Report to the Maryland State Board of Education on the Provision of Educational Services to Long-Term Suspended and Expelled Students in Maryland Public Schools

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Maryland State Department of Education
Division of Student, Family, and School Support
Office of Legal Counsel

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Executive Summary

In its August 2009 decision in Atanya C. v. Dorchester County Board of Education, MSBE Op. No. 09-26, the Maryland State Board of Education expressed concerns about the lack of educational services to students who are placed on long-term suspension or expelled. The State Board committed to a comprehensive review of the issue including: (1) public input from stakeholders, (2) review of local school system practices, and (3) review of local and national data on the effects of long-term suspensions and expulsions on students and the school community. The Division of Student, Family, and School Support, with assistance from the Office of Legal Counsel, undertook a nine month examination of the issues surrounding the provision of educational services to long-term suspended and expelled students.

Section I of this report examines the current use of suspension and expulsion in Maryland public schools; the last three school years of data provided by local school systems; and provides a summary of national and local data on some of the long-term effects on students and the community at large. While school administrators strive to maintain educational environments that are safe, secure, and conducive to learning, the research indicates that students who are repeatedly excluded from the school environment without access to educational services are more likely to drop out of school and engage in high risk behavior and criminal activity. Moreover, students with disabilities and minority students are placed on long-term suspensions or expelled at alarming rates compared to other sub-groups in the school population. The research indicates that over-use of these sanctions without provision of alternative services costs society considerably more than the provision of educational services.

In addition, the local school system data shows that over the last three school years, between 37-45% of long-term suspended students, and between 7-9% of expelled students, did not receive any educational services from local school systems. MSDE's data collection is limited because it does not currently capture the reasons for long-term suspensions, the school level (elementary, middle or high) of students on long-term suspension, or the types of educational services provided to suspended and expelled students. Further, the term "educational services" is not defined in regulation and has been defined differently among local school systems.

Section II of this report examines information that local school systems submitted regarding the services currently provided to suspended and expelled students. Many local school systems are committed to provide educational services and programs for all students, including those with severe behavior problems, but the cost of those services and lack of adequate staffing are among the major obstacles for school systems.

Section III reviews feedback from the general public about the type of services that should be provided to these students. The Department developed a web-based survey on its website, which resulted in over 4,000 responses. While the general public supports using suspension or expulsion in the cases of certain types of misbehavior, respondents overwhelmingly indicated that educational services should be provided, such as assigning the student to an alternative placement or school; requiring the parent and student to agree to a behavioral contract; and sending work home and having it graded by the school.

Section IV of this report summarizes stakeholder feedback on whether the State Board should mandate the provision of educational services to long-term suspended and expelled students. The State Board heard testimony from representatives of stakeholder groups at each of its meetings from May-July 2010. While stakeholder opinions were split on whether the State Board should mandate the provision of educational services, a majority of stakeholders expressed concerns with inconsistent policies and procedures among local school systems; called for the Department's data collection to delineate the reasons for long-term suspensions from total suspensions; and asked for better reporting of the type of educational services, if any, local school systems are providing to excluded students.

Section V of this report summarizes the recommendations from numerous task forces and workgroups that have examined the issues relating to suspension and expulsion over the last ten or more years.

Finally, Section VI of the report concludes with four recommendations for the State Board's consideration. The first three are policy recommendations at the state level affecting the **Code of Maryland Regulations** and the **Maryland Student Records System Manual** and the last is a recommendation addressing technical assistance for local school systems that demonstrate troubling patterns of long-term suspension or expulsion without educational services.

Introduction

In August 2009, the Maryland State Board of Education issued its opinion in Atanya C. v. Dorchester County Board of Education, Op. No. 09-26. The case involved the expulsion of a ninth grade student for the majority of the school year, during which time the student received periodic homework assignments but no follow-up, grading, or other interaction with school personnel. The State Board ultimately decided, by the narrowest of margins, that the student's expulsion would not be overturned because access to homework provided her the barest education acceptable in the expulsion context.

However, the State Board had many concerns about educational access for expelled students and committed to a full review of long-term suspension and expulsion that should include: (1) public input from stakeholders; (2) review of local school system practices; and (3) review of local and national data on the effects of long-term suspensions and expulsions. The purpose of the review would be to determine whether the provision of minimum "educational services" should be defined and mandated by State law.[1]

The Division of Student, Family and School Support, in collaboration with the Office of Legal Counsel, was tasked to lead the comprehensive review of educational services provided to long-term suspended and expelled students in Maryland. At the State Board's December 2009 meeting, the Division presented its proposed plan for the review, to include the following:

- Survey of local school systems concerning what educational services are currently offered to long-term suspended and expelled students. (A copy of the Survey is provided in Appendix I.)

- Survey the general public via a web-based survey accessible on the front page of the Maryland State Department of Education's website. (A copy of this Survey is provided in Appendix II.)

- Input from key stakeholder groups, including the Maryland Association of Boards of Education, the Public School Superintendents Association of Maryland, the Maryland Association of Elementary School Principals, the Maryland Association of Secondary School Principals, the Maryland PTA, the Maryland State Education Association, the Baltimore Teachers Union, Advocates for Children and Youth, the Maryland Association of Student Councils, the American Civil Liberties Union and the Open Society. Each organization would be asked to hold a forum with their membership on the topics and to provide a written summary of the answers to questions on a questionnaire developed by the Division. In addition, representatives from stakeholder groups would be asked to participate in a panel discussion at the April 2010 meeting of the State Board.

[1] The terms "educational services", "alternative educational services", "alternative programs" and "alternative educational programs" are not defined in statute or regulation and have been used interchangeably in gathering data for this Report.

In addition, the Division reviewed input from the public and other interested stakeholders during the public comment period at State Board meetings in May, June and July 2010. Further, the Division reviewed recommendations from previous task forces examining various issues regarding suspension, expulsion and the provision of educational services, which are summarized in Section V.

This report is divided as follows:

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Section I: Data on the Use of Long-Term Suspensions and Expulsions in Maryland

A. Use of Long-Term Suspension and Expulsion in Maryland

Each local board of education is required to have a set of regulations "designed to maintain an environment of order and discipline necessary for effective learning." COMAR 13A.08.01.11A. The local boards are authorized to determine the offenses for which a student may be suspended or expelled if the student is disruptive and detrimental to the operation of the school. Educ. Art. §7-305; COMAR 13A.08.01.11C.

In 1996, the Maryland General Assembly required the Maryland State Board of Education to adopt guidelines that define a State code of discipline for all public schools, with standards of conduct and consequences for violations of the standards. Educ. Art. §7-306. In January 1997, the State Board adopted the *Maryland Guidelines for a State Code of Discipline,* which included standards of student conduct and two categories for violations of the standards and consequences. Local school systems used these guidelines to update their own codes of discipline.[2]

The terms "long-term suspension" and "expulsion" are often used interchangeably in Maryland, but the regulatory definition of these sanctions differ and are worth a quick review. See COMAR 13A.08.01.11(B).

> **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.
>
> **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.
>
> **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.
>
> **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. For the purposes of this report, this is being referred to as "long-term suspension".

In response to the Division's survey, local school systems reported that the following types of student conduct could result in long-term suspension or expulsion:

[2] The State Superintendent assigned staff in the Division to update those guidelines in 2008. The committee tasked to update those guidelines has put its work on hold pending the presentation of this report to the State Board.

Harm to others or property	Threats/potential harm to others	Other inappropriate behavior
arson/fire; explosives; possession of a firearm; sexual assault; weapons violations; attacks/threats/fighting; or fighting or attacks with serious bodily injuries	false alarm/bomb threat; possession and/or use of dangerous substances; bullying/cyber bullying; or gang-related activity	sexual activity; sexual harassment; racial harassment; chronic disruption; inciting/participating in a disturbance; vandalism/destruction of property; refusal to obey school policies; theft; obscenity; profanity; pornography; or disrespect

When students are suspended, the suspension (whether short- or long-term) is considered a lawful absence under COMAR 13A.08.01.03(H). Therefore, as with the other lawful absences, local school systems are required to give suspended students an opportunity to make up class work missed during a suspension.[3] In addition, local school systems must have student attendance policies that, whenever possible, allows a student to obtain make up work in advance, as opposed to after the student returns to school. COMAR 13A.08.01.05(B)(5).

The local board of education's decision regarding a student suspension or expulsion is considered final. State law grants procedural due process rights for students to challenge a suspension or expulsion, which ultimately may be reviewed solely for legality by the State Board. Educ. Art. §7-305; COMAR 13A.01.05.05G.

B. Most Recent Statistics from Local School Systems

Local school systems report annually to MSDE school suspension and expulsion figures, which MSDE has been collecting and analyzing since the early 1970s. Currently, there are 29 offenses that would lead to long-term suspension or expulsion listed in the ***Maryland Student Records System Manual*** (MSRSM) (2008). Local school systems are required to use the MSRSM to provide data to the Department on an annual basis regarding suspensions, expulsions, and health-related exclusions in Maryland public schools.

[3] See March 2, 1990 advice of counsel from Mary Hencke Tillman, Assistant Attorney General, to Dr. Claud E. Kitchens, Deputy State Superintendent. Under current State Board regulations, expulsions are not considered "lawful absences" and, thus, expelled students do not have the same opportunity for make-up work. See June 15, 2000 advice letter from Kathryn M. Rowe, Assistant Attorney General, to The Honorable Dana Lee Dembrow.

While the percentage of students suspended in Maryland has remained fairly consistent over the past 14 school years, with a high of 9.3% in SY 2003-04 and a low of 7.1% in SY 1995-96, the following is a summary of the long-term suspension and expulsion figures from the last three school years. When we examined the data MSDE obtains through the MSRSM, we found significant gaps in the data. Consequently, the long-term suspension data provided is limited, which we address in the Recommendations section of this report.

Therefore, the following chart should be reviewed with the following caveats:

- Currently, MSDE only collects data on the total number of long-term suspensions in the State. In addition, MSDE does not collect data on the school level (elementary, middle or high) of students on long-term suspension.
- MSDE does not collect data separately on the offenses that resulted in long-term suspension. Therefore, where the table lists reasons for suspensions, those numbers reflect all suspensions, including short-term and long-term suspensions.
- Due to varying definitions of "expulsion" used among local school systems, what is reported as expulsion in one system may be reported as extended/long-term suspension in another.
- The term "educational services" is not defined in COMAR or the MSRSM. Therefore, the term has varying meanings among the local school systems.
- MSDE does not currently capture data on the types of educational services provided to suspended and expelled students.

	School year	Numbers	Top Reasons	Educ'l Services Provided
Long-Term Suspensions (More than 10 days)	**2006-2007**	2,944 suspensions	Fighting Insubordination; Inciting/participating in a disturbance; Disrespect; Physical attack on a student	**No Educational Services Provided** 1,335 cases (45.35%) Educational Services Provided 1,599 cases (54.31%) Education Services Rejected 10 cases (0.34%)
	2007-2008	2,787 suspensions	Fighting; Insubordination; Disrespect; Physical attack on a student; Inciting/participating in a disturbance	**No Educational Services Provided** 1,221 cases (43.81%) Educational Services Provided 1,562 cases (56.05%) Educational Services Rejected 4 cases (0.14%)
	2008-2009	1,562 suspensions	Fighting; Inciting/participating in a disturbance; Insubordination; Physical attack on a student; Disrespect	**No Educational Services Provided** 579 cases (37.07%) Educational Services Provided 975 cases (62.42%) Educational Services Rejected 8 cases (0.51%)
Expulsions	**2006-2007**	1,902 cases	Physical attack on a teacher or staff member (271); Weapons violations (421)	**No Educational Services Provided** 177 cases (9.31%) Educational Services Provided 1,421 cases (74.1%) Educational Services Rejected 304 cases (15.98%)
	2007-2008	1,453 cases	Physical attack on a teacher or staff member (258); Weapons violations (246)	**No Educational Services Provided** 107 cases (7.36%) Educational Services Provided 1,166 cases (80.25%) Educational Services Rejected 180 cases (12.39%)
	2008-2009	1,196 cases	Physical attack on a teacher or staff member (261); Weapons violations (267)	**No Educational Services Provided** 110 cases (9.2%) Educational Services Provided 1,011 cases (84.53%) Educational Services Rejected 75 cases (6.27%)

C. Balance of Considerations – Benefits to Schools versus Potential Long Term Effects

Local school systems report using long –term suspension and expulsion most often as a sanction for student behavior that threatens the well-being of students and staff, is chronic, escalating, and disruptive to the educational process, or when other interventions have failed. As noted above, the highest number of students was long-term suspended or expelled in recent school years because of physically assaultive behavior.

Most schools employ a variety of prevention and intervention services and programs to address reasons for misbehavior and teach children to live up to the behavioral expectations of the school prior to imposing long-term suspension or expulsion. These include: counseling, parent-teacher-student conferences, group counseling for students dealing with similar issues, peer mediation, conflict resolution, referral to Student Services and/or Individualized Educational Program teams, referral to outside mental health agencies, behavioral contracts, and Saturday School.

Moreover, MSDE in partnership with the Sheppard Pratt Health System, Johns Hopkins University and the local school systems have trained over 840 schools in a school improvement initiative known as Positive Behavior Interventions and Supports (PBIS). This is a school-wide prevention initiative that teaches what good behavior looks like in various contexts; provides recognition, rewards, and incentives when good behavior is demonstrated; and uses office referral data and suspension data to make decisions.

Each school trained in PBIS has a behavioral coach who works with the school to fully implement PBIS. The paradigm for PBIS is taken from the public health model of three tiers. The first tier, covering approximately 80% of the population, responds to whole school prevention. The second tier, about 15% of the population, needs more personal intervention; for example, they may be assigned to group counseling. The final tier, comprising about 5% of the population, requires intensive intervention that would entail a marshaling of resources from all child-serving agencies. Currently, MSDE has implemented Tier 1 in the schools trained in PBIS, but neither MSDE nor local school systems have the funding to fully implement Tiers 2 and 3.

However, when these and other interventions fail, long-term suspension or expulsion may be an appropriate sanction for certain student misconduct that is disruptive to the school environment. Maintaining order and safety in schools is of paramount importance and it is difficult to measure the negative effect of disruptive, potentially dangerous conduct on the school community without these sanctions.

The challenge remains, however, that long-term suspension and expulsion can have a detrimental effect on the student's overall school experience. Educators may grapple with the challenge by wondering, *what do we communicate to a student when we suspend him or her? That we don't know how to handle you or don't want to handle you?* For a student, the experience of being suspended can be very personalized: *the school doesn't want me there; the adults in the school don't like me.*

Nationally, numerous studies have examined the long-term effects of long-term suspension and expulsion, particularly when no alternative educational service is provided. These studies have consistently identified disadvantages to excluding "problem children" from the educational environment, which range from widening achievement gaps to high social costs and disparate impact on minority students.

The following is a short summary of some of the best documented long-term effects of long-term suspension and expulsion:

- Increased drop-out rate:

  Access to high quality alternative education allows students to continue making academic progress, earn credits necessary to advance to the next grade, and continue towards graduation.[4] Students who do not receive educational services have more difficulty progressing academically and cannot accumulate credits towards graduation. Those students who manage to get reinstated after a period of exclusion may not be able to advance to the next grade with their peers, increasing the likelihood that they will drop out.[5]

  In addition, studies show that many suspended or expelled students will not return to school after the sanction expires. [6] Suspension or expulsion is a major factor leading to a decision to drop out of school.[7]

  Maryland's dropout rate for the past three years has been relatively consistent. From July 2006-June 2007, the rate was 3.54%; July 2007-June 2008, it was 3.40%; and July 2008-June 2009, it was 2.80%.

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[4] Maureen Carroll, Comment, *Educating Expelled Students After No Child Left Behind: Mending an Incentive Structure that Discourages Alternative Education and Reinstatement,* 55 U.C.L.A. L. Rev. 1909, 1942 (2008), *citing, inter alia*, Office for Civil Rights, U.S. Dep't of Educ., 2004 Civil Rights Data Collection (indicating schools disproportionately expel African American and Latino students).

[5] Carroll, *supra* note 4, at 1941, *citing* Lupe S. Salinas & Robert H. Kimball, *The Equal Treatment of Unequals: Barriers Facing Latinos and the Poor in Texas Public Schools*, 14 Geo.J. on Poverty L. & Pol'y, 215, 230 (2007); Alicia C. Insley, Comment, *Suspending and Expelling Children from Educational Opportunity: Time to Reevaluate Zero Tolerance Policies*, 50 Am. U. L. Rev. 1039, 1065 (2001) (citing a Columbia University report that suspended sophomores drop out of school at three times the rate of other students their age).

[6] Carroll, *supra* note 4, at 1910.

[7] Avarita L. Hanson, *Have Zero Tolerance School Discipline Policies Turned into a Nightmare? The American Dream's Promise of Equal Educational Opportunity Grounded in Brown v. Board of Education*, 9 U.C. Davis J. Juv. L. & Pol'y 289, 330 (2005); Roni R. Reed, Note, *Education and State Constitutions: Alternatives for Suspended and Expelled Students*, 81 Cornell L. Rev. 582, 605(1996), *citing* Pedro Reyes, *Factors that Affect the Commitment of Children at Risk to Stay in School*, in Children at Risk 45 (Joan M. Lakebrink ed., 1989).

- Increased high risk behavior and criminal activity:

  Government studies have found that denying alternative education programs to students increases their likelihood of engaging in high-risk sexual behavior, alcohol and drug abuse and criminal activity. Suspended and expelled students are more likely to become involved in the juvenile justice system. [8]

  Further, even when social status of origin, race, marital and employment status were held constant, a study found that dropping out of high school is positively associated with later criminal activity. [9] In addition, expelled students who do not complete high school face an increased likelihood of incarceration, even when compared with students who drop out of school for other reasons, such as employment, marriage or pregnancy.[10]

  Conversely, there has been little evidence that suspending and expelling students actually reduces school violence or improves student behavior, [11] while providing a quality alternative educational setting for students may break the cycle of violence that eventually drives many troubled youth to crime. In addition, the access may help to: increase productive interaction with students and teachers remaining in the traditional school setting; reduce the amount of time teachers spend on students with behavior issues; increase performance and self-esteem of youth who need the personal attention in an individual setting; encourage self-reflection among similarly situated youth; and allow school administrators to aggressively address the problem of school violence while avoiding short-sighted exclusionary policies.[12]

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[8] Carroll, *supra* note 4, at 1912, 1941, *citing* U.S. Dep't of Health & Human Servs., *The Surgeon General's Call to Action to Promote Sexual Health and Responsible Sexual Behavior 7* (2001); Laura Duberstein Lindberg et al., *Teen Risk-Taking: A Statistical Portrait* 26 (2000); Insley, *supra* note 5, at 1070; Centers for Disease Control and Prevention, Health Risk Behaviors Among Adolescents, Who Do and Do Not Attend School: United States 1992, Mortality Wkly. Rept. 43:(08), Mar. 4 1994, at 129, 130-32.

[9] Reed, *supra* note 7, at 606, *citing* R.C. Smith & Carol A. Lincoln, America's Shame, America's Hope 3 (1988), at 15-17; Carroll, *supra*, note 4, at 1942.

[10] Carroll, *supra*, note 4, at 1942, *citing* Florence Moise Stone & Kathleen B. Boundy, *School Violence: The Need for a Meaningful Response*, 28 Clearinghouse Rev. 453, 464 (1994).

[11] Adira Siman, Note, Challenging Zero Tolerance: Federal and State Legal Remedies for Students of Color, 14 Cornell J. L. & Pub. Pol'y 327, 333 (2005), *citing* Advancement Project & Civil Rights Project, Harvard University, *Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline Policies* (2000).

[12] O'Kelley H. Pearson, Case Note, *Education Law-Fundamentally Flawed: Wyoming's Failure to Protect a Student's Right to an Education, RM v. Washakie County Sch. Dist. No. One, 102 P.3d 868 (Wyo. 2004),* 6 Wyo.L.Rev. 587, 619-20 (2006), *citing* Jonathan Wren, Note, *Alternative Schools for Disruptive Youths – A Cure for What Ails School Districts Plagued by Violence?*, 2 Va. J. Soc. Pol'y & L. 307, 346-48 (1995).

