



Nancy S. Grasmick  
State Superintendent of Schools

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

December 17, 2009

To Superintendents of Local School Systems:

The Maryland State Board of Education adopted changes to COMAR 13A.08.01.11, *Disciplinary Action*, at its August 25, 2009 meeting. These changes became effective on October 5, 2009. Staff has shared that there have been some questions raised at administrative meetings concerning the intent and implementation of the regulation, specifically in the area of ‘in-school suspension.’ This letter provides clarification and guidance on the implementation of the regulation. In the regulation, in-school suspension is defined as “. . . the **removal within the school building** of a student **from the student’s current education program** for up to but not more than 10 school days in a school year.” (Emphasis added) Across the State, wide variance exists in the quality of in-school suspension programs. Many lack any programming to address the behavior that led to the suspension in the first place. Some programs do not provide a continuance of the instruction that the student would be receiving in his/her classroom. The intent of these changes in this regulation was to bring some sort of standardization of in-school suspension, to improve the quality of an in-school suspension as a disciplinary intervention, and to provide an incentive to school systems and schools to provide disciplinary interventions that are a continuance of the student’s educational programs.

Moreover, the regulation requires certain actions when an in-school suspension is imposed. See (C)(2)(b-g):

1. The student must be informed of the reasons for the in-school suspension and given an opportunity to respond;
2. Written notification must be provided to the parent;
3. The current school of enrollment shall make provision for the student’s education during the in-school suspension period;
4. After ten days of cumulative in-school suspension, the student’s parents, the student, and the school principal shall confer;
5. The local school system needs to develop policies pertaining to a student’s participation in extracurricular activities while the student is on in-school suspension;
6. Local school systems need to develop and implement behavioral programs of positive interventions to address the causes of the misbehavior as part of the in-school suspension.



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Many schools are able to offer high quality disciplinary interventions. An in-school intervention differs from an in-school suspension if it includes all of the following:

1. A continuance of appropriate progress in the general curriculum;
2. The provision of special education and related services on the student's Individualized Education Program (IEP) if the student has a disability;
3. The provision of instruction commensurate with the program afforded to the student in the regular classroom; and
4. Participation with peers as they would in their current education program to the extent appropriate.

If these four criteria are met, the disciplinary action taken may NOT be considered an 'in-school suspension' and may be referred to as an 'in-school intervention.' In doing so, these are not to be counted as in-school suspensions. Moreover, these removals should not be included in the data that is submitted annually to the Department regarding exclusions, suspensions, expulsions, and in-school suspensions. In these cases, the requirements of (C)(2)(b-g) do not apply. It is the Department's recommendation that parents/guardians are kept informed when these types of disciplinary measures are taken and that the appropriate designation be referenced to alleviate any confusion (i.e. in-school suspension vs. in-school intervention). All students with disabilities must be provided special education consistent with the requirements of the Individuals with Disabilities Education Act and applicable Code of Maryland Regulations.

If you require further clarification or guidance, please do not hesitate to contact Mr. John McGinnis, Specialist in Pupil Personnel, at (410) 767-0295 or Ms. Donna Riley, Branch Chief, Special Education Administration Policy Branch, at 410-767-0249. Thank you for your consideration in this matter.

Sincerely,

  
Nancy S. Grasmick  
State Superintendent of Schools

NSG:CJB:kw

Attachment

c: Local Directors of Special Education  
Directors of Student Services

Carol Ann Heath

This is an unofficial working copy of COMAR 13A.05.01 Provision of a Free Appropriate Public Education; COMAR 13A.05.02 Administration of Services for Students with Disabilities; COMAR 13A.08.03 Discipline of Students with Disabilities; COMAR 13A.08.04 Student Behavior Interventions; COMAR 13A.08.01.11 Disciplinary Action; and COMAR 13A.13.01 Early Intervention Services to Eligible Infants and Toddlers and their Families, as amended and adopted by the State Board of Education on August 25, 2009. The final action of the State Board of Education was published in the Maryland Register September 25, 2009. These regulations take effect October 5, 2009 (10 days after publication in the Maryland Register). It is intended to be used for training purposes only, pending formal publication of the regulations by the Division of State Documents.

