



**PROHIBITION OF SUSPENSION OR EXPULSION FOR STUDENTS IN GRADES PREK TO 2**

Issue Date: September 22, 2018 Reference: Md. Educ. Art. § 7-305.1

COMAR 13A.08.01.11 (C) –*Disciplinary Actions-Suspensions and Expulsion*

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**Background**

In 2017, the Maryland General Assembly enacted Senate Bill 651 (Chapter 843) Public Schools – Suspensions and Expulsions which amended Education Article §7-305. This bill, which became effective in 2017, prohibited a child enrolled in a public prekindergarten program (as defined by the statute), or in kindergarten, first or second grade from being suspended or expelled from school, subject to exceptions (i.e., carrying a firearm on school property). The statute allows a student in the specified grades to be expelled if required by federal law. It also allows a student to be suspended for up to five school days per incident if the school administration, in consultation with a school psychologist or other mental health professional, determines that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports. The statute specifies the intervention and support that must be provided to students who are suspended from prekindergarten, kindergarten, first grade, or second grade and to any other students in those grades who are disruptive or commit an act that would otherwise be grounds for suspension.

**Introduction**

The Maryland State Department of Education (MSDE) developed this document to provide guidance to local school systems with a menu of best practices to support the implementation of COMAR 13A.08.01.11 (C) –*Disciplinary Actions-Suspensions and Expulsion* (adopted by the State Board of Education on August 28, 2018). The document was developed in collaboration with MSDE’s Division of Student Support, Academic Enrichment, and Educational Policy; Division of Early Childhood Development; Division of Special Education/Early Intervention Services; local Directors of Student Services; school principals and administrators; classroom teachers; school psychologists, university partners; and community partners and advocates. The list of practices provided is not all-inclusive and is not intended as an endorsement. The practices are focused on teaching and learning, not punishment. This information is offered to stimulate discussion about school discipline practices among local school systems, the MSDE, and mutual partners to effectively improve school climate, culture, and discipline. Contextually, this document follows adoption of new regulations on school discipline and the existing Maryland Guidelines for a State Code of Discipline (2014). As schools and school systems continue to review and revise their current local discipline practices and policies, the MSDE is hopeful that this document will be a useful tool.

**Definitions**

**Gun-Free Schools Act:** Each State receiving Federal funds shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, under the

jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing (U.S. Department Of Education Laws and Guidance, Subpart 3—Gun Possession, Section 4141 Gun-Free Requirements; Subpart 4—General Provisions, Section 4151).

**Imminent threat of serious harm:** Imminent threat of serious harm is likely and immediate danger of significant physical injury. The inability of the child to de-escalate after an intervention and return to the classroom without continuing the physical attack on either staff or students would constitute an “imminent threat”.

**Mental Health Professional:** A mental health professional is a school psychologist or other mental health professional certified by the MSDE under COMAR 13A.12.03.08, or other State licensed or certified mental health provider under State law, to provide such services to children.

**Suspension:** Under the new legislation, public prekindergarten through 2nd grade students may not be suspended for more than 5 days, per incident, subject to limitations of the statute. Extended suspension is no longer an option for students in the defined grades, and long-term suspensions are restricted to five days.

**Expulsion:** Under the new legislation, public prekindergarten through 2nd grade students may only be expelled when required by federal law, which refers to the Gun Free Schools Act.

**Restorative Practices:** Restorative Practices are practices conducted in a whole-school ethos or culture that supports peacemaking and solves conflict by building a community and addressing harm in a school setting and that are conducted by trained staff; focus on repairing the harm to the community through dialogue that emphasizes individual accountability; and help build a sense of belonging, safety, and social responsibility in the school community.

### **Requirements for Local School Systems**

Local school systems are required to ensure that practice, policy, and local regulations related to suspensions and expulsions of students incorporate the provisions of the law. The provisions of the law indicate the following:

*A student enrolled in a public prekindergarten program, kindergarten, first grade, or second grade may not be suspended or expelled.* The student may only be:

- Expelled from school if required by federal law (i.e., carrying a firearm on school property);
- Suspended for not more than five (5) days per incident if the school administration, in consultation with the school psychologist or other mental health professionals, determines that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions or supports.