- High social costs:

  Exclusionary policies add to the growing number of citizens lacking the basic educational skills to support themselves.[13] For example, dropping out of high school is associated with a greater need for social services, like public assistance and unemployment assistance.[14] Even if they are able to find work, drop outs are disadvantaged in their earning capacity compared to high school graduates. [15] This leads to increased impoverishment, criminal victimization and temptation, poorer health, shorter lives and political powerlessness.[16]

  Estimates indicate that a high school drop-out can cost society between $243,000 and $388,000 over his lifetime due to dependency on government assistance.[17] Those costs escalate dramatically if the youth turns to a life of crime. The Office of Juvenile Justice and Delinquency Prevention sponsored a report in which it estimated that taxpayers pay $1.7 million to $2.3 million over the lifetime of a single student who becomes involved with drugs and crime instead of finishing school. This amount includes costs for crime victims, criminal justice, resources devoted to the drug market, and lost wage productivity. [18]

  In contrast, one study found that providing effective alternative education may cost approximately $7,000, but that it provides $20,650 per student per year in social benefits. Those social benefits included learning time that would have been lost, reduced grade repetition, added tax revenue, reduced welfare costs, and reduced prison costs.[19]

- Disparate impact on minority students:

  Nationwide, minority students are suspended at rates far exceeding their representation in

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[13] Insley, *supra* note 5, at 1065.

[14] Reed, *supra* note 7, at 606, *citing* Van Dougherty, *Youth at Risk: The Need for Information*, in Children at Risk; Hanson, *supra* note 7, at 331.

[15] Reed, *supra* note 7, at 606, *citing* R.C. Smith & Carol A. Lincoln, America's Shame, America's Hope 3 (1988), at 2.

[16] Pearson, *supra*, note 12, at 618, *citing* Eric Blumenson & Eva S. Nilsen, *How to Construct an Underclass, or How the War on Drugs Became a War on Education,* 6 J. Gender Race & Just., 61, 75 (2002).

[17] Pearson, *supra*, note 12, at 618, citing Insley, *supra* note 5 at 1065; Howard N. Snyder & Melissa Sickmund, U.S. Dep't of Just., Juvenile Offenders & Victims: 1999 National Report 62, 82-83.

[18] Pearson, *supra*, note 12, at 618, *citing* 42 U.S.C. §5601(a)(2); Carroll, *supra* note 4, at 1943, *citing* Hanson, *supra* note 7 at 338-39.

[19] Carroll, *supra*, note 4, at 1943, *citing* Sasha Polakow-Suransky, *America's Least Wanted: Zero-Tolerance Policies and the Fate of Expelled Students*, in The Public Assault on America's Children: Poverty, Violence, and Juvenile Injustice 101, 121 (Valerie Polakow ed., 2000).

the school population. One study estimated that black high school students are suspended at a rate of three times that of white students. [20] A growing body of research suggests that racial disparities in school discipline resulted where negative stereotypes of African American youth (as dangerous or unintelligent) affect teachers' subjective interpretations of student behavior.[21]

While some have argued that students of color are more disruptive and commit more infractions than other students, studies have not substantiated this claim. A number of analyses maintain that the best explanation for the disparities is racism or racial stereotyping.[22]

Over the past ten years, MSDE has worked with local school systems to disaggregate their suspension data and look for the root causes for the high disparity of minority suspension rates. Moreover, PBIS training has helped schools review office referrals and reports of misconduct at the school level when the student is first singled out for out of classroom discipline.

The 2007 *Report of the Task Force on the Education of Maryland's African American Males* strongly criticized the use of out-of-school suspensions, stating "There's considerable evidence that a history of school suspension does one of two things—either it puts a child on the path toward delinquency or accelerates his journey there." The Task Force recommended that in-school suspension programs needed improvement by focusing on academic development and behavioral counseling and be used instead of out-of-school suspensions.

- Disparate impact on students with disabilities

Students with disabilities are long-term suspended or expelled at rates greater than their nondisabled peers. Annually, MSDE collects data from local school systems on the numbers of students with disabilities suspended more than 10 days or expelled with their

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[20] Reed, *supra* note 7, at 608, *citing* Julie Underwood, *Legal Protections for At Risk Children*, in Children at Risk, at 96; Hanson, *supra* note 7, at 334-35; Siman, *supra* note 11 at 333, *citing* Russell J. Skiba et al., Indiana Education Policy Center, *The Color of Discipline: Sources of Racial & Gender Disproportionality in School Punishment* 3 (June 2000); Patrick Pauken & Philip T.K. Daniel, *Race Discrimination and Disability Discrimination in School Discipline: A Legal and Statistical Analysis*, 139 Educ. L. Rep. 759, 766 (2000).

[21] Carroll, *supra* note 4, at 1935-36, citing Russell J. Skiba et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, 34 Urb. Rev. 317, 335-36 (2002).

[22] Siman, *supra* note 11, at 334-35, *citing, inter alia*, John D. McCarthy & Dean R. Hoge, *Racial Disadvantage Out of Universalistic Process*, 65 Soc. Forces 1101 (1987); Anna C. McFadden et al., *A Study of Race and Gender Bias in the Punishment of Handicapped School Children*, 24 Urb. Rev. 239 (1992); Patrick Pauken & Philip T.K. Daniel, *Race Discrimination and Disability Discrimination in School Discipline: A Legal and Statistical Analysis*, 139 Educ. L. Rep. 759, 767 (2000) (citing a 1993 study that surveyed hundreds of thousands of students across the country and found that the African-American students were suspended or expelled at a rate 250% higher than white students).

nondisabled peers.[23] If the percentage of suspensions among students with disabilities is twice that of the percentage of suspensions among students without disabilities the local school system is identified as "significantly discrepant".

For school year 08-09, three local school systems have been identified as "significantly discrepant." In SY 07-08, three systems were identified. In SY 06-07, five school systems were identified. Consequently, those schools systems may be placed on an Improvement Plan or Corrective Action Plan, and receive technical assistance from MSDE's Department of Special Education/Early Intervention Services. Technical assistance may include:

- Direct on- and off-site technical assistance to staff at the local level;
- Professional development activities related to the regulatory requirements for the disciplinary removal of students with disabilities, Positive Behavior Interventions and Supports (PBIS), Functional Behavioral Assessments and Behavior Intervention Plans;
- Topic strands related to discipline and suspension of students with disabilities at Statewide Leadership Conference; and
- Technical Bulletins, FAQs, and other correspondence to provide guidance to local school systems.

[23] The Individuals with Disabilities Education Act (IDEA) provides significant procedural safeguards for disciplining students with disabilities. See 20 U.S.C. 1401 *et seq;* 34 CFR §300.530 *et seq*; see also Md. Code, Educ. Art. §7-305(f); COMAR 13A.08.03. We do not address the IDEA provisions in this report.

Section II: Educational Services Provided By Local School Systems to Long-Term Suspended and Expelled Students

"The number one concern for professionals making decisions should be the welfare of the child and not the advancement of their career. They should also listen to the staff that has daily contact with the student to become better informed as to why this behavior occurred. Each incident with each child is different and needs to be treated as such. To have a hard and fast rule written in stone is not in the best interest of either the student or the staff."
(Teacher, Web Survey)

The Division used five mechanisms to gather input from the local school systems for this Report. First, at their winter retreat, the Directors of Student Services from each local school system discussed what is currently happening, what they would like to see happen, and some barriers to offering the type of services they want. Second, each local school system was asked to complete a comprehensive survey (see Appendix I). Third, representatives of the Maryland Association of Boards of Education, the Public School Superintendents Association of Maryland, the Maryland State Education Association, and the Maryland Associations of Elementary and Secondary Principals Associations were asked to give formal testimony to the State Board during its April 2010 meeting. Their testimonies are summarized in Section IV. Fourth, stakeholders were able to provide testimony at monthly State Board meetings. Finally, many educators participated in the web-based survey, and their responses are included in the summary under Section III.

A. Local School System Survey

One of the final questions on the survey asked about the number of "alternative education programs/services" that existed at each school level (elementary, middle or high) and the top three challenges in providing those programs. As noted earlier, there is no regulatory definition of "alternative education programs/services", nor is there a consistent definition among local school systems. Below is a chart summarizing local school system responses.

Local School System	# of Programs			Top Three Challenges in Providing Alternative Programs/Services		
	Elem.	Mid.	High	Reason 1	Reason 2	Reason 3
Allegany	1	1	1	Safety while providing services	Costs	Student needs very broad
Anne Arundel	1	5	7	Limited access to seats	Costs	Safety issues
Baltimore City	3	6	4	Attendance	Addressing serious behaviors	Utilizing community based resources
Baltimore	2	6	10	Costs	Transportation	Transitional support services
Calvert	0	3	5	Space	Funding	Assaults on students and staff
Caroline	0	1	2	Need for specialized academic and behavioral support	Limited resources	Provision of equal educational opportunities

Local School System	# of Programs			Top Three Challenges in Providing Alternative Programs/Services		
	Elem.	Mid.	High	Reason 1	Reason 2	Reason 3
Carroll	1	2	3	Provision of a challenging curriculum. Honors and AP classes	Federal restrictions on students with disabilities	Hesitation on home school to receive a student back
Cecil	1	4	4	Funding. Costs up to $1.2 M.	Coordination of services with other child-serving agencies	Transportation
Charles	1	2	3	Cost for staff	Cost for therapeutic services	
Dorchester	0	1	1	Funding for counseling services	Funding for highly qualified teachers	Funding for online courses
Frederick	0	1	1	Lack of resources	Transition in and out	Accessing the full curriculum
Garrett	0	0	0			
Harford		1	1	Staffing for multitude of needs	Providing effective targeted support	No state agreed exemplars and indicators for alt. education
Howard	0	2	2	Transportation	Meeting the wide spectrum of academic and social/emotional needs	Finding highly qualified staff to work beyond school hours
Kent	0	1	1	Funding	Burn-out of staff	Being able to offer full curriculum
Montgomery	0	3	2	Staffing	Scheduling issues	Appropriate services
Prince George's	0	1	4	Physical attack on staff	Weapon possessions	Group fights
Queen Anne's	0	1	1	Conduct disorders	High quality staff	Providing consistent mental health services
Somerset	0	1	1	Fiscal limitations	Elementary programs	Providing a true alternative program
St. Mary's	1	2	3	Funding	Location	Time
Talbot	0	0	0	Cost and lack of tutors	Transportation costs	Costs of programs
Washington	2	1	2	Need for therapeutic resources/staff	Capacity	Transitioning
Wicomico		1	2	Cost	Resources	Evidence-based models
Worcester	1	4	5	Staffing	Funding	

In addition, local school systems were asked to quantify the average additional cost per student to provide "alternative educational services" to students if that was required. The survey did not define or specify the type of alternative educational service and local school systems provided estimated figures that covered a wide gamut. A large urban school system estimated that alternative educational services for long-term suspended students would cost over $7 million, whereas a small rural school system suggested that the staff costs alone for an alternative school would run around $364,021. Some local school systems estimated home tutoring to cost $150 per week per student.

Further, the survey requested information on the types of educational services provided in each school system for students on long-term suspension (LTS) or expulsion (EX) by school level (elementary, middle, and high). All 24 school systems responded to the survey. The survey requested information from the 2009-2010 school year, which was not yet complete.

The vast majority of school systems reported providing some type of educational service, and some school systems provided multiple services. The following chart reflects the types of services provided last school year at the elementary, middle, and high school levels. (Three school systems reported that they do not place elementary students on long-term suspension or expulsion.)

	Alternative School		**Night School**		**On-Line Courses**		**Work Sent Home**		**At Home Instruction by Teachers**	
	LTS	EX	LTS	EX	LTS	EX	LTS	EX	LTS	EX
Elementary	2	1	0	0	1	0	9	1	10	5
Middle	16	8	2	3	3	1	11	1	12	4
High	18	9	10	6	7	10	5	7	10	7

In addition, some local school systems reported providing a combination of educational services, including mental health or anger management counseling, afternoon learning centers, therapeutic behavior intervention programs and drug intervention programs.

Moreover, 16 local school systems that otherwise provide educational services to long-term suspended and expelled students did not provide any services for approximately 161 students. The primary reasons given were (1) services are not provided to students over the age of 16 and not disabled (76 students); (2) services are not provided for expelled students (23 students); (3) services are not provided to persistently violent students (22 students); (4) services were offered and declined by parents (8 students); and (5) services not provided due to guns weapons offenses (4 students).

The final question of the survey was "Please provide other comments that you would like the MSBE to consider regarding the provision of alternative educational programs/services to long-term suspended or expelled students." Several of the responses received are provided in Appendix I.

B. Director of Student Services Winter Retreat

During their winter retreat, the Directors of Student Services discussed the types of educational services that they would like to see and existing barriers to offering these services. They reported that staffing is a big issue, as finding and retaining highly effective staff skilled to service this student population is difficult. Furthermore, student/teacher ratios often are too high to provide for effective, personalized instruction. Moreover, Directors noted that if the educational service or alternative program is serving students with increased mental health needs, there is an additional need for staff with the knowledge and skills to meet those needs.

Repeatedly, Directors also mentioned the need for more regional alternative schools. There are vast areas of the State where alternative schooling is needed, but there are few available.

When discussing their view on the effectiveness of the current educational services offered to long-term suspended students, many Directors noted that there needs to be thorough and on-going evaluation following the educational service to determine whether it achieved its desired outcome. Local school systems need to know why they are employing a particular practice to intervene in misbehavior and whether or not that practice improves behavior. For example, if a local school system has an alternative school setting, and students return to their home schools after successfully completing the program, the system needs to evaluate whether the students achieved a smooth transition back into the regular education setting and if they were able to pick right up with the instruction being offered. If the local school system finds a program is ineffective or less than effective, then the program needs to be revised and tailored to the desired outcomes.

Section III: What the General Public Thinks

"I was not a golden boy in school. During my suspensions, what made the difference was several teachers getting involved and the actions taken by my parents. I not only had to learn what coursework I was missing, but I had to be tested on all previous information. Then, I did some forward studying. Both teachers and my parents worked to straighten me out. But most important was making sure I learned from the lessons and kept learning my coursework."
(Parent, web survey)

Using the questions that the State Board posed in the Atanya C. opinion and those raised when the plan for the study was presented, the Division developed a survey asking the general public their thoughts about educational services for students placed on long-term suspension or expulsion. Appendix II contains a copy of the survey. An English and Spanish version of the survey was placed on the front page of the Department's web-site. The survey was advertised through a variety of means: word of mouth; announcements at administrative meetings; and e-mails to local school system coordinators and supervisors of student services. In addition, the Executive Director of the Maryland Association of Student Councils made several attempts to have MASC students bring the survey to the attention of its members and requested they take the message back to their schools for their peers.

The Division received 4,205 survey responses between the third week of March through the second week of June. The following summarizes the demographic characteristics of the respondents to the survey.

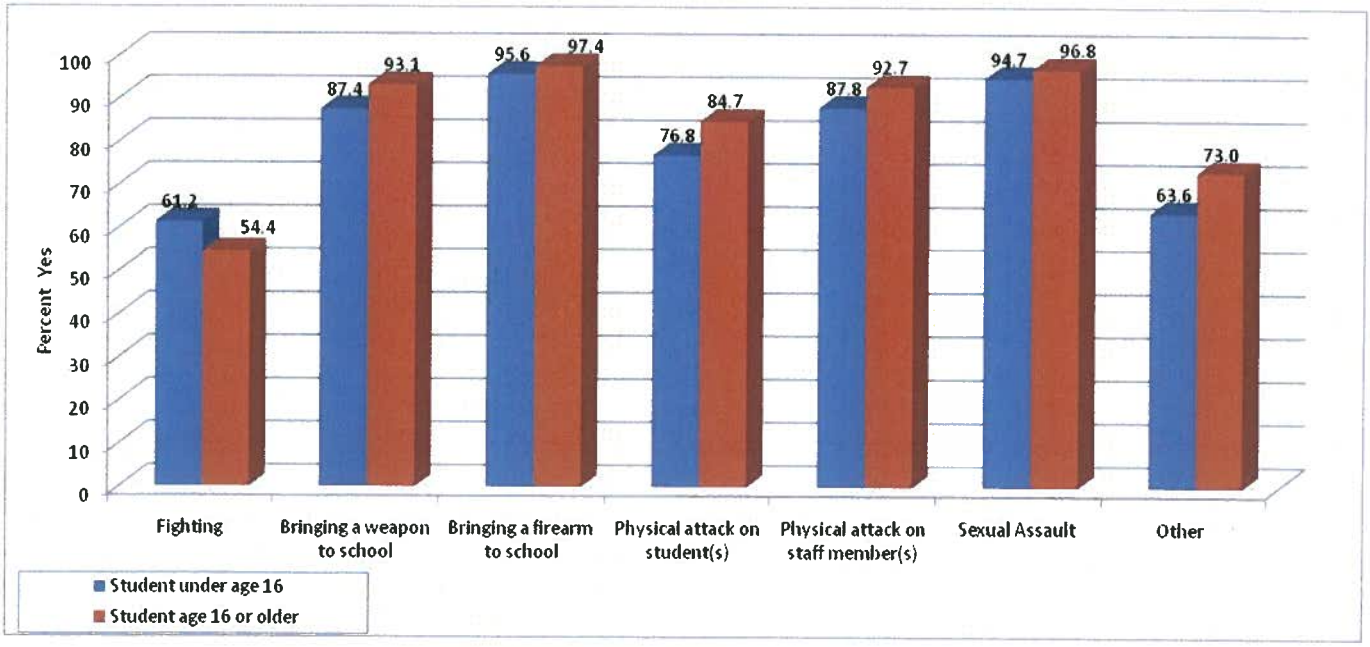
General Public Survey Demographics Summary		
Survey question	**Answers (number of responses)**	
Role (Ques. 1)	Parent (2091) Teacher (1082) Other school-based employee (437) Principal or Assistant Principal (187) Other (121) Student (110) Central office staff (96) Community member (61) Member of a Board of Education (5) Superintendent, Deputy Superintendent or Assistant Superintendent (4)	Other category responses (121) included: Other school employee (counselors, psychologist, pupil personnel worker) (73) Advocate/community member/volunteer (15) Combination of parent and other role (12) Parents or grandparents (6) Retired educator (3) Home school/daycare (3) MSDE employee (3) Public health officer and supervisor (2) Educator – Higher Education (2) Former student (1) BOD (1)
Gender (Ques. 4)	Female (3,138) – 75% Male (1,039) – 25%	

Survey question	Answers (number of responses)	
Age (Ques. 5); **Race** (Ques. 6)	*Age:* Under 18 – 2% 18 to 29 years old – 7% 30 to 39 years old – 24% 40 to 49 years old – 42% 50 to 64 years old – 24% 65 years or older – 1%	*Race:* White (3,653) – 89% Black or African American (298) – 7% Hispanic/Latino (59) – 2% American Indian or Alaska Native (13) – 1% Asian (52) – 1%
Other	*Residency:* Maryland resident (3,946) – 96% Out of state resident (299) – 4%	*Children in Maryland Schools* (Ques. 8): Children currently enrolled (2,831) – 67% Child(ren) had been suspended for more than 10 days or expelled (78) – 2.8%

As noted, the majority (76%) of the respondents identified themselves as teachers or parents. The highest number of respondents (42%) were 40 to 49 years old.

