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TO: Members of the State Board of Education
FROM: Lillian M. Lowery, Ed.D. *Lillian M. Lowery*
DATE: July 23, 2013
SUBJECT: Permission to Publish Proposed School Discipline Regulation
Code of Maryland Regulations 13A.08.01.11, .12, and .15

PURPOSE:

To request permission to publish the proposed school discipline regulation.

EXECUTIVE SUMMARY:

At the June 25, 2013 meeting of the State Board of Education, the chairs of the School Discipline Regulations Workgroup presented their report containing recommended changes to the school discipline regulation. The State Board of Education discussed those recommendations in great detail and commended the Workgroup for their efforts to address the issues placed before them.

MSDE staff, thereafter, presented a draft of the changes to the regulation suggested by the Workgroup and changes suggested by the Public Schools Superintendents Association of Maryland (PSSAM) and the Maryland Association of Boards of Education (MABE). No action was required at that time.

Attached to this memo (ATTACHMENT I) is a draft of the new proposed regulation incorporating all suggested changes and the additional language that the State Board of Education suggested at the May meeting.

ACTION:

I request permission to publish amendments to COMAR 13A.08.01 with the following tentative timeline:

Maryland Register Issue Date: September 20, 2013
Hearing: N/A
30-Day Open Comment Period: September 20—October 21, 2013
Adoption: December 10, 2013

Attachment

LML:WJS

[] = deleted material
Italics = new material

.11 Disciplinary Action.

A. Local [Regulations. Each local board of education shall adopt a set of regulations designed to maintain an environment of order and discipline necessary for effective learning. These regulations should provide for counseling and standards for appropriate disciplinary measures, and may permit suspension or expulsion.] *Board Authority. Each local board of education has both the responsibility and authority to adopt policies designed to create safe schools. In the context of school discipline, by the beginning of school year 2014-2015, each local board shall review and revise its student discipline policies and regulations with the goal of maintaining an environment of order, safety, and discipline necessary for effective learning. The policies and regulations at minimum shall:*

- (1) reflect a discipline philosophy based on the goals of fostering, teaching, and acknowledging positive behavior;*
- (2) be designed to keep students connected to school so that they may graduate college and career ready;*
- (3) describe the conduct that may lead to in-school and out-of-school suspension or expulsion;*
- (4) allow for discretion in imposing discipline;*
- (5) address the ways the educational and counseling needs of suspended students will be met;*
- (6) explain why and how long-term suspensions or expulsions are last-resort options.*

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

- (1) (text unchanged)
- (2) "Expulsion" means, [at a minimum,] the [removal] *exclusion* of the student from the student's regular school program [and may be further defined by a local board of education.] *for 45 school days or longer, which only may occur under the following circumstances:*
 - (a) The superintendent or designated representative has determined that the student's return to school 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 shortest period practicable.*
 - (c) The school system provides the excluded student with comparable educational services and appropriate behavioral support services to promote successful return to a regular academic programs.*

(3) "Extended suspension" means the [temporary removal] *exclusion* of a student from [school for a specified period of time longer than 10 school days for disciplinary reasons by the local superintendent of the local superintendent's designated representative.] *a student's regular program for a time period between 11 and 45 school days, which only may occur under the following circumstances:*

(a) *The superintendent or designated representative has determined that:*

(i) *the student's return to school prior to the completion of the suspension period would pose an imminent threat of serious harm to other students and 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 shortest period practicable.*

(c) *The school district provides the excluded student with comparable educational services and appropriate behavioral support services to promote successful return to a regular academic program.*

(4) (text unchanged)

(5) *"Long-term suspension" means the removal of a student from school for a time period between 4-10 school days for disciplinary reasons by the principal.*

[(5)] (6) (text unchanged)

[(6)] (7) *"Short-term suspension" means the removal of a student from school for up to but not more than [10] 3 school days for disciplinary reasons by the principal.*

[(7)] (8) *"Suspension" means the application of extended suspension, in-school suspension, [or] short-term suspension, or long-term suspension.*

C. Suspension and Expulsion.

[(1) In those instances when the behavior of a student is disruptive and detrimental to the operation of the school, the student may be suspended or expelled.]

[(2)] (1) – [(3)] (2) (text unchanged)

[(4)] (3) Suspension for More than 10 Days or Expulsion.