Schools are required to provide intervention and support to students who are suspended or who commit any act that would be considered an offense subject to suspension. Local school systems should consider developing policies and procedures that include the following:

**1. *Process and procedures for engaging parents/guardians***

Local school system policies should recognize the role of parent/guardian involvement when addressing behaviors of concern with young students. Engaging parent support at the first sign of behavior issues and concerns is essential for effective home-school communication about the behaviors and their impact in the school setting. In addition, engaging parents/guardians can help to provide support for interventions and strategies used in schools.

**2. *A process for determining “imminent threat of serious harm” that cannot be reduced or eliminated through interventions and supports***

The Principal or assistant principal must consult with a school-based mental health professional in making this joint determination. Best practices dictate that the psychologist or mental health professional should provide that consultation in person. Local school systems should develop policies, procedures, and protocols if a school psychologist or other mental health professional is not on site at the school in order to obtain the consultation needed for a decision regarding a student’s behavior. In developing those policies, the response time should be kept to a minimum. Students should not be held for extended periods of time waiting for the mental health consultation. A consideration is to establish a timeframe in which the consultation should begin and end. While waiting for mental health consultation, students should be provided with instructional tasks and assignments that are aligned with appropriate curriculum objectives.

**3. *Consideration of interventions and supports to reduce or eliminate the threat of serious harm***

Senate Bill 651 (2017 Maryland Laws, Chapter 843) requires the school administration to consider interventions and supports to reduce or eliminate the harm in the course of evaluating whether there is imminent threat of serious harm. Refer to the list of resources and best practices contained later in this document for suggestions.

The determination should be made by: (1) analyzing the student’s behavior; and (2) examining whether additional interventions and supports will reduce or eliminate the threat of serious harm so that the student can remain in class and in school.

**4. *Documenting the consultation determination***

Best practice recommends that the mental health professional and school administrator document the consultation and its outcome. The first determination should be whether there is an “imminent threat of serious harm.” If “imminent threat of serious harm” is found, then the mental health professional and school administrator should determine whether this threat can be mitigated by other interventions and supports. Documentation should be written explaining the “interventions and supports” that were considered or applied, and why they would not or did not reduce or eliminate the threat of harm.

**5. *Suspension time period***

If it is determined that there is an “imminent threat of serious harm” that cannot be reduced or eliminated with additional interventions and supports, and the school administrator and the mental health professional decide to suspend the student, the suspension should be for the shortest period possible and for no more than 5 school days.

The 5-day suspension limit is per incident. School administrators should be mindful that a series of suspensions indicates that there should be a referral to the student support team (SST) or Individualized Educational Program (IEP) team. As required by law, students with disabilities who are subjected to a series of suspensions require a manifestation determination meeting.

**6. *Notice to parents/guardians and providing a copy of the mental health provider's determination document***

If a school administrator engages in a consultation with a school psychologist or other mental health provider to determine if an "imminent threat" exists, he or she should attempt to contact the parent/guardian to advise them of the behavior incident and the need for the consultation. If a school administrator in consultation with a mental health professional decides to suspend or expel a student, he or she should promptly notify (first day of removal) the parent/guardian of a student who is suspended or expelled from prekindergarten, kindergarten, first grade, or second grade. Schools should provide the parent with all mandated suspension documentation, including a copy of consultation and its determination.

**7. *Appeal process***

Schools must follow the Disciplinary Action regulation already in place for any appeals for suspension or expulsion.

**8. *Student record and data collection***

Schools must maintain a copy of all required documents in the student's discipline file, including the consultation and its determination.

**9. *Planning for suspended students***

All missed assignments should be received by student. A plan should be in place for student re-entry. The plan should address the student's needs, along with strategies for teaching and monitoring appropriate behaviors, and the goals to prevent the problem behavior reoccurring.

**Safeguarding against unintended consequences:**

Local school systems should develop policies and procedures to safeguard against unintended consequences of implementing the statute. These unintended consequences include the increased use of inappropriate responses to challenging student behavior in lieu of suspension, such as the following:

- Calling a parent to pick up their child before the end of the school day;
- Involvement of agencies external to the school for matters that should be handled by school administration;
- Emergency petitions (when not legitimately necessary); or
- In-school removals, such as keeping a child in the front office for an extended period of time.