Substantively, the survey asked respondents their views on the use of long-term suspension and expulsions. Questions 10 and 12 asked whether suspensions for over 10 days or expulsions should be used for the behaviors listed below, depending on the age of the student (under age 16, or age 16 or older, respectively). The following shows the percentage of responses:

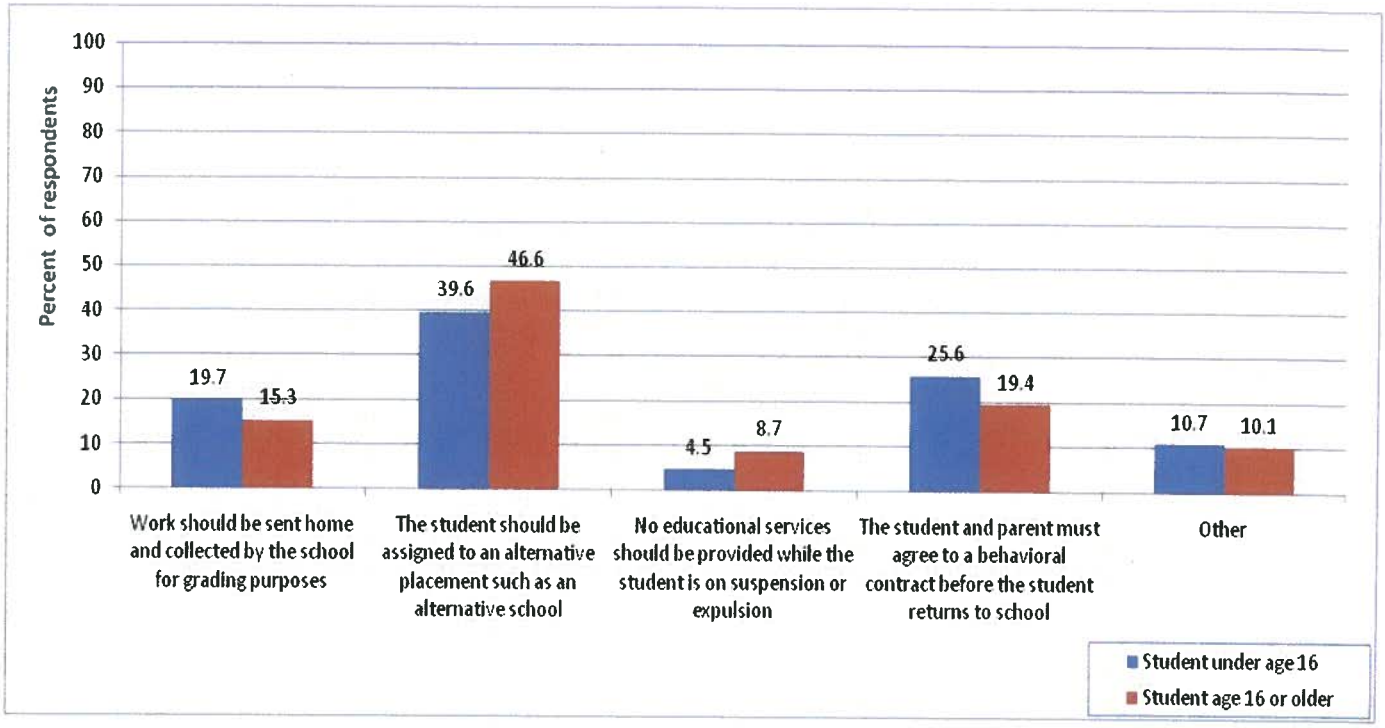
Questions 10 and 12. **Should Suspensions for over 10 days or expulsions be used for the behaviors listed below?**



The behaviors that had the highest percent response "Yes" were "Bringing a firearm to school", "Sexual Assault", and "Bringing a weapon to school". With the exception of "Fighting" the percentages were higher for students age 16 or older. The biggest gap (almost 10%) for the two age groups was for the "Other" category.

Questions 11 and 13 asked the respondent to indicate what should happen if the student was suspended for more than 10 days or expelled, if the student was under age 16, or age 16 or older. The responses are as follows:

Questions 11 and 13. If a student is suspended for more than 10 school days or expelled, what should happen?



Overall, the highest percent for both age groups was "The student should be assigned to an alternative placement such as an alternative school". This was followed by "The student and parent must agree to a behavioral contract before the student returns to school". The category with the lowest percent for both age groups was "No educational services should be provided while the student is on suspension or expulsion".

The percent of respondents choosing the "Other" category was almost identical for both age groups. The respondents included some of the following suggestions in the "Other" category for both age groups:

- Community Service
- Detention
- In-School Suspension
- Permanent Expulsion
- Professional Counseling/Evaluation/Behavioral Assessment

- Referral to Department of Juvenile Services and/or involvement of law enforcement
- Tutoring
- Web Based Courses/GED
- Home Schooling/Home Teaching
- Parents should assume responsibility for misbehavior
- Assign to an after-school program
- Loss of privileges
- Restitution
- Referral to another child-serving agency

Of the 110 respondents that identified themselves as students, the vast majority (85%) indicated they had never been suspended and 12% indicated they had been suspended for less than 10 school days in a school year. Three students responded that they had been suspended for 10 or more days or expelled from school. One student indicated that the school sent work home and graded it; the second student was sent to an alternative school; and the last returned to school and passed the classes.

Finally, respondents were given an opportunity to provide any comments they wished. Over 614 respondents used this opportunity to share their thoughts, and numerous respondents thanked MSDE for asking for their input. The following is a representative sample of some constructive responses submitted by numerous respondents:

"If a child misbehaving cannot be controlled by school officials, the child should be placed in an alternative school . . . . The child also should receive counseling to determine why he or she has a behavior problem."
(Parent, web survey)

"Long-term suspension and expulsion is just a way to get the problem out of the school and let loose on the general public where the student will next run into the police. If the student is causing so much trouble in school then he/she should be sent to an alternative school where there is a lot more structure.
The last thing these kids need is to be given more free time to get into more trouble."
(Parent, web survey)

"Kids need to be in school. Suspensions are a hardship on working families. They do not achieve anything other than making the problem 'go away' for a period of time. Suspensions are not a solution. Yes, some kids have serious social-emotional problems, but these should be addressed. A child's education should not be disrupted."
(Parent, web survey)

"Parents need to be accountable just as much as the schools. A disruptive student who is threatening or abusive to staff and peers needs more than just having a ten day vacation. The parent and student need to have some sort of counseling to get to the root of the problem. Putting a child in another school . . . will not solve the problem unless you know the root of the problem. Counseling should be available for the parent and the student."
(Parent, web survey)

"Each incident should be reviewed carefully and parents should be involved in the discussion. Considering the fact that minority students have a much higher incident rates of suspension/expulsion than white students, due care should be taken to ascertain the true nature of the incident, including underlying causes."
(Parent, web survey)

"The rights of the other students in the school who are trying to do the right thing need to be protected and they are often overlooked."
(Teacher, web survey)

"The state has an obligation to educate a child. That does not have to be done from within the walls of the school. Students unable to behave appropriately can lose the right to be in a building. We can provide other options to educate."
(Teacher, web survey)

"These situations are so individual—one student may need extensive interventions . . . while another student, with apparently similar circumstances will be immediately remorseful and willing to work to get back into his home school environment quickly"
(Teacher, web survey)

"Parents need to be held more accountable for all of the behaviors listed for all students regardless of age. Parents whose students continue to behave in inappropriate ways should be required to attend parental education classes."
(Teacher, web survey)

"Student and parents must agree to a behavioral contract which then must be enforced. Perhaps students should have to report to an alternate location during the suspension so they are not roaming around their neighborhood."
(Teacher, web survey)

"Anytime there is a student who continually causes a problem, there should be a plan in place that is rigidly followed. We need to have discipline in our schools."
(Teacher, web survey)

Section IV: Summary of Stakeholder Groups' Thoughts

The State Board solicited input from key stakeholder groups by holding a hearing at its April 27, 2010 meeting. Groups providing testimony included the Maryland Association of Boards of Education, the Public School Superintendents Association of Maryland, the Maryland State Education Association, the Maryland Associations of Secondary and Elementary School Principals, the Maryland Association of Student Councils, the Open Society Institute of Baltimore, and the American Civil Liberties Union. The State Board also heard testimony from other stakeholders during the public comment portion of their meetings on May 25-26, 2010, June 22, 2010 and July 20, 2010. A copy of each written testimony submitted to the State Board is provided under Appendix IV.

PANEL ON THE PROVISION OF EDUCATIONAL SERVICES DURING LONG-TERM SUSPENSIONS AND EXPULSIONS

During the panel presentation, the State Board asked eight stakeholder groups to share their views on whether educational services should be mandated when a student is suspended for more than ten days or expelled from school and what types of services, if any, should be provided. A summary of the stakeholder testimony is as follows.

Cathy Allen, President, Maryland Association of Boards of Education (MABE) and Vice-President, St. Mary's County Board of Education

Ms. Allen testified that MABE believes that local boards should be able to make their own decisions on the provision of educational services to students who are long-term suspended or expelled. She stated that students who are long-term suspended are required to receive educational services. In response to a question by Dr. Walks, Ms. Allen said that St. Mary's County students who will be on long-term suspensions and their parents meet with school system staff and are given a choice of educational opportunities and a list of resources, but students cannot be forced to utilize the services offered.

Ms. Allen testified that there is no legal requirement to provide the educational services for rare cases of expelled students. In response to a question by Mr. Naved about opportunities for students who are permanently expelled, Ms. Allen said that there are appeals processes and that students can be returned to school if the appeal process overturns the school system's decision.

Ms. Allen further highlighted safety and local liability concerns of providing educational services to students expelled for violent offenses. She stated that local boards have a responsibility to provide a safe environment in all schools and that no "one size fits all" approach should be mandated among the diverse school systems.

Dr. Edward Shirley, President, Public School Superintendents Association of Maryland (PSSAM) and Superintendent, Caroline County Public Schools

Dr. Shirley encouraged flexibility for local school systems and urged the State Board not to mandate the provision of educational services to long-term suspended and expelled students. He said, "We are not only the frontline, but the only line to students. We need to trust administrators to make good informed decisions. Long term suspension without services is a rarity."

In response to a question by Dr. Gates, Dr. Shirley said that Caroline County students who are in the appeals process do receive educational services and that prior to an appeals hearing, students are assigned to home school and then an alternative school.

C. Anthony Thompson, Maryland Association of Secondary School Principals (MASSP) and Principal, Meadowood School, Baltimore County

Mr. Thompson testified that the MASSP believes in the equalization of suspension offenses statewide. He said that all school systems need to consistently define and discipline the same type of student misbehavior. Mr. Thompson said that the number of suspensions is dropping and urged that more community resources are needed for students. He noted that every jurisdiction has alternative programs in place.

In response to a suggestion by Dr. Gates to create a statewide task force to address these problems, Mr. Thompson explained that a workgroup already began work on recommendations to update standards of behavior, definitions of infractions, and consequences. This is the workgroup updating the State Guidelines on a Code of Discipline that was put on hold while this examination of educational services was conducted. The work of this group is expected to begin again once the State Board receives this report and takes action.

In written comments, MASSP stated that students who are expelled should not be provided educational services during the expulsion. They further recommended that the Board distinguish between special education students, students under age 16 and students over age 16 when deciding whether mandatory services should be provided during long-term suspensions. In addition, MASSP stated that the decision whether to provide such services should be based on a consideration of factors, such as the severity of the incident; the student's previous violations; the student's age; and whether the offense posed a threat to the health and safety of others.

Mr. Robert Wagner, Past President, Maryland Association of Elementary School Principals (MAESP) and Principal, Solley Elementary School, Anne Arundel County

Mr. Wagner testified that school systems should have a safety net of alternative programs and network of community groups to help long-term suspended and expelled students. He also noted that online learning could be an effective tool for schools to use during long-term suspension or expulsions.

Randal Mickens, Government Relations, Maryland State Education Association (MSEA)

Mr. Mickens testified that alternative education plans should be provided to give suspended or expelled students access to coursework that engages students academically, aids them in successfully transitioning back into the school environment, and provides rehabilitation to address the underlying problems. He also stated that having such an alternative plan in place would help mitigate adverse impacts on the ability of school systems to meet yearly targets for student academic performance.

Mr. Mickens testified that suspension and expulsions should be used very rarely and the goals of school systems should be rehabilitation.

Michael Hagan, President-Elect, Maryland Association of Student Councils (MASC)

MASC represents student governments of middle and high schools across the State. Mr. Hagan testified that the consensus among students is that excluding students for an entire school year and not calling it an expulsion is not a sound practice in Maryland schools. He stated that students believe expulsion should be reserved for the most serious, criminal acts. Mr. Hagan testified that students believe quality alternative programs should be offered for long-term suspended students, which shows continued commitment to helping troubled students improve instead of "turning them loose on a society in which [they] can find a lot more trouble than on a school campus." He suggested in-school suspension could be one alternative that can be used more frequently, which would be "a more meaningful punishment than an out of school suspension".

Dr. Jane Sundius, Director, Education and Youth Development Program, Open Society Institute—Baltimore

Dr. Sundius testified that her organization has been working with Baltimore City schools by providing alternative programs for suspended students and is currently helping to redraft a Code of Conduct for students in Baltimore City schools. She reported that Maryland has very inconsistent and inequitable policies of discipline. She said that research does not support the use of suspensions and that her organization supports the provision of educational programs for students who are suspended and/or expelled. She recommended an analysis of the student offenses and the policies of school systems.

Bebe Verdery, Director, Education Reform Project, American Civil Liberties Union of Maryland (ACLU-MD)

Ms. Verdery testified that the ACLU is very encouraged that the Board is looking into this issue. She noted that the widespread use of suspension in Maryland is a cause for alarm and she urged the State Board to broadly examine the patterns of suspensions and expulsions in Maryland. She stated the wide variation in the use of suspensions by different school systems suggests disparate treatment statewide of individual children for similar offenses.

Ms. Verderey testified that the ACLU believes the State Board should require the provision of appropriate and adequate educational services for long-term suspended and expelled students. She noted that several other states mandate the provision of alternative education services for expelled students. She also noted that even young people incarcerated in Maryland jails receive educational services.

Ms. Verderey recommended that MSDE separate data on short- and long-term suspensions and require local school systems to delineate the type of educational services that are reportedly provided to expelled students.

Further, Ms. Verderey testified that at least two other states with identical state constitutional language requiring a "thorough and efficient" education has found that educational alternatives must be provided for students, even if they are removed from an educational environment due to safety concerns.

Dr. Walks said that he would like to see more measurable efforts to bring other partners to the table to assist in this area.

At its May 25-26, 2010 meeting, the State Board heard testimony from the Maryland Disability Law Center.

Alyssa Fieo, Director of Legal Advocacy, Maryland Disability Law Center

Ms. Fieo testified about the Maryland Disability Law Center's attempts to protect and advocate on behalf of children with disabilities. Citing data from the Department's annual suspension report, she noted that the "data clearly indicates that students with disabilities, and particularly African American students with disabilities, are disproportionately impacted by Maryland's continued use of suspension as a response to behavior." Ms. Fieo also noted that over half of the total offenses leading to suspension were for "disrespect/insubordination/disruption", which suggests that school systems are using suspension as a primary tool for managing the school setting.

Ms. Fieo provided several examples of disabled students who were not able to access adequate educational services while on suspension, despite requirements for such access under the Individuals with Disabilities Education Act. She testified that, for all students, sending homework packs home without follow-up instruction or grading are insufficient to allow the students to advance. MDLC urged the State Board to require appropriate educational services for all students who are suspended or expelled for more than 10 days.

In addition, Ms. Fieo testified that there is a lack of uniformity among the counties regarding suspension and expulsion procedures. These varying practices, and lack of guidance in State regulations, have led to disparate suspension and expulsion rates. Ms. Fieo recommended that there be statewide uniform suspension and expulsion procedures to ensure the protection of student due process rights.

At its June 22, 2010 meeting, the State Board heard testimony from a central office official from the Baltimore County Public School System.

Dale Rauenzahn, Executive Director of the Department of Student Support Services, Baltimore County Public Schools

Mr. Rauenzahn testified that while suspensions are a necessary tool to maintain safety and to get the attention of the student, parent, or caregiver, suspension - especially multiple suspensions - is an ineffective intervention when used alone. He described the programs, initiatives, and services that his school system has developed and implemented for students. Moreover, he spoke of a typical school population to include youth involved with the Department of Juvenile Services and students who suffer a wide variety of mental, emotional, and social disorders which are often manifested in inappropriate, at times violent, behaviors.

Mr. Rauenzahn asked the Department to assist local school systems in developing and implementing effective behavior systems, interventions, and unique alternative programs. He further suggested that if a particular school system is experiencing a problem with its use of long-term suspension and/or expulsion, then intervention and technical assistance should be directed to that system rather than eliminating a tool that is necessary in providing educational environments that are safe and orderly.

At its July 20, 2010 meeting, the State Board heard testimony from the Office of the Public Defender.

Jennifer Barmon, Maryland Office of the Public Defender

Ms. Barmon serves as an advocate for students in education cases in Montgomery County in order to help them stay or reengage with school following disciplinary issues. She represents clients in disciplinary hearings and special education proceedings in Montgomery County Public Schools, juvenile detention centers and the Montgomery County Correctional Facility.

Ms. Barmon testified that a majority of their juvenile and adult clients have long histories of school disciplinary problems and academic difficulties. She stated many of her clients – particularly those from minority and low income families - are greatly impacted by a lack of educational services for regular education students who have been expelled. Many of the students are already behind in earning credits, which is significantly worsened by missing a semester or year's worth of school. These clients have great difficulty getting back on track to earn a high school diploma, and may not be age-eligible to take the GED exam. She argued that the students who need additional services and support end up with nothing, which makes them more susceptible to further delinquent or other risky behavior.

Ms. Barmon asked the State Board to require school districts to provide access to a structured educational program to expelled students, particularly students who under the compulsory education age of 16 years old, which allows the students to progress in the curriculum and earn credits for graduation.

Section V. Summary of Recommendations from Previous Task Forces

Over the last 35 years, MSDE has participated in a number of Task Force studies addressing disruptive students, their effect on the school climate, the local school system's ways of handling disruptive students, and the kinds of education services those students need. The studies resulted in numerous recommendations. We focus on some of them here.

The Governor's Task Force to Study Alternative Educational Programs for Chronically Disruptive Students, August 2000 Report, summarizes many of the previous efforts and recommendations up to that point. [24]

- In 1974, the Maryland Senate created a Task Force on Disruptive Youth which developed a model of recommended interventions, including school support programs offered through alternative programming.

- In 1984, the General Assembly mandated special programs for disruptive youth, requiring each county board to provide a continuum of prevention and intervention activities to promote positive behavior and reduce disruption. Md. Code, Educ. Art. §7-304.

- In 1994, Governor William Donald Schaefer appointed a Governor's Commission on Disruptive Youth. One of the major recommendations of their Report was that the school policy on suspension and expulsion be examined and addressed from the perspective that "a disciplined approach to suspension and expulsion is needed, involving alternative programs that keep educational opportunity and social skill development at the forefront of the process." (Report of the Governor's Commission on Disruptive Youth, p.9).

- From 1995 to 2000, there was a Task Force on Youth Citizenry and Violence Prevention; A Safe Schools Conference; and the Safe Schools Interagency Steering Committee. That work lead to the 2000 Report of the Governor's Task Force to Study Alternative Educational Programs for Chronically Disruptive Students, which made ten recommendations in order to deal positively with chronically disruptive youth.

  The Task Force strongly recommended that alternative programs are funded and available for students who have been excluded from the regular school setting. Some of the Task Force's other recommendations included: development of standards for model alternative programs; development of benchmarks to measure expected outcomes for alternative programs; provision of additional resources to replicate two supplementary regional alternative schools; and provision of State funding to local school systems for the development and implementation of alternative educational programs.

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[24] http://www.marylandpublicschools.org/NR/rdonlyres/4DA4A651-8326-4082-96CB-CF0B67F86ECB/6269/doc2part1.pdf

In addition, the following work has been completed in recent years.

- In 2006, the Maryland General Assembly passed legislation establishing a Task Force to study the implications of raising the compulsory age for school attendance.[25] In its 2007 report, *Attending to Learn: The Implications of Raising the Compulsory Age of School Attendance*, the Task Force concluded that many students require different settings to progress academically and often need additional supports that are either lacking in schools or minimal. The Task Force recommended that "The State Board of Education must adopt a definition of alternative education that addresses different modes of instruction and appropriate strategies for current dropouts and for children and young adults at risk of dropping out."

- In 2007, the State Board issued a compelling Report from the Task Force on the Education of Maryland's African American Males, which called for the use of in-school suspension supports rather than out-of-school suspensions for this population.[26] The 2008 Action Plan to implement the Report's recommendations calls for the identification and replication of exemplary alternative education programs.