(a) – (b) (text unchanged)

(c) If after the investigation the local superintendent or designated representative finds that [a longer] *an extended* suspension or *an* expulsion is warranted, the superintendent or designated representative promptly shall arrange a conference with the student and the student's parent or guardian.

(d) *The process described in §C(3)(a)-(c) shall be completed by the 10th school day of the initial suspension. If additional time is necessary to complete the process, either because of delays due to parent or guardian unavailability or due to the complexity of the investigation, the student shall be allowed to return to school, unless the local superintendent or designated representative determines that the 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 the parent or guardian within 24 hours and provide the reasons for the delay in the process and the denial of reentry.*

[(d)] (e) If after the conference the local superintendent or designated representative finds that *an extended* suspension [of more than 10 school days] or *an* expulsion is warranted, the student or the student's parent or guardian may [:]

[(i)] [Appeal] *appeal* to the local board within 10 days after the determination[;].

[(ii)] Be heard before the local board or its designated committee; and

[(iii)] Bring counsel and witnesses to the hearing.]

(f) *If an appeal is filed the local board or its designated committee or hearing officer shall have 45 days from [of] the date the appeal was received to hear the appeal and issue a decision.*

(i) *This timeline period may be extended if the parent, guardian, or his/her representative requests additional time*

(ii) *This timeline shall also apply in the event that the local board elects to use a hearing examiner.*

(g) *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 of time.*

(h) *The student or the student's parent or guardian or representative:*

(i) *Shall be provided the school system's witness list and a copy of the documents that the school system will present at the hearing 5 days before hearing; and*

(ii) *May bring counsel and witnesses to the hearing.*

[(e)] (i) – [(g)] (k) (text unchanged)

[(5)] (4) A student expelled [under] or suspended from school shall remain away from the school premises during those hours each school day when the school the student attends is in session, and may not participate in school-sponsored activities. The expelled or suspended student may return to school premises during the prohibited hours only for attendance at a previously scheduled appointment, and if the student is a minor then only if accompanied by the student's parents or guardian.

(5) *A student suspended or expelled from school shall be allowed to return to school on the day that the terms and conditions of the suspension or expulsion are met whether or not the student, parent, or guardian has filed an appeal of the suspension.*

(6)-(7) (text unchanged)

(8) A local superintendent may deny attendance to a student who is currently expelled or on extended suspension from another school system for a length of time equal to that expulsion or extended suspension. A school system shall forward information to another school system relating to the discipline of student, including information of an expulsion or extended suspension of the student, on receipt of the request for information.

D. – E. (text unchanged)

F. Minimum Education Services. In order to establish accountability and keep suspended or expelled students on track with classroom work, as is reasonably possible, each local board shall institute education services that at minimum provide that:

(1) *Each student suspended or expelled out-of-school who is not placed in an alternative education program shall receive daily classwork and assignments from each teacher which shall be reviewed and corrected by teachers on a weekly basis and returned to the student; and*

(2) *Each principal shall assign a school staff person to be the liaison between the teachers and the various students on out-of-school suspension or expulsion and to communicate weekly about classwork assignments and school-related issues by phone or email with those out-of-school suspended/expelled students and their parents.*

(3) *For short-term suspensions, the local board of education shall inform all schools under their jurisdiction:*

(a) *to provide all students who receive short-term suspensions with the opportunity to complete the academic work they miss during the suspension period without penalty.*

(b) *to 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; and*

(c) *that 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 and practice for makeup work in the event of any other excused absence.

12. Arrests on School Premises.

A. – E. (text unchanged)

F. Beginning in the 2015-2016 school year, data on school arrests shall be reported in manner and format developed by the Department, in consultation with local school systems, and approved by the State Board

.15 Reporting Delinquent Acts.

A.-B. (text unchanged)

C. Beginning in the 2015-2016 school year, the local school systems shall report data to the Department on school arrests and referrals to law enforcement agencies or to the juvenile justice system in a form and manner developed by the Department, in consultation with local school systems, and approved by the State Board.

.21 Reducing and Eliminating Disproportionate/Discrepant Impact.

A. The Department shall develop a method to analyze local school system discipline data to determine whether there is a disproportionate impact on minority students.

B. The Department may use the discrepancy model to assess the impact of discipline on special education students.

C. If the Department identifies a school's discipline process as having a disproportionate impact on minority students or a discrepant impact on special education students, the local school system shall prepare and present to the State Board a plan to reduce the impact within 1 year and eliminate it within 3 years.

D. The local school system will report its progress annually to the State Board.