## **Resources and Best Practices**

The statute requires that schools and local school systems provide interventions and supports that remedy the impact of a student's behavior through appropriate intervention methods and supports. Research indicates that suspensions and expulsions are primarily reactive measures taken when dealing with inappropriate behavior. Prevention of these inappropriate behaviors, when possible, lead to more successful and equitable outcomes for students. In order to support local school systems, the MSDE has provided a list of best practices which appear in this document. The list is divided into two sections. The first section includes best practices on prevention. The second section includes best practices for crisis interventions. The list of best practices provided is not all-inclusive and is not intended as an endorsement. The implementation of other evidence-based equitable systems of support is encouraged.

### **Examples of Tier I Supports for Prevention and Early Intervention:**

#### **Positive Behavioral Interventions and Supports (PBIS)**

<http://www.pbismaryland.org/>

PBIS is a framework that guides selection, integration, and implementation of the evidence-based practices for improving academic and behavioral outcomes for all students. When implemented with fidelity schoolwide, universal PBIS aims to reduce disruptive behavior problems, enhance school climate and create safer, more effective schools for ALL students. This is accomplished by targeting staff behavior and teaching students agreed upon behavioral expectations while promoting a shift from reactive, punitive practices to prevention and the promotion of positive behavior. There are four integrated elements to the framework: data to support decision-making, measurable outcomes supported and evaluated by data, practices which provide evidence that outcomes are achievable and support students and staff, and systems that efficiently and effectively support implementation of these practices by staff.

#### **Social Emotional Foundations of Early Learning (SEFEL)**

<https://theinstitutecf.umaryland.edu/sefel/>

SEFEL is a framework for teaching social and emotional skills to children. When implemented with fidelity SEFEL improves social emotional (SE) skills in children. SEFEL aims to improve teacher/child care provider and parent/caregiver ability to teach children SE skills to decrease parent stress, teacher job stress and increase parent efficacy and teacher confidence while also seeing an increase in positive environment and a decrease in child specific challenging behavior. The critical elements to implementing SEFEL are: instituting environmental changes both in classrooms and in homes and providing targeted social skills to individual children. It can be used for all children in a classroom or for more targeted strategies for children with challenging behaviors.

#### **Second Step Early Learning through Grade 8**

<http://www.secondstep.org/>

Second Step provides instruction in social and emotional learning with units on skills for learning, empathy, emotion management, friendship skills, and problem solving. The program contains separate sets of lessons for use in prekindergarten through eighth grade. Second Step strengthens students' ability to: learn, have empathy, manage emotions, solve problems, focus, listen, and stay calm. Students are better able to meet schoolwide behavioral expectations and benefit from learning.

### **PAX Good Behavior Game**

<https://www.goodbehaviorgame.org/>

PAX teaches students self-regulation, self-control, and self-management while collaborating with others for peace, productivity, health and happiness. PAX is not a classroom management program or about consequences and control. It enhances conditions for learning. PAX nurtures self-regulation in peer-contexts in order to improve attention and reduce impulsivity, thus wiring the brain during any school activity for long-term gain.

### **The Early Childhood Family Engagement Framework Toolkit**

<https://marylandfamiliesengage.org/family-engagement-toolkit/>

The Early Childhood Family Engagement Framework was developed by the Maryland Family Engagement Coalition to support intentional thinking and action regarding the implementation of family engagement policies and practices at the State and local level and among early care and education providers who serve young children, including children from poor families, children with disabilities and special needs, and dual language learners. The Early Childhood Family Engagement Framework aims to recognize the importance of family engagement as a core component of early care and education; put forth a set of common goals for family engagement across the early childhood system and within individual early care and education providers; and offer family engagement strategies for early care and education providers and identify resources that support the implementation of those strategies

### **Trauma-Informed Approach and Trauma-Specific Interventions**

<https://www.samhsa.gov/nctic/trauma-interventions>

A program, organization, or system that: realizes the widespread impact of trauma and understands potential paths for recovery; recognizes the signs and symptoms of trauma in clients, families, staff, and others involved with the system; responds by fully integrating knowledge about trauma into policies, procedures, and practices; and seeks to actively resist re-traumatization. A trauma-informed approach reflects adherence to six key principles rather than a prescribed set of practices or procedures. These principles may be generalizable across multiple types of settings, although terminology and application may be setting specific: safety; trustworthiness and transparency; peer support; collaboration and mutuality; empowerment, voice and choice; and cultural, historical, and gender issues. Trauma-informed practices build skills in key areas such as safety, emotional management, self-control, and conflict resolution. At the same time, open communication, healthy boundaries, healthy social relationships, growth, and change.