- In 2007, the General Assembly established a Task Force on School Safety, which called for establishing a uniform disciplinary action data collection process so the State could diagnose the problems, assemble solutions, and measure their impact.[27] This same Report, at page 35, noted that:

> Principals shared a growing need for the development and implementation of alternative programming for chronically misbehaving students, other than suspension or expulsion. Examples provided include: in-school suspension programs, alternative classrooms within individual schools, stand-alone alternative settings/schools to which severe behavioral problem students can be assigned away from their home schools. In the final report (December 2007) of the *Task Force to Study Raising the Compulsory Public School Attendance Age to 18*, Recommendation 3 addresses and supports the need for the adoptions of a state-wide definition of alternative education. That same recommendation includes suggestions for types of alternative education locations as well as the elements of quality practices and programming.

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[25] http://www.marylandpublicschools.org/NR/rdonlyres/0700B064-C2B3-41FC-A6CF-D3DAE4969707/15419/FINALCOMPULSORYATTENDANCETASKFORCEREPORT.pdf

[26] http://www.marylandpublicschools.org/NR/rdonlyres/FCB60C1D-6CC2-4270-BDAA-153D67247324/16730/African_American_Male_Taskforce_Report_March_08.pdf

[27] http://www.marylandpublicschools.org/NR/rdonlyres/0700B064-C2B3-41FC-A6CF-D3DAE4969707/15418/FINALREPORT.pdf

Veteran principals who served on the Task Force testified that an alarming number of students are exhibiting signs of mental health conditions, a trend that is significantly different from years ago. Moreover, they highlighted a need for enhanced or additional school/community/child serving agency partnerships and the increased need for wrap-around services to chronically misbehaving children/youth and their families.

Among other recommendations, the Task Force recommended that alternative scientifically-based solutions be identified for schools in which universal interventions are not effective, and in which a continuum of scientifically-proven practices may be implemented for improved classroom management and instruction.

- In 2007, the General Assembly established a Task Force to Study Multiple Suspensions: The Use of Student Support Teams and Other Interventions in the Reduction of Multiple Suspensions.[28] The Task Force concluded that between one to five percent of the student population is suspended more than five times in a school year. In 2008, the Task Force issued its report with seven recommendations, which included a continuum of alternatives such as:

    - Alternative schools/centers;
    - After-school detention, evening school, Saturday school, school-community service;
    - A supervised location for students whose behavior warrants their removal from the classroom. During predetermined amount of time, a student will engage in the academic work he or she is missing in the regular classroom;
    - Certificated staff that provides instruction and a range of services (including problem-solving; anger management; small-group instruction; some individualized instruction; computerized, self-paced instruction; counseling services; and study skills);
    - Collaboration with community agencies, such as wraparound services, to identify resources for families of students who have been multiply suspended;
    - Creation and funding of Family Support Liaison positions to work with every student with more than five suspensions; and
    - Development and implementation of a statewide training plan addressing de-escalation strategies that local school systems can implement.

- In 2007, the Maryland General Assembly requested a report from MSDE that included a review of each local school system's policies and procedures relating to student discipline, suspensions, and expulsions in Maryland's public schools.[29] (See Appendix III for findings from the analysis of the local school system policies.) Among several other recommendations made in the report, MSDE recommended:

[28] http://www.marylandpublicschools.org/NR/rdonlyres/0700B064-C2B3-41FC-A6CF-D3DAE4969707/19113/FinalReportTaskForceonMultipleSuspensions.pdf

[29] http://www.marylandpublicschools.org/NR/rdonlyres/0700B064-C2B3-41FC-A6CF-D3DAE4969707/15417/SB132Report.pdf

> It is critical that alternative school settings, which educate students most in need of comprehensive interventions to change negative behavior, be provided the training and technical assistance necessary to implement Positive Behavior Interventions and Support (PBIS) at all three levels at the onset. In the special and alternative settings, the luxury of employing the classic PBIS implementation strategy, starting at the universal level and building on that foundation, is not a reality. Those schools and students require more resources and interventions to create the necessary climate and meet the intensive needs of the population. The resources necessary to make improvements in those venues are not currently in place and additional assistance at the State level to address this increased demand is necessary.

MSDE further noted that PBIS implementation is a three to five year process; therefore immediate positive outcomes should not be anticipated. However, the dramatic improvements noted in this report indicate that in many circumstances a school's culture can be significantly changed in a short period of time if implemented with fidelity and if fully supported by the leadership of the school. PBIS training and school implementation should continue to be a cornerstone program supported by the State to assist schools in need of improved school climate.

We look back on that history here in making our recommendations to you.

Section VI. Recommendations

1. Amend COMAR 13A.08.01.11B(2) to provide a clear definition of "expulsion", which assures greater consistency across school systems in reporting long-term suspension and expulsion cases.

Rationale
A clear definition of the term "expulsion" is needed in Maryland. Currently, local school systems define the term in a variety of ways - e.g., what some systems call "expulsion" is called "extended suspension" in others. One disadvantage this causes is that the data MSDE collects does not accurately reflect the numbers of students permanently removed from local school systems.

2. Amend COMAR to define minimum "educational services" that local school systems must provide to long-term suspended and expelled students. Moreover, the Department should be required to establish standards for these services and develop programs to assist local school systems in creating new services, revising and evaluating the effectiveness of current services.

Rationale
Currently, there is no official guidance in statute, regulation or MSDE policy on what constitutes minimum educational services that local school systems should provide to allow continuation of a student's educational program during a long-term suspension or expulsion.

Any new regulation and/or MSDE guidance should consider the particular challenges of providing education services to elementary students; students with disabilities; students age 16 or older who are not required to attend Maryland schools (see Educ. Art. §7-301); maintaining the safety of school personnel and other students who are in the alternative education setting with students with a history of violent conduct; and funding challenges for local school systems.

In addition, local school systems should be required to examine their continuum of prevention and intervention services and programs to determine their effectiveness. Those that are ineffective need to discarded and replaced with evidenced-based practices that are evaluated for effectiveness on an on-going basis. MSDE staff could provide local school systems with technical assistance.

3. Revise the **Maryland Student Records System Manual** to:

a) Require data on the reasons for long-term suspensions.

Rationale: The Department does not currently collect this data, which would allow the Department to identify any problematic practices and trends among local school systems, and make appropriate recommendations to the State Board to address those concerns.

b) Require data on the school level (elementary, middle, or high) of long-term suspensions and expulsions.

Rationale: The Department does not currently collect this data, which would allow the Department to identify any problematic practices and trends among local school systems, and make appropriate recommendations to the State Board to address those concerns.

c) Require data on the type of "educational services" local school systems provide to long-term suspended and expelled students.

Rationale: Due to a lack of guidance in COMAR or the MSRSM, local school systems have defined "educational services" differently, which has often resulted in a significant percentage of students receiving little or no educational services while on long-term suspension.

d) Require data on the numbers of expelled students who did not receive any educational services from local school systems, and why.

Rationale: Collecting this data would allow the Department to identify any problematic practices and trends among local school systems, and make appropriate recommendations to the State Board to address those concerns.

4. Establish a process for addressing concerns regarding local school systems that demonstrate a troubling pattern of long-term suspending or expelling students without educational services.

Rationale
The intent is to provide guidance to the local school system, rather than evaluate and/or criticize a local decision. The Department could immediately address the situation, provide technical assistance, and make recommendations to change the problematic practices.

Appendix I

Survey on Alternative Educational Programs/Services for Students Receiving Long-Term Suspensions and Expulsions

Local School System (LSS):_____

LSS Point of Contact: _____ Tel: _____

E-mail: _____

_____ _____

Signature of Local Superintendent of Schools/CEO Date

Background: Maryland law gives principals the authority to suspend students from school for misbehavior for up to 10 school days. At the request of a principal, a local school system superintendent may suspend a student for more than 10 school days or expel the student. The Maryland State Board of Education has undertaken a study of the usage and effects of long-term suspension and expulsion.

Directions: Please complete the survey by providing the most accurate information regarding the school system's provision of alternative educational programs/services for students receiving long-term suspensions and expulsions. Please have the completed survey signed and dated by the local superintendent and return it by **March 12, 2010,** to Mr. Charles Buckler, Director, Student Services & Alternative Programs Branch, Maryland State Department of Education, at cbuckler@msde.state.md.us or FAX 410-333-8148.

COMAR Definitions:

Extended Suspension/Long Term Suspension (LTS): The temporary exclusion 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 designee. COMAR 13A.08.01.11B(3).

Expulsion (Exp): The removal of the student from the student's regular school program by school authorities for disciplinary reasons. COMAR 13A.08.01.11B(2).

Please state your local definition if different from above.

- **Extended Suspension/Long Term Suspension (LTS):**
- **Expulsion (Exp):**

1. **Provide the number of students who received LTS or Expulsions during SY 2008-09 received alternative educational services in the programs listed below?**

   _____ **Alternative School**

   _____ **Night School**

   _____ **At Home Instruction by Teachers - Approximate number of hours per week** _____

   _____ **On-Line Courses**

   _____ **Combined Services (please specify)**

   _____ **No Instructional Services (briefly explain why)**

   _____

   _____

   _____ **Other Educational Programming**

   Explain

   _____

   _____

2. **If the local school system is required to provide alternative educational services for LTS/Exp students, what is the average cost per student above what is normally spent on a student in a regular school setting?**

   Elementary $_____
   Middle $_____
   High $_____

3. **Please indicate the alternative educational programs provided to elementary and secondary school students receiving LTS and EXP by checking the appropriate boxes and providing the requested information below.**

High School Students

LTS	EXP		LTS	EXP	
----	----	Alternative School	----	----	Work sent home to be completed under parent supervision
----	----	Night School	----	----	At Home Instruction by Teachers
----	----	On-Line Courses	----	----	No Instruction Provided

Other Programming (Briefly describe) _____

_____

Do the above programs allow students to earn credits toward graduation? **Yes** **No**

Do any of the above programs include special subjects (i.e. art, music, etc.)? **Yes** **No**

If work is sent home to be completed under the parent's supervision, is the work graded and included in the student's final grades? **Yes** **No**

Comments:

Middle School Students

LTS	EXP		LTS	EXP	
----	----	Alternative School	----	----	Work sent home to be completed under parent supervision
----	----	Night School	----	----	At Home Instruction by Teachers
----	----	On-Line Courses	----	----	No Instruction Provided

Other Programming (Briefly describe) _____

Do any of the above programs include special subjects (i.e. art, music, etc.)? Yes No

If work is sent home to be completed under the parent's supervision, is the work graded and included in the student's final grades? Yes No

Comments:

Elementary School Students

LTS	EXP		LTS	EXP	
----	----	Alternative School	----	----	Work sent home to be completed under parent supervision
----	----	On-Line Courses	----	----	At Home Instruction by Teachers
			----	----	No Instruction Provided

Other Programming (Briefly describe)

Do any of the above programs include special subjects (i.e. art, music, etc.)? Yes No

If work is sent home to be completed under the parent's supervision, is the work graded and included in the student's final grades? Yes No

Comments:

4. Are students provided any therapeutic and/or behavioral counseling or support to address the social, emotional, or behavioral issues contributing to the LTS/Exp? Yes No

If yes, briefly describe.

_____

_____

5. **If the school system does not provide additional counseling or support, are students typically referred for additional counseling or support services provided by community agencies to address the social, emotional, or behavioral issues contributing to the LTS/Exp? Yes No.**

   If yes, briefly describe.

   _____

   _____

   Comment:

6. **If your system has alternative schools/programs/centers for LTS/Exp students, how many serve the following populations?**

   Elementary: _____

   Middle: _____

   High: _____

7. **Do you differentiate the professional development topics provided to staff working in alternative programs? Yes No**

   If yes, list some of the topics provided

   _____

   _____

   _____

8. **List the Code of Discipline violations that could result in a LTS or EXP for a single offense (Use attachment if more convenient).**

   A. _____

   B. _____

   C. _____

   D. _____

   E. _____

9. **List the top three challenges in providing alternative educational services to LTS and EXP students.**

A. _____

B. _____

C. _____

10. **When a student transitions back to the regular school after a LTS or EXP, is there a formal process in place that requires a transition plan?**

Elementary: Yes No
Middle: Yes No
High: Yes No

a. **Who is involved in the development of the transition plan?** _____

b. **What supports are typically provided a student who returns to the regular school after a LTS/Exp (Briefly describe)?**

_____
_____
_____

11. **Please provide other comments that you would like the Maryland State Board of Education to consider regarding the provision of alternative educational programs/services to LTS/Exp students.**

The following are some of the responses received:

- Our school system provides alternative educational options for all students 16 years of age and under.
- The alternative programs do not only provide services to LTS/EX students, but are available to all students. Students concurrently enrolled, transferred, assigned, and enrolled as students (former dropouts) in these alternative programs. This makes these programs more viable for development and securing the necessary funding since they service a larger population.
- We need to consider the cost of running an effective program that is beneficial to all students. The reality is that an alternative program should not be just for students who are placed on LTS/EX. There needs to be a variety of alternative learning environments for a variety of reasons/needs.
- Removal allows a chance for a fresh start to improving behavior while allowing a period of relief for students/staff in the home school.
- The school system is well aware of its responsibility to educate all students. We do not take lightly the suspension or removal of a child's education. We offer many opportunities for students to recover from poor choices and to move on with their education. There are occasions when students make such egregious errors that a severe consequence is needed and the student body must be protected.
- LTS/EX is an imperfect solution to a serious issue. What can schools do with students who have proven themselves dangerous or who disrupt the educational process and make it impossible to

teach. An adequate number of high quality therapeutic programs would result in the dramatic and immediate reduction of suspensions at all levels.

- Our alternative program provides services to students who are assigned by the school principal in lieu of recommending expulsion to the superintendent, or are placed by the superintendent in lieu of being expelled. If a special education student is expelled, the IEP is met through alternative educational programming outside of the school setting.
- Need for common definitions of suspensions and expulsions. The term 'expulsion' should only be used when permanently removing a student from school with no guarantee that the student will allowed back. Need for a variety of alternative settings. Students on long-term suspensions should not be placed with students who have long-standing behavioral and academic problems.
- We need financial help to provide educational options.
- These students require a significantly higher level of supervision and intervention. Providing additional resources in tight economic times is very challenging.
- Our county like so many others is in great need of additional funding and resources to properly service this population of students.
- For the past 28 years, [our LSS] has provided alternative education and services to students. As a school system, we make every effort to support all our students. As a result, we have the second highest on-time graduation and the lowest dropout rate in the State.

Appendix II Web-Based Survey

Maryland State Department of Education

Division of Student Family and School Support

Survey on the Use of Long-Term Suspensions and Expulsions

Background: Maryland law gives the school systems the authority to suspend or expel students from school for disciplinary reasons. The Maryland State Board of Education is asking you to complete this survey in order to find out more regarding your beliefs about the ways that the long term suspension (more than 10 school days) and expulsion should be carried out and what services, if any, should be continued for the student during the long term suspension or expulsion.

Definitions:

Extended Suspension/Long Term Suspension (LTS): The temporary exclusion of a student from school for a specified period of time longer than 10 school days for disciplinary reasons.

Expulsion (Exp): The removal of the student from the student's regular school program by school authorities for disciplinary reasons.

Directions: Please read each question below carefully and give the answer that best describes what you think. This is a confidential survey and the information collected will only be provided as grouped data from all responders. No individual data will be reported. It is important that we get as many responses as possible in order to help us understand what people believe about this issue.

1. Please identify yourself by checking one identifier that best describes your role in responding to this survey
    a. Student
    b. Teacher

c. Other school-based employee,
d. Principal or Assistant Principal
e. Parent
f. Community member
g. Central office staff
h. Superintendent, Deputy Superintendent, or Assistant Superintendent
i. Member of a Board of Education
j. Other, Please specify _____

If you are not a student please SKIP to question 4

2. **If you are a student**, indicate below all that apply to you:
    a. I have never been suspended
    b. I have been suspended for less than 10 school days in a school year
    c. I have been suspended for more than 10 school days in a school year
    d. I have been expelled from school

3. **If you are a student** and have been suspended for more than 10 school days or have been expelled, indicate below all that apply to you:
    a. The school sent work home, collected it , and used it to grade me
    b. The school system provided educational services at my home or at another location
    c. The school system sent me to an alternative program or school
    d. I was able to return to school and pass my classes
    e. I failed all my classes while suspended or expelled or when I returned to school
    f. Other, please specify _____

4. What is your gender?
    a. Male
    b. Female

5. What is your age?
    a. Under 18
    b. 18 to 29
    c. 30 to 39
    d. 40 to 49
    e. 50 to 65
    f. 65 or older

6. What is your race/ethnicity?
    a. American Indian or Alaska Native
    b. Asian
    c. Black or African American
    d. Native Hawaiian or Other Pacific Islander

e. White
f. Hispanic/Latino

7. Are you a resident of the State of Maryland?
   a. Yes
   b. No

8. Do you currently have any children enrolled in a school in Maryland?
   a. Yes
   b. No **(If No, please skip to question 10)**

9. If you currently have children enrolled in a school in Maryland, have any been suspended for more than 10 school days or expelled?
   a. Yes
   b. No

10. Should suspensions for over ten school days or expulsions, **for students under16 years of age,** be used for any of the behaviors listed below? (Please check Yes or No for each)

	Yes	No
Fighting		
Bringing a weapon to school		
Bringing a firearm to school		
Physical attack on student(s)		
Physical attack on staff member(s)		
Sexual assault		
Other, please specify _____		

11. If a student, **under 16 years of age**, is suspended for more than 10 school days or expelled, the following should happen:
    a. Work should be sent home and collected by the school for grading purposes.
    b. The student should be assigned to an alternative placement such as an alternative school.
    c. No educational services should be provided while the student is on suspension or expulsion (these suspensions or expulsions could last from 9 to 18 weeks).
    d. The student and parent must agree to a behavioral contract before the student returns to school.
    e. Other, please specify _____.

12. Should suspensions for over ten school days or expulsions, **for students 16 years of age or older,** be used for any of the behaviors listed below? (Please check Yes or No for each)

	Yes	No
Fighting		
Bringing a weapon to school		
Bringing a firearm to school		
Physical attack on student(s)		
Physical attack on staff member(s)		
Sexual assault		
Other, please specify _____		

13. If a student, **16 years of age or older**, is suspended for more than 10 school days or expelled, the following should happen:
    a. Work should be sent home and collected by the school for grading purposes.
    b. The student should be assigned to an alternative placement such as an alternative school.
    c. No educational services should be provided while the student is on suspension or expulsion (these suspensions or expulsions can last from 9 to 18 weeks).
    d. The student and parent must agree to a behavioral contract before the student returns to school.
    e. Other, please specify _____.

Thank you for taking the time to complete this survey!

Your responses are very important to us.

If you have questions, please contact

Chuck Buckler
Executive Director
Division of Student, Family, and School Support
cbuckler@msde.state.md.us
410-767-0311

Appendix III

Analysis and recommendations regarding local school system policies and procedures relating to student discipline, suspensions, and expulsions

Analysis

A list of possible violations of accepted behavior standards is published and shared with students and parents/guardians.

- All 24 LSSs provide a list of possible violations of accepted behavior standards. The information is shared with families through the distribution of one or more of the following publications that systems reported using as dissemination modes.
    - Student Behavior Handbook
    - Individual School Calendars
    - School System Calendars
    - Code of Conduct Manuals
    - LSS Websites
    - A Students Guide to Rights and Responsibilities
    - Handbook/Guide for Parents & Students

A continuum of consequences and interventions for student violations of the Code of Conduct

- All 24 LSSs provide a continuum of consequences and interventions for student violations of the Code of Conduct. They are often found in the same publications that are listed above. These publications are typically given to each student or parent at the beginning of each school year. Many school systems have the student sign for the receipt of the publication.

A written explanation of the appeals process after a long-term suspension or expulsion.

- All 24 LSSs provide this written description of the appeals process in the same publications as above. In addition many orally review the process during the long-term suspension/expulsion hearing.

A Process for distributing a list of community resources at a long-term suspension/expulsion hearing.

- 23 school systems reported having a published resource that is distributed at a long-term suspension/expulsion hearing.
    - Some systems attached the resources to every suspension letter sent to a family.
    - Some have developed a system where the family is referred to a student/family support team.
    - Formal brochures have been published.

