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**TO:** Members of the Maryland State Board of Education  
**FROM:** Nancy S. Grasmick *Nancy*  
**DATE:** April 27, 2009  
**SUBJECT:** COMAR 13A.08.01.11 (REPEAL AND NEW)  
*Disciplinary Action*  
**PERMISSION TO PUBLISH**

**PURPOSE:**

To obtain permission to publish COMAR 13A.08.01.11, *Disciplinary Action*, (ATTACHMENT I) in the **Maryland Register**.

**BACKGROUND AND HISTORICAL PERSPECTIVE:**

Comments received regarding the Individual with Disabilities Education Act of 2004 indicated a belief that students with disabilities who received educational services while being suspended should NOT be coded as a suspension. Moreover, as local school systems began to explore alternatives to suspension, in-school suspensions became a viable alternative that would remove the student from an untenable situation, but allow the student to remain in school and in a learning environment. The purpose of this regulatory change is to accommodate those students whose educational environment remains commensurate with the program normally afforded to him/her.

**EXECUTIVE SUMMARY:**

The purpose of the amendments proposed to COMAR 13A.08.01.11 is to clarify the use of in-school suspension and attempt to ensure consistency from local school system to local school system.

**ACTION:**

Request permission to publish the proposed changes to COMAR 13A.08.01.11, *Disciplinary Action*, in the **Maryland Register** using the following **TENTATIVE** timeline:

Maryland Register Issue Date	July 6, 2009
Hearing	July 8 – August 5, 2009
30-Day Open Comment	August 6, 2009
Adoption	August 27-28, 2009

Attachment

NSG:ML:kw

**.11 Disciplinary Action.**

A. (text unchanged)

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

(1) — (2) (text unchanged)

(3) "Extended suspension" means the temporary [exclusion] removal of a student from school for a specified period of time longer than 10 school days for disciplinary reasons by the local superintendent or the local superintendent's designated representative.

(4) In-School Suspension

[(4)] (a) "In-school suspension" means the [exclusion] removal within the school building of a student from the student's [regular] current education program for up to but not more than 10 school days in a school year for disciplinary reasons by the school principal.

(5) (text unchanged)

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

(7) "Suspension" means the application of extended suspension, in-school suspension, or short-term suspension.

C. Suspension and Expulsion.

(1) (text unchanged)

(2) In-School Suspension

(a) An in-school removal is not considered a day of suspension as long as the student is afforded the opportunity to continue to:

(i) Appropriately progress in the general curriculum;

(ii) Receive the special education and related services specified on the student's IEP, if the student is a student with a disability in accordance with 13A.05.01.

(iii) Receive instruction commensurate with the program afforded to him in the regular classroom; and

(iv) Participate with peers they would in their current education program to the extent appropriate.

(b) A student may not receive an in-school suspension unless the student has been informed of the reasons for the suspension and has been given an opportunity to respond before the suspension becomes effective.

(c) The school principal shall provide the student's parents with written notification of the in-school suspension action taken by the school.

(d) After ten days of cumulative in-school suspension, the student and the student's parents or guardian and the principal shall confer.

(e) The student's school of current enrollment has the responsibility to make provision for the student's education during the period of in-school suspension.

(f) Local school systems shall develop policies pertaining to a student's participation in extra-curricular activities if the student receives an in-school suspension.

(g) Local school systems shall develop and implement a behavioral program of positive interventions to address the causes of misbehavior as part of the in-school suspension.

[(2)] (3) Suspension for Not More Than 10 Days.

(a) — (e) (text unchanged)

[(3)] (4) — [(7)](8) (text unchanged)

D. — E. (text unchanged)

# IMPACT STATEMENTS

## *Part A*

(check one option)

### Estimate of Economic Impact

The proposed action has no economic impact.

or

The proposed action has an economic impact. Complete the following form in its entirety.

#### I. Summary of Economic Impact.

#### II. Types of Economic Impacts.

Revenue (R+/R-)

Expenditure (E+/E-) Magnitude

A. On issuing agency:

B. On other State agencies:

C. On local governments:

Benefit (+)

Cost (-) Magnitude

D. On regulated industries or trade groups:

E. On other industries or trade groups:

F. Direct and indirect effects on public:

#### III. Assumptions. (Identified by Impact Letter and Number from Section II.)

**Part B**  
(check one option)

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

or

The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows.

**Impact on Individuals with Disabilities**  
(Check one option)

The proposed action has no impact on individuals with disabilities.

or

The proposed action has an impact on individuals with disabilities as follows:

*Part C*

(For legislative use only; not for publication.)

- A. Fiscal Year in which regulations will become effective: **FY 2009**
- B. Does the budget for fiscal year in which regulations become effective contain funds to implement the regulations?
- Yes  No
- C. If Ayes, @ state whether general, special (exact name), or federal funds will be used:
- D. If Ano, @ identify the source(s) of funds necessary for implementation of these regulations:  
NA
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

**Comparison to Federal Standards**  
(Check one option)

There is no corresponding federal standard to this proposed regulation.

or

There is a corresponding federal standard to this proposed regulation, but the proposed regulation is not more restrictive or stringent.

or

In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

- (1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:
  
- (2) Benefit to the public health, safety or welfare, or the environment:
  
- (3) Analysis of additional burden or cost on the regulated person:
  
- (4) Justification for the need for more restrictive standards: