads to automatic expulsion		
Caroline	Drug offense	Recommendation for expulsion	Remainder of semester
Carroll	Distribution of drugs or alcohol	Ten day suspension with request for extended suspension	Length not mandated but usually the remainder of the semester
Cecil	Each case determined on its own merit and within the options available in the school system		
Charles	No behaviors resulting in automatic expulsion		
Dorchester	Assault and/or battery on a staff member Possession of any gun Possession, use, sale or distribution of alcohol or illegal drugs	Request for expulsion. Each is case is handled based on the situation and the circumstances under which it occurred.	
Frederick	No behaviors lead to automatic expulsion		
Garrett	Possession/use, and/or distribution of drugs and/or alcohol	Assignment to alternative program or a recommendation for expulsion	
Harford	Verbal/physical threat or attack on staff Dangerous weapons Arson/Fire Possession, use, or transference of CDS and alcohol Sexual harassment (2 nd offense)	Ten day suspension with referral to the superintendent for further disciplinary action	
Howard	Possession and /or use of alcohol or other drug offenses	Suspension	Up to 30 days
	Distribution or intent to distribute alcohol or other drugs	Suspension	Not less than 45 days
	Assault on a staff	Suspension or expulsion	Depends on the circumstances
	Battery I on staff	Suspension	Up to 45 days
	Battery II on staff	Suspension or expulsion	Minimum 45 days

LSS	Behavior	Consequence	Length
Kent	Use, possession, or distribution of drugs or alcohol	Automatic ten day suspension with recommendation to superintendent for further action	
Montgomery	Bomb/facsimile, possession or threats; evidence of intent to distribute or distribution of intoxicants; starter guns; violent physical attack on a student or staff member; and weapons used to cause bodily harm/injury.	Police referral and recommendation for expulsion.	
Prince George's	Level IV behaviors result in request for expulsion. May lead to expulsion or a return to school.	Request for expulsion	Elementary—up to 3 months Middle—up to 3 months High—Remainder of current semester and all of the next semester
Queen Anne's	Each case handled on an individual basis.		
St. Mary's	Serious offenses require a hearing to determine if an expulsion is needed.		
Somerset	No specific behavior leads to automatic expulsion except the violation of the Gun Free Schools Act		
Talbot	Alcohol, inhalants, and drugs Serious bodily injury	Ten day suspension with recommendation to superintendent for expulsion	
Washington	No other behavior results in automatic expulsion. Expulsion is considered for certain behaviors: guns, weapons, extortion, theft, sexual activity, drugs, arson/false alarms, obscenity, and certain computer infractions.		
Wicomico	Physical assault on staff; assault or battery; dangerous weapons or instruments; accumulation of 11 days of suspension	Recommendation for expulsion	Remainder of school year. If over age 16, the expulsion could be permanent.
Worcester	Misbehavior is handled on a case-by-case basis.		

Allegany County Public Schools
Discipline Matrix
Administrative Guidelines - Grades 6 - 12

ATTENDANCE INFRACTIONS		1st Offense	2nd Offense	3rd Offense	4th Offense
101	Cutting Class	1 Day ISS	2 Days ISS	3 Days ISS	5 Days ISS/PPW
102	Tardy To School/Class		Individual School Practice		
103	Truancy	3 Days ISS	5 Days ISS	5 Days ISS	5 Days ISS/PPW
DANGEROUS SUBSTANCES		1st Offense	2nd Offense	3rd Offense	4th Offense
201	Alcohol	10 Days OSS PPW/POLICE	10 Days OSS PPW/POLICE Expulsion		
202	Inhalants	10 Days OSS PPW/Expulsion			
203	Drugs	10 Days OSS PPW/POLICE	10 Days OSS PPW/POLICE Expulsion		
204	Tobacco	3 Days ISS	4 Days ISS	5 Days ISS	10 Days OSS PPW/POLICE Expulsion
WEAPONS		1st Offense	2nd Offense	3rd Offense	4th Offense
301	Firearms	PPW - Refer to Administrative Procedures for Serious Threats of Violence Dated 7/1/2008***			
302	Other Guns (Look-A-Like, Relic, etc)	PPW - Refer to Administrative Procedures for Serious Threats of Violence Dated 7/1/2008***			
303	Other Weapons	PPW - Refer to Administrative Procedures for Serious Threats of Violence Dated 7/1/2008***			

NOTE: This discipline matrix is designed to ensure consistency while maintaining a safe and orderly school environment. It is not intended to limit the professional judgement of school administrators.