- Many systems have the resources displayed on the system website.
- Some systems have placed the resources on the reverse side of the suspension notice.

A process for student recognition of the receipt of the Code of Discipline information.

- 19 school systems indicated that they have a formal means in place for students to acknowledge the receipt of the Code of Discipline information.
  - Most have students sign when receiving the publication(s).
  - Many of the publications have a tear off sheet for the students to sign and return

A process for parent recognition of the receipt of the Code of Discipline information.

- 12 local school systems require parents to return a tear off page found in the handbook, manual, or calendar sent home.

A process for conferring with the referring teacher before a disruptive student is returned to the classroom.

- 23 school systems require written or verbal communication with the referring teacher and one encourages this contact to take place.

A consequence for the possession of a firearm that is consistent with Federal law.

- All 24 local school systems have such a consequence and it is published in the many publications listed in the first element and also in the local school board policy manuals.

A tailoring of formats for the distribution of information available for specific audiences.

- 11 school systems translate their Codes of Discipline into different languages and 13 tailor their publications for varying grade levels; elementary, middle and high. The languages selected for translation across the State are: Spanish, Korean, Chinese, Urdu, Russian, Vietnamese, and French. Some indicated a willingness to obtain translations into any language upon request.

A process for professional development of administrators and school based educators regarding the consistent and appropriate handling of school discipline.

- All 24 local school systems indicated that they have multiple layers of ongoing professional development programs. The following were mentioned by most systems.
  - Workshops for new principals and assistant principals to review process and procedures in the disciplinary process
  - Yearly School Discipline Institutes or Safe Schools Conferences to update all school supervisors and administrators to new and emerging issues and procedures.
  - Monthly meetings of administrators
  - Spot audits of the Central Office
  - Observation and evaluation process of administrators
  - Administrative newsletters
  - Updates by the system parent ombudsman

Recommendations

- Although all school systems have published the essential elements suggested in the State Code of Conduct guidelines, several school districts still lack a process whereby students and/or parents/guardians acknowledge the receipt of this important information. MSDE should meet with the Directors of Student Services and emphasize the importance of having some means to assure that the communication of such important matters has reached every family in the district.

- Although only 13 school systems indicated that they tailor their Codes of Discipline to accommodate varying grade levels, many indicated that they make these modifications verbally when presentations and scenarios are made at the classroom level. This practice may be perfectly appropriate as long as the information is also disseminated to the families with a specific request that each family also use the Code of Discipline as a teaching tool, thus guaranteeing that each child has had ample opportunity to ask individual questions in a secure setting.

- Given the variance of suspension rates across the State, ongoing dialogue needs to occur among local school system personnel. A clear understanding of the disciplinary practices that work should be explored and shared among school systems in an effort to clarify those common elements of professional development, disciplinary structure, and procedural implementation that seem to have led to fewer suspensions in some school systems.

- Increased Conflict Resolution skill-building and Positive Communication skill-building appear to be two immediate areas of need across the State. These two skill sets would address the six most chronic reasons for suspensions across the State over the past three years. These six offenses in rank order are: fighting, refusal to obey school policies, insubordination, inciting/participating in a disturbance, disrespect, and physical attack on a student.

- Expanding the capacity to support Positive Behavioral Interventions and Supports training across the State, regionally, and on the local level is imperative. The number of schools trained has risen sharply with every year. Training first time schools and supporting schools already trained is beginning to overwhelm existing resources at MSDE. A possible solution might be that local school districts jointly hire a regional PBIS Coordinator who could train and give technical assistance to several systems during the course of a year. A regional PBIS Coordinator would allow school systems to expand their capacity to train new schools seeking to adopt a proven and successful program. As importantly, it would allow systems to give technical assistance to schools wanting to move to the second and third tier of intervention. MSDE specialists could then shift their resources to training the trainer seminars and professional development programs. This would broaden the base of schools trained and deepen the level of intervention that will focus upon the 20% of the student body which PBIS predicts will be resistant to the universal prevention strategies.

- The PBIS universal implementation in Maryland has proven to be highly successful in schools where the population is composed of students who would naturally be captured by the school's territorial boundaries. Special needs schools or alternative schools which join the PBIS cadre

due to consistently having more than 18% of their students suspended should not be evaluated using the same criteria and their progress compared to the typical community school. These special needs schools or alternative schools are in need of additional interventions right from the start of the program. These populations are often distilled so they include the youngsters who would compose the 20% of the population that would be resistant to changing their behavior. In these schools experience indicates that all three tiers of intervention must be set into place from the inception of the initiative. Presently these schools stand out as PBIS schools that are not making the turnaround that would be projected.

Appendix IV

Written Testimony from Stakeholder Groups

Maryland Association of Boards of Education

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Testimony of the Maryland Association of Boards of Education (MABE)
Before the
Maryland State Board of Education
Presentation on the Use of Long Term Suspension and Expulsion
April 27, 2010

President DeGraffenreidt, and members of the Maryland State Board of Education, I am testifying on behalf of the Maryland Association of Boards of Education (MABE) regarding the State Board's Study of Long-Term Suspensions and Expulsions and Meaningful Access to Educational Services.

I thank you for the opportunity to speak on behalf of Maryland's 24 local boards of education on this important concern.

Three of the highest priorities for local boards of education are at issue in the consideration of whether to mandate the provision of educational services to expelled students. These three priorities include the right of all students to a high quality education, the right of all students to a safe learning environment, and the governance authority of local boards of education to adopt student discipline policies that further the first two priorities.

MABE can assure the State Board that local boards and superintendents place a very high priority on their responsibility to balance the obligation to provide meaningful access to educational services to all students with the obligation to provide safe and secure learning environments for all of our students and staff. We hope and trust that no action taken by the State Board will compromise or impede local board responsibility to protect the learning environment for all of our students and staff, especially when such changes are based on the circumstances of a single student discipline case, with unique facts; in this instance, the Dorchester County case (Atanya C. v. Dorchester County Board of Education, MSBE Opinion No. 09-26).

In my brief remarks today, I would like to focus on three important points and then respond to any questions that you may have. While I am not an attorney, I will be happy to have the attorneys on MABE's staff respond to any legal questions raised by my testimony.

First, in the Dorchester County case, footnote #1 asserted that the terms long-term suspension and expulsion are interchangeable under Maryland law. This is not an accurate statement. One of the primary distinctions between suspension and expulsion is, in fact, that continued provision of educational services is required in the case of suspensions but not in the case of expulsions. I would submit that the primary reason for this difference in the provision of educational services directly relates to the degree of separation from the school system. Long-term suspension presumes a specific date for a student's return to school. An expulsion, on the other hand, involves a total separation of the relationship between the student and school system for a semester, remaining school year, or longer depending on the nature of the infraction. Of course an expelled student may always apply for readmission after the passage of a set time (varying by offense) and the satisfaction of any conditions established for readmission.

We recognize that school systems do not have the same expulsion protocols but all provide due process and avenues for students to be rehabilitated. Moreover, there is clearly an important distinction between the relatively rare instances of expulsions for the most extreme and egregious behavioral offenses and long-term suspensions where educational services are provided as a matter of course.

Secondly, neither the Maryland State Constitution nor the laws of this state require the provision of educational services to a student that is expelled from a Maryland school system as a result of the most extreme and egregious behavioral offenses. Simply put, Maryland school systems provide all students with the access to education that the Constitution and laws require; but students that pose too great a threat to the safe and secure education of all students and to our staff can and should be expelled without continued services. Only the rare commission by a student of the most severe of offenses results in the ending of educational services. It is also important to note that an expelled student has significant due process rights including appeals to the local board of education, the State Board, and beyond, if there is a contention that an expulsion was in any way improperly imposed.

Finally, local boards of education have a sworn duty to provide a safe and secure learning environment for all of the students and staff under our charge. If, for example, as recently occurred, a student brings a deadly weapon to school to assault and severely injure a fellow student during instructional time, would it not be actionable negligence to provide the student offender with additional opportunities to injure other students or staff in order to guarantee the continuation of educational services to the properly expelled student? Or, as has occurred in the past, a teacher is seriously injured by a violent student while providing alternative educational services, should such services continue to be provided? In the last analysis, local boards of education are responsible and liable for the safety of their students, teachers and other staff.

Although the impulse may initially be appealing, we know from long experience that "one size fits all" solutions do not play out practically in a state where school systems vary in size from several thousand students to well in excess of one hundred thousand students. Alternative schools and other programs that school systems are able to provide vary significantly as a matter of size, resources, and community facilities.

I can say with confidence that all Maryland school systems give their very best efforts to provide a broad range of progressive behavioral intervention services and supports to enable all students to succeed, even those with serious behavioral issues. I have submitted with my testimony just a few examples of how large and small school districts alike proactively seek to provide programs and supports that are designed to minimize the escalation of improper behavior to the point where the only alternative for the safety and security of all is expulsion.

Local boards share your concern for all students and are determined to do everything possible to keep every student in school and learning. But students occasionally make terrible decisions and act in ways that violate the sanctity of the schoolhouse and the welfare of others. We believe, however well intentioned, it would be shortsighted to create statewide mandates regarding educational services in every instance of expulsion. Local boards of education are in the best position to craft policies that maintain safe and secure learning environments for all of their students and staff and meet the needs of those students subject to expulsion.

Thank you for soliciting the perspectives of local boards on this important issue. On behalf of MABE and Maryland's 24 local boards of education, I look forward to continued dialog on this and other matters of mutual interest and responsibility.

Cathy Allen
MABE President

April 16, 2010

Dear Ms. Allen:

In response to your request for feedback relative to the topic of long term suspensions and expulsions, specifically whether educational services should be continued, it is the position of the **Anne Arundel County Public School System** that every student deserves a second chance, and that the continuation of educational services for this particular population is crucial. It is our goal to keep all students engaged in the educational process through high school graduation prepared with college and career readiness skills. We believe it is vital to maintain educational service delivery to students while they serve the terms of a discipline sanction. To better illustrate our philosophy in Anne Arundel County, please note the following:

- Alternative educational services are provided to all students 16 years of age and under.
- Alternative educational services are also provided for students with disabilities who are over 16 years of age and for non-disabled students on a case by case basis.
- Our alternative educational options include:
  - Mary E. Moss Academy (alternative high school)
  - Evening High School
  - Summer School
  - J. Albert Adams Academy (alternative middle school)
  - Evening Middle School (alternative middle school for students with disabilities)
  - Alternative Centers for Education (ACE programs) alternative to suspension programs in Meade and Annapolis High Schools
  - Teen Parent Alternative Program
  - Pathways Drug Treatment facility
  - Elluminate Virtual Learning Opportunity
  - Home and Hospital Teaching (for non disabled students only)

It is our hope that this information will be helpful to you as you continue these very important discussions. If we can be of further assistance, please don't hesitate to contact Dr. Leon Washington, Director of Safe and Orderly Schools at lwashington@aacps.org or Kathy Lane, Director of Alternative Education at klane@aacps.org. Thank you for the opportunity to contribute.

Sincerely yours,

Sarah S. Pelham
Assistant Superintendent for Student Support Services

SSP/LW/jm

Calvert County Public Schools

Jack R. Smith, Ph.D., Superintendent of Schools

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Prince Frederick, MD 20678
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April 16, 2010

Ms. Cathy Allen, President
Maryland Association of Boards of Education
621 Ridgely Avenue, Suite 300
Annapolis, MD 21401-1112

Dear Cathy,

On behalf of the Calvert County Board of Education, I am providing the following information in reference to your April 7 inquiry concerning the continuation of educational services for students who are suspended or expelled:

> Calvert County currently provides some type of service for virtually all of the students who are placed on long-term suspension in our school system. Our first goal is not to place students on suspension, especially for the long term. In those instances where a student will serve a lengthy suspension, the student's placement is changed to an alternative program at a school or in the county program or the student, in a few cases, is offered educational services outside the school setting.
>
> In those cases where a student is placed on long-term suspension and the student is beyond the age of 16 and significantly behind in making progress toward a high school diploma, we may discuss with them the GED or external diploma option. In some cases, we have assisted students in these circumstances to enroll in community college.

In principle and practice, Calvert County Public Schools makes every effort to keep students in school or in an alternative placement or, at the minimum, to continue to provide educational services. We balance those efforts for individual students with keeping schools safe for all students and maintaining an environment where students can learn and progress.

As resources have shrunk and appear likely to keep shrinking, we are concerned as to how we will be able to continue offering services to all. Furthermore, we are concerned that the State Board or General Assembly would take an action that might be highly effective for one community and actually create barriers to education in other communities. One size does not fit all in Maryland, across school systems, or with students.

We certainly appreciate the opportunity to share our practices and thoughts on this important topic. Thank you for all you do for the students in Maryland.

Sincerely,

William J. Phalen Sr.

William J. Phalen, Sr., President
Calvert County Board of Education

c. Dr. Smith, Superintendent of Schools
Ms. Pulley, Executive Director of Schools Operations
Ms. Roof, Director of Student Services

William J. Phalen, Sr., President • William R. Chambers, Vice President
Rose C. Crunkleton • Eugene M. Karol • Tracy H. McGuire • Justin Astafanous, Student Member

HOWARD COUNTY PUBLIC SCHOOL SYSTEM

In response to a request for explanation of Howard County Public School System's protocols for suspensions and expulsions, the following was received.
Please see below for the position of the Howard County PSS on suspensions and expulsions. I trust this is the information you were seeking.

I. Suspensions

Students serving extended suspensions have the right to complete and receive credit for schoolwork assigned during the period of suspension as suspensions are legal absences. Both Maryland law and HCPSS policy affirm this right. The provision of educational services to students serving suspensions is another matter and requires a more detailed response since the rights of students with disabilities are protected in a manner different from their non-disabled peers.

A. Students With Disabilities

Students with disabilities may only be excluded from receiving educational services for 10 school days. An single suspension or accumulation of suspension days that exceeds this 10 day limit must result in the provision of educational services on the 11th day and beyond. The type and extent of educational services provided are determined by the IEP team. Disciplinary responses to conduct that results in suspension must take, into account the recommendations of the IEP team.

B. Students Without Disabilities

There is no limit to the number of days that non-disabled students may be suspended or excluded from educational services. In addition, there is no legal requirement that non-disabled students be provided with educational services during the period of their suspension. However, it seems inadvisable for students 16 years of age and under to experience protracted periods of suspension without educational services being available. It also seems counterproductive to our efforts to promote student engagement for those 16 years of age and older to be denied educational services based solely on their chronological age.

An even-handed approach to this issue would be:

- All students ages 16 and under will be offered educational services during an extended suspension of 20 school days or more. Students and their families have the choice to accept educational services or decline them. The right to complete assigned work and receive credit during the period of suspension remains regardless of the decision to accept or decline educational services.

- Students over the age of 16 will be offered educational services during an extended suspension of 20 school days or more if their academic, attendance, and behavior records show some evidence of academic commitment, OR if the students and/or parent requests educational services during the extended suspension.

C. Types Of Services Provided

School systems should retain the flexibility to design programs that provide educational services to students serving extended suspensions that meet the needs of their specific populations. A minimum of 6 hours of educational services per week should be offered although school systems could certainly offer more hours of service each week. Generally, school systems offer these educational services to suspended students in the twilight or evening hours. However, nothing prevents school systems from offering these services during regular school hours. Finding trained staff to provide these services during regular school hours may be challenging, especially if the goal is to hire highly qualified staff.

II. Expulsions

Expulsion from school should occur rarely and should be distinguished from suspension in that students expelled from school should not be offered educational services during the period of expulsion.

A. Students With Disabilities

Students with disabilities should not be expelled from school since they must be provided with educational services after 10 cumulative days of exclusion. Legally, there is no way to expel a student with a disability since educational services must be provided in accordance with the IEP.

B. Students Without Disability

- Non-disabled students of elementary and middle school age (5-14 yrs.) should be immune from permanent expulsion. Extended suspension combined with school reassignment can be used to fashion stringent consequences for even the most dangerous behavior when younger students are involved.

- Non-disabled students of high school age (older than 14 yrs.) may be expelled for behavior that threatens the safety and well-being of students and/or staff. In these cases, educational services would not be provided. Persistently disruptive behavior that does not present a threat to the safety and well-being of students and staff should be addressed through suspension and not expulsion.

ST. MARY'S COUNTY PUBLIC SCHOOLS

SMCPS recognizes the importance of the series of steps used in progressive discipline at the same time we work to engage students academically. SMCPS policies and regulations regarding suspension and expulsion are careful to acknowledge aggravating and mitigating circumstances. These circumstances are considered, along with a student's previous record, when determining discipline.

We recognize the importance of academic engagement and success as a means of encouraging students to be positively involved in their education. As a result, St. Mary's utilizes two innovative intervention programs that have been implemented to reach rising ninth grade students identified as at risk of dropping out.

The first, Tech-Connect, serves 9th grade students in a program of study designed to engage learners in programs at the Dr. James A. Forrest Career and Technology Center and increase their opportunities for success in high school. The program is geared toward preventing student drop out by exposing students to a wide range of learning opportunities. The Program of Studies on Tech-Connect describes the program as follows:

This course seeks to develop "technological literacy" through problem-solving activities that challenge students to apply mathematics and science concepts to real-world engineering problems. Students will work independently and collaboratively as part of an engineering team. Again, the focus on all activities will be a better understanding of the nine core technologies, (i.e., mechanical, electrical, electronic, structural, fluid, optical, thermal, biotechnical, material). A wide variety of technical, craft, and engineering careers will be explored. This course is offered in a unique laboratory setting at the Dr. James A. Forrest Career and Technology Center. The course serves students who have been selected per recommendations by middle school principal, counselors, and teachers for placement during the ninth grade year. This course satisfies the technology education credit required for graduation.

Another program, the Fairlead Academy, is an intensive freshman program that embraces seventy-two first-year ninth grade students and immerses them in a program with limited distracters so that academic pursuits can become their main focus. The Academy also infuses interpersonal components that develop students' confidence and self-esteem by offering off-site educational trips and leadership building activities. It is designed to address academic and social needs of struggling students so they are successful in high school. The academy features smaller class sizes, an infusion of technology, and enrichment activities to increase student achievement. Attendance has increased significantly for these students as well as improved grades and test scores. Students move back to their home high schools with structured support beginning in their sophomore year. A select group of 10th grade students may remain at Fairlead for a portion of their day, returning to their designated high school for electives and after school activities. Fairlead is currently serving its second cohort of ninth grade students. Fairlead is housed in a facility separate from our comprehensive high schools and has its own faculty. Fairlead students also spend time at St. Mary's College of Maryland in order to expose them to the college experience and to offer a goal of attending college to each student. Their year at Fairlead culminates with an overnight experience in the dorm and a ceremony celebrating their successes.

Prince George's County Board of Education
14201 School Lane • Upper Marlboro, Maryland 20772 • www.pgcps.org

April 16, 2010

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Ms. Cathy Allen
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RE: Provision of Education and Related Services to Students on Long-Term Suspensions and Expulsions

Dear Ms. Allen:

Please be advised that on behalf of the Board of Education, I am providing this response to your request for information and input from our school system regarding the provision of education and related services to students who are placed on long-term suspensions and expulsions. The Board appreciates the opportunity to provide you with our input as our school system recently focused on addressing this issue, along with other issues related to the discipline of our students.

For your information, we are providing you with our current Code of Student Conduct (Administrative Procedure 10101). Under the Code, when a student is suspended for 10 or more days, the student is offered make-up work assignments unless other educational alternatives are provided. In addition, the student is allowed to take tests and examinations missed while on suspension if the quality of make-up work is such that a decision cannot be made as to whether or not a student should be awarded a credit. Refer to Section VI.G, (2) (3). When a student is expelled, she/he may apply for enrollment in the appropriate alternative program for expelled high school students but enrollment and attendance is limited to space being available and for the attainment of academic credits. Refer to Section VI.H, (1).

Because the Board of Education was not satisfied that the discipline process adequately addressed the needs of students who were removed from school for disciplinary reasons, on (December 1, 2008) the Board established a task force. This task force met over several months and recently issued a report that includes a number of recommendations, including creating a more robust program to provide suspended/expelled students with education and related services during the period of discipline. We are in the process of implementing the recommendations and we continuously engage our Superintendent in discussions about these issues when we review student appeals of proposed disciplinary action. A copy of the task force's report is also included for your review.