### **Mindfulness Resources**

<http://www.ascd.org/publications/newsletters/education-update/nov14/vol56/num11/Mindfulness-Resources.aspx>

Mindfulness is a state of active, open attention on the present. Mindfulness encourages the careful observation of thoughts and feelings without judging them as good or bad. Mindfulness means living in the moment and awakening to your current experience, rather than dwelling on the past or anticipating the future. Mindfulness is informed by theories and practices that draw from a confluence of contemplative traditions, science, and the major disciplines of medicine, psychology and education. It is underpinned by a model of human experience which addresses the causes of human distress and the pathways to relieving it. Mindfulness develops a new relationship with experience characterized by

present moment focus, de-centering, and an approach orientation. It supports the development of greater attentional, emotional and behavioral self-regulation, as well as positive qualities such as compassion, wisdom, equanimity. Staff and students engage in a sustained intensive training in mindfulness meditation practice, in an experiential inquiry-based learning process, and in exercises to develop insight and understanding. The goal is to: decrease in negative affect, stress, and negative behaviors within the classroom; improve optimism, social competence, and attention; decrease anxiety; improve in executive functioning skills; and less aggression, social problems

### **Data Collection**

The proper use of data and data collection is essential to successfully implementing tiered systems of support. Collecting the right data to analyze for root causes and/or trends helps improve implementation and ensures students receive the proper supports.

### **Team Approach**

Use a team approach to determine and address individual child's root causes. A Student Support Team (SST) or other school teams consisting of principals, teachers, school counselors, early childhood specialists, behavior specialists, pupil personnel workers, school nurses, school psychologists and LEA departments of student services, working in conjunction with proper data, can help identify students in need of additional behavioral supports and provide such supports.

### **Academic Supports**

Research indicates that the root causes of many inappropriate behaviors in the school context may be the result of academic frustration or academic boredom. Considering these as possible contributing factors to inappropriate behaviors is a key first step when looking at the supports needed for a student's success in the classroom. Academic supports include: communicating instructional purpose; explicit instruction; modeled instruction; guided practice with teacher support; guided practice with peer support; independent practice; reflection, integration and extension delivered in sufficiency differentiated methods including teacher led and student led activities; effective for diverse students including those with disabilities; and delivered in the context of a positive learning climate.

### **Examples of Tier II Targeted and Tier III Intensive Supports:**

#### **Crisis Prevention Intervention (CPI)**

<https://www.crisisprevention.com/>

CPI teaches a basic understanding of crisis intervention methods to identify behaviors that could lead to a crisis; effectively respond to each behavior to prevent escalation; use verbal and nonverbal techniques to defuse hostile behavior and resolve a crisis before it becomes violent; cope with fear and anxiety; and use CPI's Principles of Personal Safety to avoid injury if behavior becomes physical.

#### **Life Space Crisis Intervention (LSCI)**

<https://www.lsci.org/>

LSCI is an interactive therapeutic strategy for turning crisis situations into learning opportunities for children and youth with chronic patterns of self-defeating behaviors. LSCI provides verbal, non-physical skills for special educators, counselors, psychologists, juvenile justice staff, crisis intervention workers, behavior specialists and others who work with troubled and troubling children. LSCI provides

staff with a roadmap for assisting youth in preventing and resolving crises; while building positive relationships with these youth. LSCI also aims to motivate and empower youths to change repetitive patterns of self-defeating behavior. The key components to LSCI are: articulation of the dynamics of conflict cycles which lead to self-defeating behavior; diagnosing thinking errors that interfere with communication and problem-solving; identifying and intervene effectively with the process of staff counter-aggression which precludes effective intervention; demonstrating effective de-escalation, decoding, and counseling strategies for youth in crisis; and employing specific reclaiming interventions.

### **Restorative Practices (RP)**

<https://www.iirp.edu/>

RP addresses the needs of all students in dealing with matters of discipline. The philosophy and set of tools actively engage students in dealing with conflict management. RP provides tools to strengthen connections between students, staff, and administration. RP provides opportunities for students to: repair the harm caused and engage those harmed and affected and to learn the full impact of their actions and be restored to the community. RP aims to: increase the connection between members of school community; improve attendance; improve grades and test score; reduce suspensions, expulsions, and dropouts; improve student engagement; and increase parent connection to school. RP requires: leadership commitment to support this changed discipline philosophy from punishment to teaching; allocation of time and resources for staff training and classroom incorporation of circles; data tracking and reporting to school community; leadership incorporation of restorative tools in dealing with staff and parent communication; and leadership and staff support/coaching during implementation of RP.

### **Mediation Services**

Mediation services are a voluntary and confidential problem-solving process in which two or more students resolve their conflicts with the help of a trained neutral adult mediator through a partnering professional organization. Mediation services can reduce office referrals and suspensions in well-utilized programs. There are possible long term cultural shifts as students learn to use mediation and conflict resolution skills to address conflict. Mediation services are most effective when part of a comprehensive conflict resolution program which may include school wide curriculum.

### **Calming Strategies**

Learning to regulate our emotional responses, especially during times of stress, can be difficult. Most children have some natural ways of self-regulating, but may also need to learn appropriate ways to respond when experiencing anxiety. Calming strategies can help a child to work through strong emotions. When calming strategies are practiced regularly throughout the day, the possibility for use at times of anxiety is increased. A classroom calming corner is a quiet area of the room equipped with soft furnishings and soothing materials to help a student de-escalate when upset. Some suggested techniques include: a quiet space and a way for the child to signal when she needs a break; calming tactile input; calming oral sensory input; calming auditory input; calming visual input; calming proprioceptive input; calming movement; yoga, breathing, and meditation; and fine motor and visual tasks that are familiar, quiet, and repetitive. The goal is to decrease negative affect, stress, and negative behaviors within the classroom; improve optimism, social competence, and attention; decrease anxiety; improvements in executive functioning skills; and decrease aggression and/or social problems.

### **Additional Tier II Supports**

These are small group (targeted) interventions designed to reduce disruptive behavior problems, improve academics, enhance school climate and create safer, more effective schools for ALL students. Additional examples of Tier II supports include: Check-In/Check-Out; Social Academic Instructional Groups; Check and Connect; and In-School Interventions with targeted instruction for individual concern.

### **Additional Tier III Supports**

These are interventions that address individual (intensive) student behavioral and academic needs and are designed to reduce disruptive behavior problems, improve academics, enhance school climate and create safer, more effective schools for ALL students. Additional examples of Tier III supports include: mentoring; Cognitive Behavioral Intervention for Trauma in Schools; Functional Behavior Assessments and Behavior Intervention Plans; and 504 plans (for students with a documented disability).

### **Additional Sources**

Text of Senate Bill 651 (Chapter 843, 2017):

[http://mgaleg.maryland.gov/2017RS/chapters\\_noln/Ch\\_843\\_sb0651T.pdf](http://mgaleg.maryland.gov/2017RS/chapters_noln/Ch_843_sb0651T.pdf)

Text of COMAR 13A.08.01.11 Disciplinary Actions-Suspensions and Expulsions

<http://marylandpublicschools.org/stateboard/Documents/08282018/TabG-13A.08.01.11DisciplinaryActions.pdf>

Collaborative for Academic, Social, and Emotional Learning: <http://www.casel.org/>

Positive Behavior Interventions and Supports: <http://www.pbis.org/>

Positive Behavior Interventions and Supports Maryland: <http://www.pbismaryland.org/>

Restorative Practices: <https://www.iirp.edu/>

Resource Guide of Maryland School Discipline Practices:

<http://www.marylandpublicschools.org/about/Documents/DSFSS/SSSP/ResourceGuideMDSchDiscPractices011117.pdf>

Social and Emotional Foundations for Early Learning: <https://theinstitute.umaryland.edu/sefel/>

Division of Early Childhood Development guidance document:

[http://earlychildhood.marylandpublicschools.org/system/files/filedepot/4/guidance\\_final.pdf](http://earlychildhood.marylandpublicschools.org/system/files/filedepot/4/guidance_final.pdf)

Social Emotional Preschool Curriculum Consumer Report: <https://eclkc.ohs.acf.hhs.gov/hslc/tta-system/teaching/docs/curriculum-report-se.pdf>

Early Childhood Mental Health Consultation Project (ECMH):

<http://earlychildhood.marylandpublicschools.org/early-childhood-mental-health>

What Works Clearinghouse: <https://ies.ed.gov/ncee/wwc/>

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