**Allegany County Public Schools
Discipline Matrix
Administrative Guidelines - Grades 6 - 12**

ATTACKS/THREATS/FIGHTING		1st Offense	2nd Offense	3rd Offense	4th Offense
401	Physical Assault Student to Staff	10 Days OSS PPW/Expulsion			
402	Physical Assault Student to Student	3-5 Days OSS	3-5 Days OSS	10 Days OSS PPW/Expulsion	
403	Verbal/ Physical Threat Student to Staff	10 Days OSS	10 Days OSS PPW/Expulsion		
404	Verbal/ Physical Threat Student to Student	3 Days ISS	5 Days ISS	3 Days OSS	10 Days OSS PPW/Expulsion
405	Fighting	3 Days OSS	5 Days OSS/PPW	10 Days OSS PPW/Expulsion	
406	Extortion	3 Days ISS	5 Days ISS	10 Days OSS PPW/Expulsion	
407	Bullying	Warning	1 - 3 Days ISS	5 Days ISS	
408	Serious Bodily Injury	NOTE: State reporting documents will accompany all levels of offenses. 10 Days OSS PPW/POLICE			

ARSON/FIRE/EXPLOSIVES		1st Offense	2nd Offense	3rd Offense	4th Offense
501	Arson/Fire	10 Days OSS PPW/Expulsion			
502	False Alarm/ Bomb Threat	10 Days OSS PPW/Expulsion			
503	Explosives	10 Days OSS PPW/Expulsion			

SEX OFFENSES		1st Offense	2nd Offense	3rd Offense	4th Offense
601	Sexual Assault -Student to Staff	10 Days OSS PPW/Expulsion			
602	Sexual Harassment -Student to Staff	5 Days OSS PPW	10 Days OSS PPW/Expulsion		
603	Sexual Activity	10 Days OSS PPW/Expulsion			

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**Allegany County Public Schools
Discipline Matrix
Administrative Guidelines - Grades 6 - 12**

DISRESPECT/INSUBORDINATION/DISRUPTION		1st Offense	2nd Offense	3rd Offense	4th Offense
701	Disrespect	Warning 3 Days OSS	3-5 Days OSS	10 Days OSS PPW/Expulsion	
702	Insubordination	Warning 3 Days OSS	1-3 Days ISS 5 Days OSS	5 Days ISS 10 Days OSS Rec Expulsion	
703	Harassment	3 Days OSS	5 Days OSS	10 Days OSS Rec. Expulsion	
704	Classroom Disruption	NOTE: State reporting documents will accompany all levels of offenses.			
		Warning 3 Days OSS	3-5 Days OSS	5-10 Days OSS PPW/Expulsion	
705	Inciting/Participating in Disturbance	Warning	1-3 Days ISS	5 Days ISS	

OTHER CATEGORIES		1st Offense	2nd Offense	3rd Offense	4th Offense
801	Academic Dishonesty/Cheating	Individual School Practice			
802	Portable Communication Devices	Warning Confiscate device Parent Conf.	1-3 Days ISS Confiscate device	3-5 Days ISS	5 Days OSS/PPW
803	Theft	3 Days ISS Restitution	5 Days ISS Restitution	10 Days OSS Restitution Expulsion	
804	Trespassing (e.g., Non ACPS Students)	Police /Charge Trespassing	Individual School Practice		
805	Unapproved Sale or Distribution (e.g., Fund Raising)	Individual School Practice			
806	Vandalism/Destruction of Property	3-5 Days OSS Restitution	5-10 Days OSS Restitution PPW/Expulsion		
807	Refusal to Obey School/ System Policies	Warning 3 Days OSS	1-3 Days ISS 5 Days OSS	5 Days ISS 10 Days OSS Rec Expulsion	

NOTE: This discipline matrix is designed to ensure consistency while maintaining a safe and orderly school environment. It is not intended to limit the professional judgement of school administrators.

Allegany County Public Schools
Discipline Matrix
Administrative Guidelines - Grades 6 - 12

IDEA defines firearms and drug disciplinary offenses differently from the MSDE definition. The following codes can only be reported for students with disabilities when weapons or drugs are involved:

- 891** Sells or Solicits Sale of Controlled Substance - Controlled substance means a drug or other substance identified under the schedules of controlled substances in 21 U.S.C. §812; 21 C.F.R. pt. 1308.
- 892** Possesses or Uses Illegal Drugs - Illegal drugs are defined as a controlled substance but do not include a substance that is legally possessed, used under the supervision of a licensed health-care professional, or used under any other authority under the Controlled Substance Act or under any other provision of federal law.
- 893** Bringing or possessing a firearm onto school property or to a school-sponsored activity - Firearm means a weapon, device, instrument, material or substance (animate or inanimate), that is used for, or is readily capable of, causing death or serious bodily injury. Firearm does not include a pocket knife with a blade less than 2 1/2 inches in length. (See 18 U.S.C. §930) (COMAR 13A.08.01.12)

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Baltimore County Public Schools

All students charged with a violation of policies 5540 and/or 5550 receive due process, including a hearing with the superintendent's designee, who makes a decision on the evidence.

NONDISCRETIONARY EXPELLABLE OFFENSES Baltimore County Public Schools		
INFRACTION	REQUIRED ACTION	ADDITIONAL REFERENCE
Arson	Expulsion only Police involvement and reports	Policy 5550, online @ http://www.bcps.org/system/policies_rules/policies/5000Series/POL5550.pdf , policies and rules, annual <i>Student Handbook</i> , hardcopy to each student and staff member, online under Students, Parents, and Offices-Student Support Services
Physical attack on a staff member	Expulsion only Police involvement and reports	Policy 5550, online @ http://www.bcps.org/system/policies_rules/policies/5000Series/POL5550.pdf , policies and rules, annual <i>Student Handbook</i> , hardcopy to each student and staff member, online under Students, Parents, and Offices-Student Support Services
Distribution and/or sale of controlled dangerous substances (illegal drugs)	Expulsion only Police involvement and reports	Policy 5540, online @ http://www.bcps.org/system/policies_rules/policies/5000Series/POL5540.pdf , policies and rules, annual <i>Student Handbook</i> , hardcopy to each student and staff member, online under Students, Parents, and Offices-Student Support Services
Sexual assault	Expulsion only Police involvement and reports	Policy 5550, online @ http://www.bcps.org/system/policies_rules/policies/5000Series/POL5550.pdf , policies and rules, annual <i>Student Handbook</i> , hardcopy to each student and staff member, online under Students, Parents, and Offices-Student Support Services
Possession and/or use of a firearm on school property	One-year expulsion Police involvement and reports	Policy 5550, online @ http://www.bcps.org/system/policies_rules/policies/5000Series/POL5550.pdf , policies and rules, annual <i>Student Handbook</i> , hardcopy to each student and staff member, online under Students, Parents, and Offices-Student Support Services
Use of any other gun or rifle (loaded or unloaded, operable or inoperable), which shall include, but not limited to, pellet gun, paintball gun, stun gun, BB gun, flare gun, nail gun	Expulsion Police involvement and reports	Policy 5550, online @ http://www.bcps.org/system/policies_rules/policies/5000Series/POL5550.pdf , policies and rules, annual <i>Student Handbook</i> , hardcopy to each student and staff member, online under Students, Parents, and Offices-Student Support Services

Note: All expelled students are provided an alternative program within ten (10) school days. The length of the expulsion varies from 45 to 90 school days (one or two marking periods) except for the possession and/or use of a firearm on school property, which federal law mandates a one-year expulsion, however, exceptions may be made by the superintendent. Each student is expected to attend the assigned alternative program each assigned day, to behave appropriately, and to earn passing grades. Each student's reassignment is reviewed by the Review and Reinstatement Committee at the end of each marking period to determine the next appropriate placement of the student.

Parents are told at each disciplinary hearing that they have the right to appeal any decision made by the superintendent's designee and how to file the appeal. Appeal hearings are held by a panel of school board members as a new hearing; afterwards, the panel makes a decision of the student's guilt or innocence. Parents are also told at each disciplinary hearing that they have the right to request mitigation if they believe that there are mitigating reasons why the length of the student's reassignment should be reduced. Mitigation hearings are held by the school system's mitigations and appeals officer or the director of Student Support Services.