# **Title 13A STATE BOARD OF EDUCATION**

## **Subtitle 08 STUDENTS**

### **Chapter 01 General Regulations**

**Authority: Education Article, §§2-205, 7-101, 7-101.1, 7-301, 7-303—7-305, 7-307, 7-308 and 8-404, Annotated Code of Maryland; Federal Statutory Reference: 20 U.S.C. §§1232g and 7912**

#### **.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.

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

- (1) "Confer" means a discussion or dialogue by any means, for example, telephone, electronic mail, or face-to-face meeting, where the views of the teacher are communicated and considered.
- (2) "Expulsion" means, at a minimum, the removal of the student from the student's regular school program and may be further defined by a local board of education.
- (3) "Extended suspension" means the temporary **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" means the **removal** within the school building of a student from the student's **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) "Principal" means the principal of a school or the principal's designee.
- (6) "Short-term suspension" means the **removal** of a student from school for up to but not more than 10 school days for disciplinary reasons by the principal.

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**(7) "Suspension" means the application of extended suspension, in-school suspension, or short-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) 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 COMAR 13A.05.01;**

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

**(iv) Participate with peers as 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 10 days of cumulative in-school suspension, the student, the student's parents or guardian, and the principal shall confer.**

**(e) The student's school of current enrollment shall 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 extracurricular activities if the student receives an in-school suspension.**

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**(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.**

**(3) Suspension for Not More Than 10 Days.**

(a) In accordance with the rules and regulations of the local board, each principal of a public school may suspend for cause, for not more than 10 school days, any student in the school who is under the direction of the principal.

(b) The student or the student's parent or guardian promptly shall be given a conference with the principal and any other appropriate personnel during the suspension period.

(c) At or before the conference, the student shall receive oral or written notice of the charges against him or her. If the student denies the charges, the student has the right to an explanation of the evidence supporting the charges and an opportunity to present the student's side of the story.

(d) A student whose presence in school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be removed immediately from school, if the notice and conference required by this subsection is provided as soon as possible.

(e) If the principal finds that an extended suspension or expulsion is warranted, the principal immediately shall report the matter in writing to the local superintendent.

**(4) Suspension for More than 10 Days or Expulsion.**

(a) At the request of a principal, a local superintendent or the designated representative may suspend a student for more than 10 school days or expel the student.

(b) Upon receipt of a written report from a principal requesting an extended suspension or expulsion, the local superintendent or designated representative promptly shall make a thorough investigation of the matter.

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

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

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- (i) 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.
- (e) Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the board.
- (f) The appeal to the local board does not stay the decision of the county superintendent.
- (g) The decision of the local board is final.
- (5) A student expelled 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 the 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 parent or guardian.
- (6) If a student has been suspended or expelled, the principal may not return the student to the classroom without conferring with the teacher who referred the student to the principal, if the student was referred by a teacher, other teachers as appropriate, other appropriate school personnel, the student, and the student's parent or guardian.
- (7) If a student's disruptive behavior results in action less than suspension, the principal shall confer with the teacher who referred the student to the principal before returning the student to that teacher's classroom. The principal may satisfy this requirement by consulting with the teacher before returning the student to the classroom.
- (8) A local superintendent may deny attendance to a student who is currently expelled from another school system for a length of time equal to that expulsion. A school system shall forward information to another school system relating to the discipline of a student, including information of an expulsion of the student, on receipt of the request for information.

D. Restitution. Unless the student is referred to the Department of Juvenile Services, if a student violates a State or local law or regulation and during or as a result of the commission of that violation damaged, destroyed, or substantially decreased the value of school property or property of another that was on school property at the time of the violation, as part of a conference on the matter with the student, the student's parent or guardian, and other appropriate individual, the

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principal shall require the student or the student's parent or guardian to make restitution. The restitution may be made in the form of monetary restitution not to exceed the lesser of the fair market value of the property, or \$2,500, or by the student's assignment to a school work project, or both.

E. Corporal Punishment. Corporal punishment may not be used to discipline a student in a public school in the State.