In sum, as you can see from the documents included, we are in support of providing students who have been removed from school for disciplinary reasons with education and related services. Should you have any questions or wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

Verjeana M. Jacobs, Esq.
Board Chair

Attachments

cc: Members, Board of Education
Dr. William Hite, Superintendent

Prince George's County Public Schools
Suspension Reduction Task Force
Findings and Recommendations
Submitted to the Board of Education
August 27, 2009

EXECUTIVE SUMMARY

FINDINGS

1. Keeping students actively engaged in learning is the best way to ensure a safe and orderly learning environment, and is the best way to reduce suspension and expulsion.

2. Out of school suspension has been proven to be ineffective in improving student behavior.

3. Out of school suspension can lead to lower rates of academic achievement. Youth out of school are more likely to smoke, to use substances (for example, alcohol, marijuana, cocaine), to engage in sexual intercourse, to become involved in physical fights, to carry a weapon, and are far more likely to commit crimes and be incarcerated. This is often referred to as the "school to prison" pipeline.[1]

4. Out of school suspension is disproportionately applied to African American and Latino students nationally and in Prince George's County Public Schools (PGCPS). African American and Latino students are more likely to be suspended for minor offenses such as disrespect or insubordination. Cultural competency training for teachers has been proven effective in reducing suspensions for infractions rooted in conflict over teacher's or school staff members' authority.

5. The Code of Student Conduct is in need of revision in its overall presentation as well as the content to enable the reduction of suspensions and expulsions.

6. PGCPS already exhibits many effective practices in preventing disruption and in reducing suspension and expulsion in some schools that can be adopted system-wide.

7. The primary purposes of student disciplinary processes are to educate the student, improve student behavior, and to ensure a peaceful environment in the school.

---

[1] The Zero Tolerance Task Force established by the American Psychological Association findings state that the use of zero tolerance policies increases referrals to the juvenile justice system.

RECOMMENDATIONS

An integrated "campaign" is needed across Prince George's County Public Schools (PGCPS) to reduce suspensions and expulsions while improving school climate. Elements of this campaign are listed below:

1. Identify and expand successful **prevention** programs, both school-wide and targeted toward youth in need. These include Positive Behavior Intervention and Supports (PBIS), Character Education and others.
2. Improve **procedures and practices to reduce suspension and expulsion**, including replicating successful models from within PGCPS, such as the Student Accountability Center at Bladensburg High School.
3. Employ a range of **alternatives to suspension** designed to improve student behavior, educate the student, and ensure a peaceful environment at school. Alternatives begin at the classroom level (redirecting the student; contacting the parent); may include alternative consequences (cafeteria duty, after-school detention, Saturday school, or consequences designed for the particular student/infraction), and may include administrative changes or other supports (changing class schedule, counseling, community conferencing).
4. **Improve in-school suspension** practices to include approaches to modifying student behavior and counseling, in addition to academic focus.
5. **Streamline the process of expulsion** to ensure a speedy resolution and placement in alternative school where needed. **Expand alternative school options** to ensure students are in school even if they are not able to remain in the regular school environment.
6. **Revise the Code of Student Conduct** both in content and in accessibility to promote positive student behavior and clarity of guidelines.
7. **Engage in system-wide change initiatives that provide training and opportunities for dialogue.** Provide training in alternatives to suspension, cultural competency, classroom management, and security to promote strong and effective disciplinary measures that keep children in school.

Suspension Reduction Task Force
Findings and Recommendations
June 25, 2009

Background

The Suspension Reduction Task Force was established by the Prince George's County Board of Education in February 2009 for the following purposes:

- Review Code of Student Conduct and disciplinary policies and procedures currently in place in PGCPS.
- Review discipline, patterns and disparities within PGCPS.
- Review the research on the subject, including the findings of the Zero Tolerance Task Force.
- Recommend best practices and creative options for corrective action and restorative justice rather than punitive discipline.
- Recommend revisions to Code of Student Conduct and relevant policies/procedures to enable more effective interventions that avoid taking students out of class during the school day, within the law of the State of Maryland.

The Task Force established three subcommittees:

Code of Student Conduct

- Review current Code of Student Conduct.
- Identify necessary changes to Code and other policies and procedures.

Discipline Review

- Review statistics at local, state and national levels.
- Review the usage of different forms of discipline, patterns, and disparities.

Research/Model Programs

- Identify interventions and programs currently in place locally, state-wide, and nationally.
- Evaluate and recommend other programs and best practices.

Task Force Committee Members

- Ms. Pat J. Fletcher, Board Member
- Ms. Rosalind A. Johnson, Board Member
- Ms. Heather Iliff, Board Member
- Mr. Edward Burroughs, III., Student Board Member
- Delegate Aisha Braveboy, Esq., Community Representative
- Ms. Crystal Scott, Parent and Community Representative
- Mr. Phil Lee, Community Representative
- Mr. Everett Sesker, Parent
- Ms. Lupi Quinteros-Grady, Parent
- Mr. David Murray, Student

- Mr. Raymond J. Miller, Principal, DuVal High School
- Mr. Jeffrey J. Parker, Principal, G. James Gholson Middle School
- Ms. LaChon Winston, Principal, Waldon Woods Elementary School
- Ms. Alethia McCullough, Teacher, Kenmoor Middle School
- Dr. Robert Anderson, Supervisor, Pupil Personnel Worker
- Mr. Hector Aguiniga, Counselor Specialist
- Mr. Donald Briscoe, President, PGCEA
- Dr. Betty Despenza-Green, Chief, Division of Student Services
- Ms. Robin B. Shell, Esq., Assistant Supervisor, Office of Appeals

The Need for Change

Out of school suspension can lead to lower rates of academic achievement for obvious reasons: children who are not in school do not have access to instruction. Students who seem to manifest behaviors that could lead to truancy, tardiness, poor academics and social problems have a higher potential for drop-out. Youth out of school are more likely to smoke, to use substances (for example, alcohol, marijuana, cocaine), to engage in sexual intercourse, to become involved in physical fights, to carry a weapon, and are far more likely to commit crimes and be incarcerated. This is often referred to as the "school to prison" pipeline.[2] According to an issue brief from Advocates for Children and Youth in April 2006, suspension rates raise juvenile justice, equality, health and safety concerns, impose a financial drain on schools in administrative time and instructional times, and may even exacerbate chronically disruptive behavior in school and in the community.

During the Maryland General Assembly Session 2008, House Bill (HB) 139 was amended to establish a task force to study issues related to students who received multiple suspensions. The Bill was signed into law by Governor Martin O'Malley on April 24, 2008, and a final report was drafted. In Prince George's County, 7 to 10% of students represent targeted at-risk students who may have been suspended between one and five times. With a school population of approximately 129,000 students, that could be 9,030 – 12,900 students. According to MSDE's Suspensions, Expulsions, and Health Related Exclusion Report for 2007-2008, Prince George's County had 25,405 suspension offenses, representing 14,221 students.

In PGCPS, the highest rate of expulsions in high schools is with 9th grade students. The largest number of suspensions is for disrespect and insubordination. Attendance related suspensions are not officially recognized in the Code of Student Conduct. However, in practice, students have been suspended for tardiness, truancy or "loitering" in the hallways if late to class. Per recent legislation, this practice is now against the law – students may not be suspended for attendance-related issues, nor "insubordination" for not following attendance-related directives.

[2] The Zero Tolerance Task Force established by the American Psychological Association findings state that the use of zero tolerance policies increases referrals to the juvenile justice system.

In PGCPS, school culture does not always project a standard of behavioral expectations that is clear and specific with a corresponding set of discipline codes. Suspension and expulsion have become the reflex response in some cases, not only to serious threats of disorderly behavior and conduct but increasingly to a much larger number of more minor behavioral infractions. These types of behavior issues should be dealt with in ways that discipline or change the behavior of the student while keeping students in school, receiving educational services.

The tension between the stakeholders, such as students, parents, administrators and staff regarding this issue is high at times. Dialogue with stakeholders is important to ensure all understand the policies and procedures and how they are being applied. PGCPS is comprised of students representing numerous countries. In some instances, families from the international community may not understand some of the procedures used by security services, and in some cases security services may not understand cultural differences. This can impact trust between families, staff, and security personnel.

Prince George's County Public Schools is utilizing the practices of suspension and expulsion far too frequently and change is needed to address this issue both in the immediate school year and over the longer-term. The Task Force has explored a range of approaches to address this issue, outlined below in the committee's findings and recommendations.

FINDINGS AND RECOMMENDATIONS

1. Prevention: Creating a Positive School Environment

Keeping students actively engaged in and excited about learning is the best way to ensure a safe and orderly learning environment, and is the best way to reduce suspension and expulsion. Student behavior is more likely to improve when relationships at all levels are conducive to a healthy school and community. Prince George's County Public Schools is currently undergoing a system-wide reform effort to ensure a highly effective teacher in every classroom is able to keep students engaged and achieving at high levels.

Professional demeanor and civility should be exhibited by all staff to all stakeholders at all times. All stakeholders should be notified regarding disciplinary procedures and expectations.

Prevention programs, whole-school change approaches as well as student-focused change strategies have an impact on school climate and application of suspension. PGCPS has several whole-school programs such as Positive Behavior Intervention and Support (PBIS) and Character Education that can be expanded system-wide.

The State Task Force to study Multiple Suspensions created a tiered intervention framework that could be enhanced to address the needs of Prince George's County. The tiered intervention framework is represented by a triangle in which the bottom 80-90% (the majority) receives universal support, while the top 5-15% require more targeted support. The final report of the Task Force to Study Multiple Suspensions submitted to the Maryland General Assembly and the Governor, on December 31, 2008, is an excellent resource.

Recommendations for Prevention:

- Expand use of prevention programs to all schools; evaluate such programs and introduce other evidenced based models where needed, such as Community Conferencing, Resolving Conflicts Creatively Program (RCCP), and Promoting Alterative Thinking Strategies (PATHS). [by 2011]
- Continue to scan and uplift promising practices in schools that can be replicated across the district. [Ongoing]
- Partner with community organizations and other stakeholders to provide effective mentoring and after-school programs for students. [Ongoing]
- Continue to identify students earlier who may need assistance in transitioning to high school before commencing their 9th grade matriculation. This identification can occur during the articulation of students who will be promoted into high school. Implement this same process for students articulating from elementary to middle school. [2009-2010]
- Ensure sufficient compensation, disciplinary consistency, and administrative support to retain highly qualified teachers and to provide students with communal stability and positive behavioral support. [Ongoing]
- Promote the use of home visitation by administrators, counselors, pupil personnel workers, or parent liaisons to assist in informing parents and guardians of their roles in their children's instructional development, recognizing that behavior modification is not achieved in isolation. [Ongoing]

2. Improve Practices and Procedures to Reduce Suspension

The purpose of student disciplinary action should be to promote improvement in student behavior, to educate the student (and in some cases the parent) and to promote a peaceful environment at school. History and practice have led to a general impression that out-of-school suspension is the most "strict" form of "punishment". Sometimes it is used as a "wake-up call" to the parents.

Parental and guardian involvement is important to a child's success. However, in some instances, parents of students with multiple suspensions are unable or unwilling to be involved in behavior modification. Different practices and approaches are needed to improve behavior and keep students in school.

The Student Accountability Center (SAC) at Bladensburg High School is a model that emphasizes academics and behavior modification including student goal-setting in education, home, physical fitness and other areas. The SAC also provides detailed resources to teachers as the primary responders to behavior issues. The concentration of highly qualified personnel at the SAC (Vice Principal, Parent Liaison, Pupil Personnel Worker, Professional School Guidance Counselor) enables them to apply consistent and positive discipline policies for any student

referred to the office for disciplinary reasons. It also enables all other administrators to focus more of their time on instructional leadership.

The Alternatives to Suspension program is engaging nonprofit organizations and other community partners to offer structured out-of-school programs as an alternative to "at-home" suspension. This is a promising alternative to leaving students unsupervised.

Recommendations to reduce suspensions:

- Hold staff (teachers, administrators, security personnel) accountable for reducing out-of-school suspension by employing a range of alternative strategies prior to suspending a student. Procedures should enable teachers to call parents and guardians first followed by administrative interventions and notification. [2009-2010]
- Introduce the cost-neutral Student Accountability Center model to all school principals; require each school to implement SAC model or provide alternative plan. [2009-2010 school year]
- Avoid use of out-of-school suspension and expulsion in instances where students do not pose a danger to others. Immediately stop the practice of any types of suspension for attendance-related issues, per Maryland law. [2010-2011]
- Continue to engage community partners for alternatives to "at home" suspension.
- Appoint a staff member (such as PPW) to assist each school to represent the best interests of the child, when the parent or guardian is unable or unwilling to work with the school. [2009-2010]
- Conduct collaborative conferences involving all stakeholders for students with multiple suspension and other behavioral concerns. [2009-2010]
- Utilize best practices for substance abuse intervention and mental health (may require referral) in instances of student use of controlled substances. [2010-2011]
- Ensure interpreting services are available to communicate with parents and guardians. [2009-2010]

3. Improve In-School Suspension Practices

In-School Suspension must be focused on behavior modification and counseling in order to be effective in reducing future infractions. In-school suspension that is focused only on academic study has not been shown to be effective at behavior modification and has been shown to be predictive of future out-of-school suspension.

Recommendations to Improve In-School Suspension Practices:

- Develop requirements for in-school suspension that all schools will follow and that include academic and behavioral modification components, staff notification, and school assignment procedures. [2009-2010]
- Partner with community stakeholders to provide more opportunities for in-school suspension and alternatives. [2009-2010]

- Staff in-school suspension programs with staff who can provide instruction appropriate for the individual learning requirements of the students and who can provide other needed services, such as problem solving, counseling, and study skills that engage the students. [2009-2010]
- Provide resources for students to use while in in-school suspension, including computers and appropriate computer software. [2010-2011]
- Develop behavior plans for students and opportunities to discuss the incident(s) leading to suspension. [2009-2010]

4. Expand Use of Alternatives to Suspension

Research on best practices has revealed an entire range of alternatives to suspension that can be used to educate the student, improve behavior and improve the school climate. Some examples of alternatives to suspension are provided below.

Classroom level:[3]

- Teacher redirection of student back to task
- Teacher warning to the student
- Teacher discussing problem with the student
- Parent contact by teacher
- Use a positive contingency behavior contract
- Detention (after school) with time for the teacher and student to review alternative ways the student could respond and behave in the classroom that would be more appropriate.

School level:

- Referral of student to one or more of the following school resources to discuss the problem:
  - Mediator / Peer mediator
  - Special education advocate teacher
  - Counselor
  - PPW
- Confiscation
- Temporary removal of student from classroom
- Monetary restitution for damaged items
- Behavioral probation
- Conference between appropriate school staff, student and parent
- Referral to Assistant Principal
- Assistant Principal warning to student
- Saturday school
- Change in teacher(s) or class schedule
- Change in IEP / supports (requires approval of IEP team and parent)

[3] Grossmont Union High School District, California: www.guhsd.net

- Altering participation in school and extracurricular activities for a specified period of time
- Restriction from problematic (non-instructional) areas of campus for specified period of time
- Referral to a short-term drug/alcohol or anger management intervention program
- Use of "send home" (student is sent home for the remainder of the school day with parent agreement)
- School service (i.e. cafeteria duty, trash pick-up)
- Parent shadowing
- Community service
- Community conferencing; restorative justice

Prince George's County Public Schools currently employ some of these alternatives as listed in the Code of Student Conduct. Additional alternative disciplinary measures may be developed with involvement of students, teachers and administrators. Some may even be developed for specific cases, with full application of due process in determination of the best interventions to achieve behavior modification, education of the student, and a peaceful climate at school.

Restorative justice is a practice that can help improve school climate by addressing all those involved in a particular incident, not only the student "at fault". Restorative justice approaches involve all important stakeholders (may include school personnel, perpetrators, victims, family members, advocates, and members of the community) in conflict resolution and discussion of measures that will restore a sense of justice and equilibrium in the school community.

Recommendations for Alternatives to Suspension:

- Review the alternatives to out-of-school suspension currently outlined in the Code of Student Conduct and develop additional alternatives continuously in conjunction with establishing administrative procedures that allow for the development of alternatives, using processes that involve input from students, teachers and other stakeholders. [2009-2010]
- Make available in every school at all times, a continuum of alternative interventions as indicated in the state report and best practice research. [2010]
- Seek partnerships with other state and local agencies that focus on mental health, substance abuse, violence prevention and other areas to develop necessary interventions for students in need. [Ongoing]
- Seek external funding sources to develop new short-term alternative programs. [Ongoing]
- Develop and apply restorative justice techniques in cases where a victim is involved as a result of a students' misbehavior. Develop new procedures for restorative justice alternatives that involve stakeholders in resolving differences, reducing tensions and creating a peaceful environment at school. [Develop: 2009-2010; Apply: 2010-2011]
- Evaluate the need for more resources to enable schools to effectively implement alternatives. [2009]

- Refer students with repeated lower-level offenses after all alternatives have been exhausted to an alternative school program (rather than repeated suspensions or expulsion). [2010-2011]
- Evaluate the use of referrals for evaluation of students for functional behavioral assessments and other interventions and assessments. [2009-2010]
- Evaluate the use of interventions recommended in the American Academy of Pediatrics Policy Statement, such as referrals for mental health and healthcare providers to evaluate students with behavioral concerns. [2009-2010]

5. Address Issues of Expulsion and Alternative Schools

Currently, students awaiting expulsion hearings can be out of school for weeks and even months. Some expelled students do not achieve alternative placement at all. It is the mission of PGCPS to educate all students, and even students expelled for behavior must have an opportunity to receive instruction.

Recommendations on Expulsion and Alternative Schools:

- Review and expand alternative school opportunities for youth. Develop new contract schools or other options for students who are not succeeding in the regular school. [Review: 2009 Expand: 2011]
- Review procedures at school and central level for expulsion hearings and streamline the process. [2009]
- Enable immediate transfer (i.e. within 10 days) to alternative school setting for students awaiting expulsion hearings. A structured day program, mental health intervention, substance abuse treatment, or in-school suspension at the alternative school may be necessary prior to admitting the student to the regular alternative school classroom. [2010]

6. Revise the Code of Student Conduct

The current Code of Student Conduct is not attractive or user-friendly, and needs a facelift to become a more relevant and useful tool for the school community. The Code is not consistently implemented system-wide. It is also in need of significant rethinking and revision in order to promote a positive learning environment. Several immediate revisions were identified by the Task Force, but time did not allow for an in-depth re-evaluation of the entire Code. A Code of Student Conduct Committee will be needed to review the current Code and develop a new Code that is aligned with newly-implemented proactive procedures and best practices. In addition, schools need to ensure that students are receiving the complete Code of Student Conduct at the start of the year instead of a summary of the Code.

The Task Force determined that modifications to the Code of Student Conduct (Administrative Procedure 10101) were necessary for suspensions in order to change short term suspensions from ten days to five days in length. Thus, any suspension over five days will require approval by the

Superintendent or a designee. Concerns with transportation-related offenses require evaluation to determine the appropriate level to categorize the behavior and the associated discipline to apply.

Recommendations for the Code of Student Conduct:

- The Code of Student Conduct should be consistently implemented within all schools, and distributed to all students. [2009-2010]
- Conduct the first-year high school Student Code of Conduct review by the student support services team, including a discussion of de-escalation strategies for students, parents and staff a part of the discussion.
- Create a more user-friendly Code of Student Conduct: [2009-2010]
    - Create a more friendly Code of Student Conduct cover, designed by students.
    - Include a cover letter from the Superintendent at the front of the document to set a cooperative, educational tone and noting that the Code is meant to ensure a safe and orderly environment.
    - Create an online searchable version of the Code to enable quick reference online.
- Specific Revisions for 2009-2010:
    - Add "Referral to SST" to the list of alternative interventions.
    - Add "Parent shadowing" to the list of alternative interventions.
    - Add "Community Conferencing and other alternative dispute resolution programs" to the list of alternative interventions.
    - Add "Communication of offense to administration for review" under the Disciplinary Options/Response section of the Level I chart.
    - Move "Gambling" from Level III to Level II offenses.
    - Move "Disorderly Conduct" from Level I to Level II offenses.
    - Move "Disrespect" from Level III to Level II offenses.
    - Move "Fighting" from Level III to Level II offenses, with students in more serious fights receiving suspensions.
    - Move "Trespassing" from Level III to Level II offenses.
    - Modify the definition of "Defamation" to include "Electronic presentations" to ensure currency with electronic communications.
    - To comply with revised Maryland law, include a statement prohibiting suspensions or expulsions based upon attendance issues (this includes prohibiting out-of-school suspensions for "insubordination" when students do not comply with attendance directives).
    - Change short term suspensions from ten days to "up to five days" in length.
    - Obtain approval by the Superintendent or designee for long term suspensions, which will be any suspension over five days in length.
    - Change the term "suspension" to refer to all temporary removals, including suspensions from the bus, in-school suspensions, and out-of-school suspensions.
    - Review whether there is a need for the Level III chart that enforces minimum and maximum days for suspensions.
- Request the Superintendent develop a bulletin specifying the changes to the Code of Student Conduct. [2009-2010]

- Appoint a Code of Student Conduct Committee to review the current Code and develop a new Code of Student Conduct that is aligned with the new procedures, best practices, and state guidelines. [2009-2010]
- Review revisions to the Code of Student Conduct to address student conduct on the bus and the appropriate discipline for Level II and Level III offenses. [2009-2010]
- Systematically re-think the approach and presentation of the Code of Student Conduct and related administrative procedures [2009-2010 for implementation in 2010-2011]:
    - Eliminate out-of-school suspension as a response to disorderly behavior at the elementary school level.
    - Eliminate out-of-school suspension as a response at the middle school level except for weapons.
    - Make Code-of-conduct review a mandatory orientation class for first-year high school students.
- Revise the school climate survey to include questions that allow teachers, students and parents to evaluate how well the Code of Student Conduct is being implemented.

7. Advancing Systemic Change

Throughout the work of the Task Force, many difficult issues arose that required in-depth discussion and exploration of underlying values, beliefs and traditions related to student discipline. Training and procedural changes alone may not be sufficient to change attitudes and behavior. Dialogue and engagement of teachers, administrators, security personnel may be an essential step to surface the complex issues related to this change initiative.

Research on best practice does show that cultural competency training for teachers can have a positive impact on reducing suspension. The Task Force extends this concept to all staff in the system, as this need has arisen related to other areas of educational reform in PGCPS.

Recommendations for Systemic Change:

- Hold a series of dialogue and information meetings with principals, teachers, security personnel, counselors, students and others to fully explore the opportunities and obstacles to reducing suspension and expulsion.
- Provide cultural competency/sensitivity training to all staff.
- Provide written tools for teachers and administrators on alternatives to suspension and other techniques to improve student behavior.
- Provide training for administrators about the changes in the Student Code of Conduct and that directs them in choosing a suspension consistent with the resources that are available and the needs of the student, ranging from in-school, approved community programs and other alternatives. Review and ensure administrators appropriately apply all administrative procedures that impact school discipline and alternatives.
- Provide training in two-pronged de-escalation strategies that includes a train the trainer model to provide schools systems technical assistance to support and train the student support services teams, and mandatory de-escalation training for all instructional school-based staff.

- Engage Student Government leaders and student organizations as partners on the review team to encourage student engagement in creating a culture of civility and responsibility in which students embrace positive behavior and accept consequences for behaviors in the classroom and on school grounds.
- Evaluate how investigations are conducted and provide the necessary training.
- Ensure training includes compliance with Maryland regulations and School policies and procedures, especially regarding notification to parents and guardians.

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Maryland Association of Secondary School Principals

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Gene Streagle, Executive Director

1. **When placed on a long-term suspension (more than ten consecutive school days), should the student continue to receive educational services? If yes, what services should be provided?**

   Before any of the questions can be answered there must be a clear, single definition of "suspension", "expulsion", "long-term suspension", "in-school suspension", "short-term suspension". COMAR 13A.08.01.11 has definitions but an examination of the various county discipline policies will demonstrate that there are varying definitions of these terms. Even when COMAR and the Annotated Code are cited, the definitions vary.

   There are a few categories of students that must be defined prior to the response to the question.

   a. Students with and Individualized Educational Program/504 must go through the process as defined. A manifestation meeting must occur before a student with an IEP reaches the 10th day of suspension. If the team determines that the incident was not a result of a manifestation of the student's disability, the suspension stands, but services must be provided This can be done through;
      1. Home teaching
      2. Assignment to an alternative program/site
      3. In-school suspension room

   b. Students under the age of 16 or the compulsory attendance age. These students are usually provided with an ongoing instruction through:
      a. Home teaching
      b. Assignment to an alternative program/site

   c. Students over the compulsory age of attendance.

The determination of whether the students over the compulsory age of attendance should receive instruction and services depends upon a number of things some of which are:

a. The severity of the incident (weapons, severe assault, etc)
b. The student's previous violations and/or consequences for the same or related offenses
c. Whether the offense interfered with the rights, privileges, or property of others
d. Whether the offense posed a threat to the health and safety of others
e. Whether the student has a disability and the possible impact of that disability on the student's behavior
f. The relationship between the offense and the consequence
g. Whether the consequence is age appropriate

Students under suspension are allowed to make up work that is missed during the time of suspension. The school provides the student with the work and materials but he/she are to complete the assignments on their own. Consideration should be given requiring students to seek counseling to assist them in altering their behavior should this action be appropriate.

When possible, education should continue but if the offense is egregious, then the offender's rights to this should be examined closely

2. **If expelled, should the student continue to receive educational services. If yes, what services should be provided?**

Again we have to consider the status of the student first. Is s/he under the age of 16? Does s/he have and IEP? Is the student is over the compulsory age of 16 and not possess an IEP?

Expulsion, by its very nature, implies a very serious violation of school and district policy. Usually expulsion is a result of a weapons violation, a serious drug violation (usually distribution), serious threats or violence, ongoing non-compliance with school rules and a number of other issues. The results of what constitutes a severe violation vary from district to district. The bottom line is if the offense(s) are deemed serious by the principal and central office staff, then the student forfeits his/her rights to a public education. Once a student is expelled in one Maryland public school system or private school, we should continue to deny enrollment in any of the twenty-four LEA's.

Expulsion is at the end of the disciplinary chain. If an offense reaches this point, the student should be denied an education during the entire length of the expulsion.

Some LEA's have a process from which expelled students may appeal before a review board to be considered for re-enrollment at the conclusion of a school year.

3. **What type of offenses should lead to a long-term suspension (more than ten school days)?**

Again, we list a number of items that must be considered in order for the principal to suspend for ten days and refer the student to the central office for an extension of the suspension.

a. The severity of the incident (weapons, severe assault, etc)
b. The student's previous violations and/or consequences for the same or related offenses
c. Whether the offense interfered with the rights, privileges, or property of others
d. Whether the offense posed a threat to the health and safety of others
e. Whether the offense disrupted the instructional day

There is a danger of mandatory "sentences" in these areas. The principal and administrative teams have an ongoing knowledge of the student's behavior and have to make a determination based on these factors. There are, of course, violations such as weapons, serious assault, and drug distribution which must be dealt with appropriately regardless of the student's disciplinary history.

4. **What types of offenses should lead to an expulsion?**

Weapons/firearms violations- Even here there are gradations. A weapons violation may be carrying a pocket knife or carrying a loaded gun. Obviously the student with a pocket knife cannot receive the same penalty as one with a loaded handgun. This has to be examined carefully.

Drug and/or alcohol distribution-

Assaults on teachers and staff-

Severe Assault on students

Gang Activity

Continuing violation of school or system rules and regulations

We need to correlate the state/school policies to reflect the "reportable offenses" and include them in any revision of COMAR and/or the ANNOTATED CODE

5. **How would your organization define "expulsion?"**

Expulsion- Based upon serious violations of school and district policy, the removal of a student from a school for an extended period of time or permanently from the school or district.

Overall, we feel there are too many interpretations of COMAR and the ANNOTATED CODE.

maryland
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Great Public Schools
for *EVERY* Child

msea

April 27, 2010

Dr. James DeGraffenreidt, President and
Members of the MD State Board of Education
200 West Baltimore Street
Baltimore, MD 21201

Dear Dr. DeGraffenreidt and State Board Members:

On behalf of the Maryland State Education Association, I am pleased to testify before you on the use of long-term suspensions and expulsions as a deterrent to aberrant behavior and the need for access to educational services during the separation. The MSEA believes this is an important issue that warrants the attention it is receiving today in hopes of informing policies that are designed to meet the needs of our students and ensure their academic success.

While it may be necessary to use suspensions and expulsions as a means of addressing aberrant behavior, the MSEA hopes that as a deterrent such measures are used as a last resort and only in cases where the circumstances truly warrant the removal of a student from the classroom and the school building. Even when circumstances are such that these measures are justified, everyone should be aware that these measures come with consequences for the student as well as the school and school system.

Long-term suspensions and expulsions have a significant impact on a student's overall record and interrupt their academic progress. They not only impede a student's matriculation, but, by themselves, do nothing to address the underlying causes of a student's chronic misbehavior. Educating a child today requires a holistic approach from making sure a child is prepared and ready to learn, to providing high-quality and rigorous instruction, to making sure that the student is able to demonstrate comprehension and mastery of what they have been taught. Addressing aberrant behavior in a student requires a holistic approach as well. Exacting a punitive action against a student for bad behavior is hardly worth the effort if it does not change their behavior. Addressing chronic misbehavior requires recognizing the source of the behavior and any possible triggers, identifying and acquiring the resources to begin to address that behavior, and providing positive alternatives to replace the initial behavior. Often, this may require collaboration with parents and other members of the community, and even government agencies. The goal should be the rehabilitation of the student and preparing them for a successful return to the school and classroom.

It hardly seems possible that this could occur without providing access to educational services during the suspension or expulsion period. A child that is expelled for chronic misbehavior, and is not provided any educational services during that expulsion period, returns to school with those same issues, sometimes even more issues, and is likely to continue their same pattern of behavior. An expulsion or long-term suspension period can be an appropriate time to provide some intensive intervention like counseling and mental health services, instructional remediation and tutoring, and behavioral modification alternatives. Additionally, it can be an opportunity for engaging the student's family and the community on the student's behalf. In short, this period should be used to rehabilitate the student and prepare them for their return to the school and classroom.

The MSEA believes that the State and local school systems should work together to ensure that school districts have alternative education plans and programs for students that are suspended or expelled. Alternative education plans should provide suspended or expelled students with access to coursework that continues to engage the student academically during their separation from school and aid them in transitioning back into the school environment successfully.

While this statement has focused primarily on the advantages of providing access to educational services to a student during a suspension or expulsion, there are ramifications for schools and school systems as well. Far too often suspensions and expulsions are the stepping stones to truancy, increased dropout rates, and a widening of the achievement gap. With federal and state mandates that require assessment and accountability for each and every student, utilizing this period for intensive intervention and behavior modification can help mitigate adverse impacts on the ability of schools and systems to meet yearly targets for student academic performance.

In conclusion, the MSEA strongly believes that long-term suspensions and expulsions should be used only as a last resort to addressing chronic behavior problems. When employed, school systems should utilize that period for intensive intervention to address and correct the underlying problems and provide rehabilitation. Further, we strongly believe that access to educational services is a critical component to any intervention that would aid in providing for a successful return to school for the student.

Again, we thank the board for this opportunity to speak on this important issue.

Sincerely,

Randal Mickens
Government Relations

Michael Hagan
State Board of Education
On Long-Term Suspension
April 27th, 2010

Good afternoon, my name is Michael Hagan, and I am the incoming president of the Maryland Association of Student Councils, or MASC. I'm sure you are somewhat familiar with MASC as we are under the sponsorship of MSDE, but I think it is important for me to say what I usually say when introducing the organization to adults, that we represent the student governments of member middle and high schools from across the state, and as such, we are the only organization in Maryland that can claim to be truly representative of the state's secondary school student population. With that in mind I would like to thank you for inviting MASC into this discussion. It means a lot to us that we live in a state where those who lead our schools don't forget to include public education's greatest stakeholder group.

So I'm here today to share with you the student perspective on this issue of "long-term suspension". As requested, MASC read into and discussed the subject. I must confess, just about every opportunity we had to have an actual "forum" on the issue came at a time when we had several feet of snow on the ground. Back up plans were a little difficult as we are a lot like the rest of you, only without driver's licenses, making traveling halfway across the state without advanced notice rather tricky. But with the help of phones, email, and may I say the miracle of unlimited texting, we were able to collect enough student opinion for me to be sitting here today.

What was that opinion? Well, there was an overwhelming consensus that completely excluding students from school for an entire school year at a time, but not calling it an actual expulsion is not a sound practice for Maryland's public schools. We believe that unless someone commits an act that is not just stupid but also felonious, they must continue to be offered a free and public education as mandated by state law, and they must attend some sort of school program as mandated by compulsory attendance laws. One particular case detailed in the packet did raise many questions. We question why a high school freshman would be completely excluded from school with no alternative program offered to her for being involved in several fights. Should she be punished? Yes. Should she be punished severely? Absolutely! But does it make any sense to entirely isolate her from public education for a full year just so that she can reenter the school system unchanged and a year behind the next fall? This is what we question.

Now, at MASC, we are not into basing our beliefs on what is legal in the eyes of statute. We aren't attorneys, we do not pretend to fully understand the enigma that is COMAR, but we do have our beliefs. As an organization, we believe that no student is a lost cause. We are willing to concede that at some point a school system has done all within its means to help a child, but we don't believe that that point is reached in cases of long term suspension when no quality alternative program is offered. Certain things are completely intolerable and should be punished by permanent expulsion, including violence with weapons, bomb threats, and sexual assault on school grounds. Though expulsion is a tragedy, sometimes it is the only way. But again, this long-term suspension, more like temporary-expulsion we are discussing doesn't seem to be a punishment for such intolerable offenses, it seems more like schools washing their hands

of "problem children" at the expense of the child and the entire community. MASC believes in the value of in-school suspension as a disciplinary measure. I personally think that for many children this can be a more meaningful punishment than an out of school suspension. We believe in alternative programs for students who need special disciplinary attention. We do not believe in excusing dangerous behavior, but neither do we believe in giving up on students and turning them loose on a society in which can find a lot more trouble than on a school campus.

I'm sorry I don't bring the numbers, statistics, and expert opinion that other panelists may have, but I ask that you please value the beliefs I conveyed to you. As I said, I represent a general consensus amongst students, and I hope that our shared opinions are helpful as you continue investigate this disciplinary procedure. Thank you.

OPEN SOCIETY INSTITUTE-BALTIMORE

AN EPIDEMIC OF ABSENCE:

HOW CAN WE GET KIDS TO SCHOOL?

SUMMARY ▸

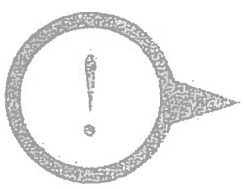
LIKE URBAN SCHOOL DISTRICTS NATIONWIDE, BALTIMORE STRUGGLES WITH A BASIC CHALLENGE:

GETTING STUDENTS TO ATTEND SCHOOL REGULARLY.

Vast numbers of children miss school each day in Baltimore, and when they do, they miss out on critical academic and social learning opportunities. As these children begin to fall behind in classes, they pull away from school, perpetuating a cycle of absence and academic failure.

A new series of three research papers prepared by the Open Society Institute-Baltimore explores this problem and offers recommendations for policies and practices to boost student attendance. The reports were written by Jane Sundius, PhD, Director of OSI-Baltimore's Education and Youth Development Program, and Molly Farneth, Education and Youth Development Program Assistant. The papers grow out of a long-term initiative led by OSI-Baltimore to reduce widespread school absence through strategies that engage children in school and remove barriers to regular attendance, including the overuse of suspension and expulsion.

The papers in this series describe the root causes of these high levels of school absence and the academic and life consequences for children who miss many school days. **Together, the three papers depict an epidemic of absence – but one that can be stopped if parents and guardians, schools, and city agencies work together to ensure that every child is in an educational setting every day.**



IN BALTIMORE DURING THE 2006-2007 SCHOOL YEAR, 14% OF ELEMENTARY SCHOOL STUDENTS, 34% OF MIDDLE SCHOOL STUDENTS, AND 44% OF HIGH SCHOOL STUDENTS MISSED 20 OR MORE SCHOOL DAYS – A FULL MONTH OF SCHOOL.

ON AN AVERAGE DAY DURING THE 2006-2007 SCHOOL YEAR, ONE-QUARTER OF SPECIAL EDUCATION STUDENTS WHO WERE ENROLLED IN A BCPSS HIGH SCHOOL WERE ABSENT.

WHAT'S THE ROOT OF THE PROBLEM?

FREQUENT ABSENCE IS A SERIOUS PROBLEM WITH MULTIPLE CAUSES.

Some student absences are the result of misguided choices on the part of students. But more frequently they are the result of illness, suspension and expulsion, unstable housing, poor transportation, unwelcoming and sometimes violent schools, large numbers of new faculty and high rates of teacher and administrative turnover, fear of violence, and childcare or employment demands. To ensure that children are in school every day, it is essential to understand the root causes of absence, because, in the end, all types of absences must be addressed if children are to stay on track. The papers discuss these root causes and explore why current policies and practices have failed to improve attendance rates in Baltimore:

- **Baltimore schools and city agencies lack aggressive and effective procedures to prevent, respond to, and address students' absences.**

  The Baltimore City Public School System (BCPSS) and Baltimore City government have not yet made student attendance a top priority. Many city schools do not have a standard way of alerting parents or guardians of a student's absence, and most do not have staff to follow up when a child repeatedly misses school. School system officials admit that a student with an unexcused absence may face any number of consequences: a letter or phone call home, a home visit, detention or suspension, being picked up by police and simply returned to school. A vast number, however, elicit no response at all. Meanwhile, city agencies that are responsible for students' transportation, safety on the routes to and from school, and other school-related factors must do more to ensure that their policies support daily, on-time school attendance.

- **Reliance on suspension and expulsion as the response to student misbehavior pushes students out of school.**

  While it may seem counterintuitive, schools' reliance on suspension and expulsion has actually fueled poor behavior, violence, unwelcoming schools, and academic failure. The overuse of suspension and expulsion has contributed to a negative, combative school environment and has not taught appropriate behavior, held students accountable to redress the harm they caused, or kept them up-to-date with their studies. Teachers and administrators have not been given the tools to engage in positive classroom management. The upshot is that students often don't feel safe on their way to school or at school, nor do they feel like their teachers care about them once they're there.

  Under the leadership of Dr. Andrés Alonso, BCPSS is working diligently to reduce the overuse of suspension and expulsion. Currently, however, an average of 270 students miss school every day in Baltimore due to long-term suspension or expulsion, and even more are out of school on short-term suspensions. While on suspension, students do not have the opportunity to remedy their behavior or redress the wrong they committed, and they return to school without the tools or skills to help them behave differently in the future. Moreover, few students receive educational services while suspended, so many fall behind in their studies. Students who are suspended are less likely to succeed academically and less likely to graduate from high school than their peers.

- **The reliance on standardized tests to measure school effectiveness can increase absenteeism.**

  The No Child Left Behind Act's singular emphasis on raising test scores has unintentionally and ironically pushed students out of the classroom. In an effort to improve test scores and other accountability measures, too many schools have dropped students from the rolls, ignored absences, encouraged students to enroll in GED or alternative programs, discouraged their attendance, and suspended or expelled them - all unfortunate ways to ensure that struggling students are not a part of a school's enrollment, attendance, dropout, and standardized exam results.

  The emphasis on improving standardized test scores has also resulted in curricular changes. More time during the school day is devoted to tested subjects (e.g. reading and mathematics), while less time is spent on subjects and activities like art, music, physical education, science, civics, and recess. As a result, the subjects and activities that keep children engaged in and attending school are less and less likely to take place during the school day.

WHAT MUST WE DO TO GET EVERY STUDENT TO SCHOOL EVERY DAY?

The authors conclude that school attendance can indeed be improved, and that with it, student engagement in education and graduation rates will also rise. The key to dramatic improvement will be new policies and practices that meet the needs of students, parents and guardians, and school staff, and hold them all accountable for regular school attendance. These policies and practices include the following:

Make Schools Safe, Engaging, and Attractive to Students.

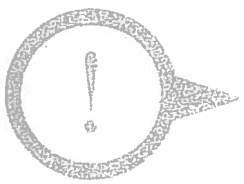
- Ensure that every student is known well by at least one adult at school.
- Restore and reinvigorate art, music, physical education, and other high-interest classes.
- Invest in out-of-school time programs, both summer and after school, that provide safety and exciting learning opportunities.
- Provide free breakfast and lunch in high-poverty and high-absence schools.

Make Attendance Everyone's Responsibility.

- Educate students, parents/guardians, business and community leaders, and other citizens about their responsibility to get children to school each day.
- Recognize that school absence is an early predictor of dropoout and ensure that there is a response to every absence.
- Improve safety and reliability of transportation to and from school.
- Fully fund and implement the city's plan to reduce gang violence.
- Ensure that students in foster care are quickly enrolled and regularly attending school.
- Determine whether youth services offered by city and state agencies create or reduce barriers to school attendance.
- Use data to find cost-effective strategies to Baltimore's attendance problem.

Eliminate practices that push kids out of school.

- Create incentives for schools to increase attendance.
- Teach, model, and reward positive behavior.
- Revise discipline codes to ensure the fair, equitable and appropriate use of suspension and expulsion.
- Ensure that students have meaningful consequences for misbehavior, redress the harm of misbehavior and learn appropriate behaviors.



CHILDREN WITH A 6TH GRADE ATTENDANCE RATE BELOW 80% HAVE ON-TIME GRADUATION RATES OF JUST 5-13%.

IN 2006-2007, 9,854 BCPSS STUDENTS (12.5% OF ALL BCPSS STUDENTS) MISSED SCHOOL DUE TO AN OUT-OF-SCHOOL SUSPENSION.

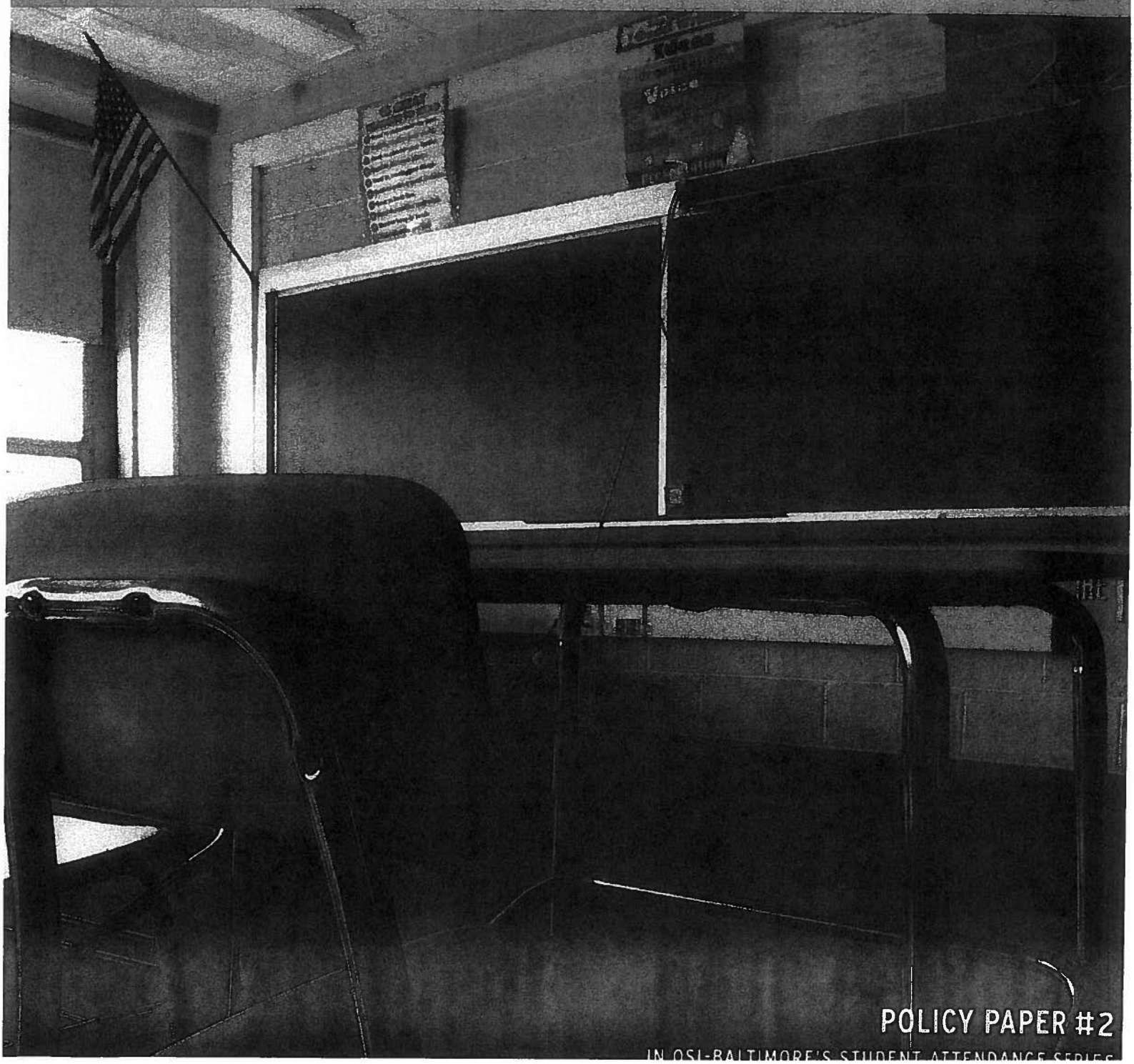
The three papers are called "Missing School: The Epidemic of School Absence," "Putting Kids out of School: What's Causing High Suspension Rates and How They Hurt Students, Schools, and Communities," and "On the Path to Success: Policies and Practices for Getting Every Child to School Every Day."

They can be found at **www.osi-baltimore.org.**

OPEN SOCIETY INSTITUTE-BALTIMORE

PUTTING KIDS OUT OF SCHOOL:
WHAT'S CAUSING HIGH SUSPENSION RATES AND WHY THEY ARE DETRIMENTAL TO STUDENTS, SCHOOLS, AND COMMUNITIES

JANE SUNDIUS & MOLLY FARNETH / SEPTEMBER 2008



POLICY PAPER #2

IN OSI-BALTIMORE'S STUDENT ATTENDANCE SERIES

POLICY PAPER #2 IN OSI-BALTIMORE'S STUDENT ATTENDANCE SERIES

OUT-OF-SCHOOL SUSPENSION AND EXPULSION ARE TWO OF THE MOST SEVERE DISCIPLINARY CONSEQUENCES FOR STUDENT MISBEHAVIOR.

In cases of violent or dangerous behavior, suspending or expelling a student may be required by law or necessary for the safety of other students and school staff. Across the nation, "zero-tolerance" discipline policies arose in the late 1980s in response to rising juvenile crime rates, and gathered momentum after violent tragedies such as the 1999 Columbine High School shootings. These policies have made suspension and expulsion commonplace - not only for the small number of serious threats to school safety, but also for the much larger number of nonviolent student misbehavior.

This paper demonstrates how the widespread use of exclusionary school discipline practices, specifically suspension and expulsion, adversely affects children and youth. Youth who are suspended or expelled are at far greater risk of academic failure, school drop-out, and incarceration; there is also growing evidence that suspension has negative effects on students' mental health and physical well-being. In addition to the harm caused by extensive use of suspension, data consistently indicate that disciplinary exclusion policies are used inequitably: males, African Americans, and students with disabilities are suspended at much higher rates than other students. Moreover, suspension is used inconsistently as a disciplinary consequence; a review of data shows wide variability across school districts, schools within each district, and classrooms within schools - even when student characteristics are similar.

Using Baltimore, Maryland as an example of how disciplinary exclusion policies are administered in school districts nationwide, this paper will begin with an overview of the types of policies affecting rates of suspension and expulsion. It will then review current data to describe who is being suspended and what the harmful effects of widespread disciplinary exclusion are for young people.

01. POLICIES AFFECTING SUSPENSION RATES

Zero tolerance discipline policies originated as a federal response to students with guns; in fact, the only federal law mandating specific disciplinary consequences for student misbehavior is the Gun-Free Schools Act.

Under this legislation, local educational agencies that receive federal funding are required to expel any student who either brings a firearm to school or possesses a firearm at school. The expulsion must last for a period of not less than one year, although the Act allows the chief administering officer of the local educational agency to adjust the penalty on a case-by-case basis.[1] State law in Maryland mirrors this provision of the Gun-Free Schools Act, although some individual school districts, such as the Baltimore City Public School System (BCPSS), have expanded the law to require expulsion for possession of any weapon and many potential weapons. In Maryland, gun and weapon offenses are relatively few in number. During the 2006-2007 school year, for example, only 1.9 percent of out-of-school suspensions in Maryland were administered for possession of any weapon.[2] An even smaller percentage - just 0.02 percent - was for firearms.[3]

Maryland state and local boards of education have great discretion in crafting other elements of disciplinary codes for Maryland public schools, and the resulting codes are often too vague to provide much guidance to school administrators. As is clear from data on suspension, the result of vague disciplinary codes and broad principal authority has been to make out-of-school suspension a common experience for a growing number of Maryland's youth.

The increasing use of suspension and expulsion intersects with education's accountability movement. The Unsafe School Choice Option of the federal No Child Left Behind Act mandates that students attending "persistently dangerous" schools be allowed to transfer to a safe public school, although each state devises its own policy for identifying "persistently dangerous" schools.[4] Maryland has one of the strictest definitions, which requires a school to be labeled persistently dangerous if 2.5 percent of its student body is suspended for arson, possession of a weapon or drugs, assault on a student or school employee, or sexual assault over a period of three consecutive years.[5] As a result of its strict policy, Maryland was one of only seven states in 2007 with "persistently dangerous" schools, including five Baltimore City middle and high schools.[6]

The effect of this policy on rates of suspension and expulsion is unknown and likely complex. In order to remove its "persistently dangerous" label, the school must reduce its suspension and expulsion rates. Some contend that this policy may have the effect of redirecting the focus of dangerous schools towards improving school climate and preventing serious behavioral problems through alternatives to suspension and expulsion. However, some teachers and staff at schools designated persistently dangerous have stated that principals are reluctant to administer suspensions for serious offenses, thereby understating violence and making these schools even more dangerous.[7]

02. SUSPENSIONS SUBJECT TO BIAS AND INCONSISTENCY

The vague guidelines that disciplinary codes provide and the substantial freedom given to individual schools to interpret and apply these codes have contributed to overuse, bias, and inconsistency in the application of disciplinary exclusion policies.

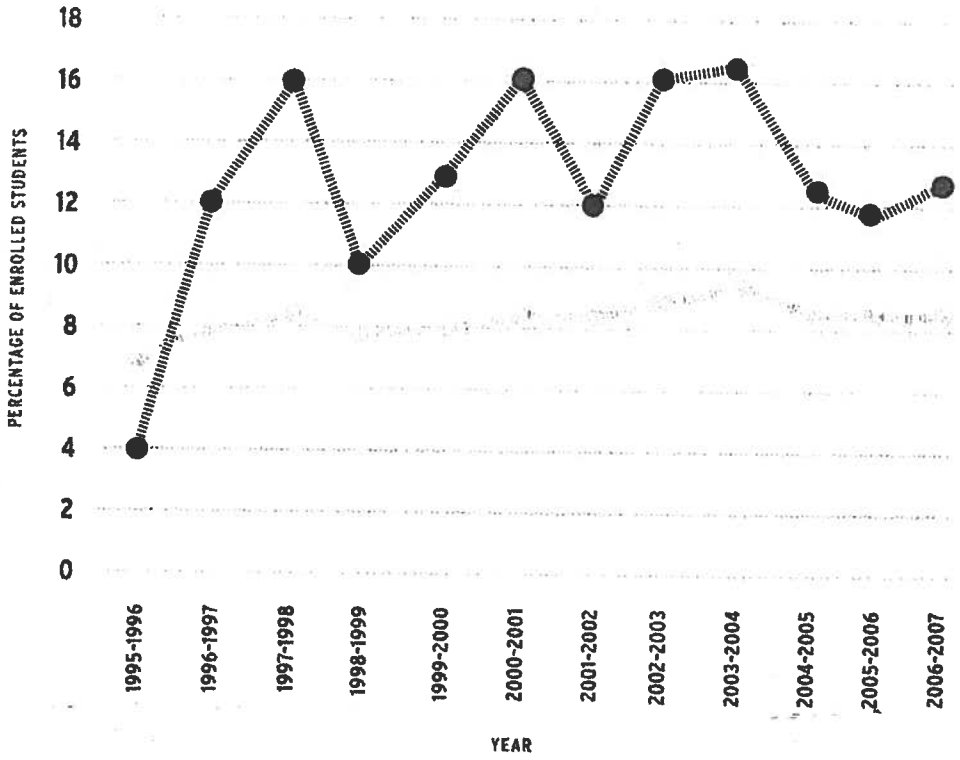
In Maryland in 2006-2007, 74,594 individual students were suspended, for a total of 131,629 out-of school suspensions in Maryland.[8] This paper frequently refers to the **suspension rate**, which is calculated by dividing the number of students who have received one or more out-of-school suspensions by the total

Maryland

Baltimore City

FIGURE 1: STUDENTS SUSPENDED FROM PUBLIC SCHOOLS*

*UNDUPLICATED COUNT OF THE NUMBER OF STUDENTS SUSPENDED DIVIDED BY ENROLLMENT



number of enrolled students (as determined by the yearly enrollment count). Following national trends, the suspension rates at Maryland public schools have gradually increased in recent years, from 7.1 percent of students in the 1995-1996 school year to 9.0 percent in 2006-2007.[9]

Out-of-school suspensions are given to students of all ages: suspension rates are lowest in elementary school, increase and peak in middle school, and drop slightly in high school.[10] Nevertheless, 10,197 of the students suspended in Maryland in 2006-2007 were elementary school students, including 784 kindergarteners.[11] Shockingly, disciplinary exclusions are even used at the preschool level, with 77 public school prekindergarteners suspended during the 2006-2007 school year in Maryland.[12,13] In a national study of state-funded prekindergarten classes, Gilliam found that the expulsion rate for prekindergarteners is more than three times higher than the rate for K-12 students.[14] Gilliam also found that boys are expelled at four times the rate of girls, and African American prekindergarteners are about twice as likely to be expelled as white prekindergarteners.

- **Suspensions are given more often to African Americans, Males, & Students with Disabilities**

  African American students are suspended and expelled at two to three times the rate of white students, even when controlling for socioeconomic status.[15] These racial disparities in the administration of school discipline have been documented consistently throughout several decades of research.[16] In 1997, the US Department of Education published its findings that nearly 25 percent of all African American male students were suspended at least once over a four-

year period.[17] Furthermore, overrepresentation of African American students in the administration of suspension and expulsion increases as those punishments are used more frequently.[18] This trend persists despite the lack of evidence that African American students engage in higher levels of disruptive behavior than other students.[19] Skiba et. al. found that African American students are far more likely than their white classmates to be punished for reasons that require the judgment of a teacher or administrator.[20] This type of offense includes disrespect, excessive noise, and loitering, as opposed to more concrete infractions such as smoking, leaving without permission, and vandalism (three offenses for which white students are more likely to be disciplined).[21]

Suspension data in Maryland illustrate this racial disparity in the administration of suspensions and expulsions. In the 2006-2007 school year, 61 percent of all suspended students were African American, even though African Americans comprise only 38 percent of Maryland's student body. Meanwhile, white students accounted for 31 percent of those suspended but comprise 48 percent of Maryland's student body.[22]

There is also consistent evidence that males receive many more suspensions than do females. In the 2006-2007 school year, 68 percent of suspended students in Maryland were male, while just 32 percent were female.[23] This gender effect is compounded by the effect of race. One study found a consistent ranking in the probability of suspension in junior and senior high school: black males were most likely to be suspended, followed by white males, black females, and - least likely to be suspended - white females.[24]

Students with disabilities also receive a disproportionate share of suspensions and expulsions. Students with Attention Deficit Hyperactivity Disorder (ADHD), for instance, are 3.5 to 7 times more likely to be suspended or expelled, even when controlling for gender, race, and health insurance status.[25] Reviewing results from several studies, Leone reported that students with disabilities comprise about 11 percent of all school-age children in the US but make up almost 20 percent of those who are suspended.[26] Again, the suspension data from Maryland mirror this national data: in the 2006-2007 school year, students with disabilities comprised 12.5 percent of the total student enrollment, but made up 20 percent of all students suspended.[27] In Baltimore, students with disabilities comprised 16.9 percent of the BCPSS student population, while accounting for 25.7 percent of students suspended.[28]

These higher rates of disciplinary exclusion for students with disabilities continue in spite of the protections provided by the Individuals with Disabilities in Education Act (IDEA). The 1997 amendments to IDEA, and its reauthorization as the Individuals with Disabilities in Education Improvement Act (IDEIA) in 2004, mandate detailed procedures that schools must follow in order to determine whether or not a student with disabilities may be suspended. While these procedures do not prohibit disciplinary exclusion, they are intended to protect students with disabilities from being punished for behaviors that are the result of their disability.[29] In practice, however, schools seldom classify the misbehavior of students as manifestations of disability and grant them IDEA/IDEIA protections.[30]

- **Suspension rates vary widely by District, School and Teacher**

The overall upward trend in suspension rates conceals the tremendous variability in suspension rates across school districts, schools within a district, and classrooms within schools.

A. Variation across school districts
At the district level, for instance, out-of-school suspension rates in Maryland for the 2006-2007 school year ranged from a low of 4.0 percent in the Howard County Public Schools to a high of 17.2 percent in the Somerset County Public Schools.[31] The suspension rate for the Baltimore City Public School System was 12.5 percent.[32]

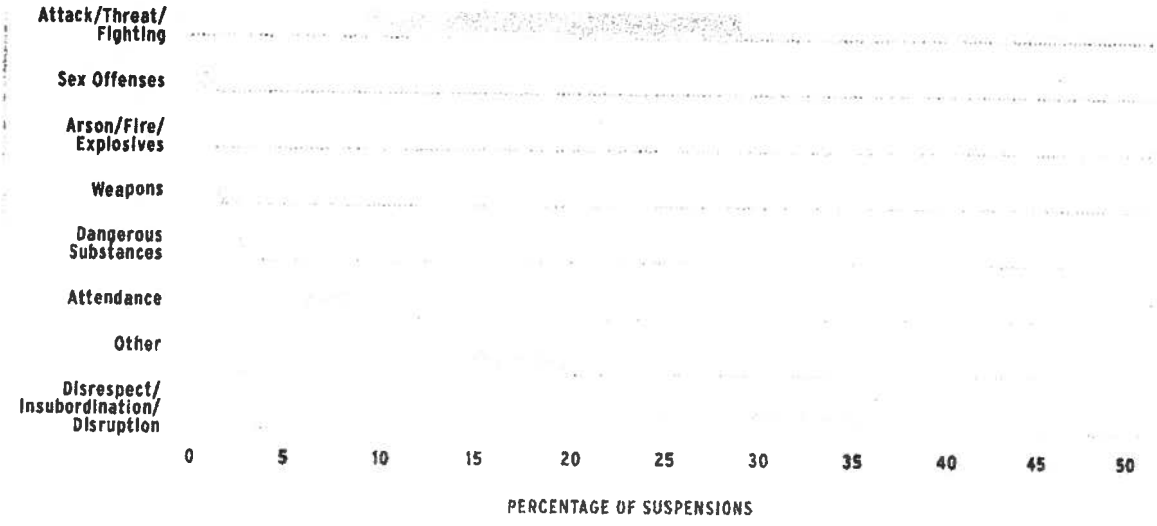
B. Variation among schools within school districts
Variation in suspension rates among individual schools within a district can be even greater. During the 2006-2007 school year, for instance, two large, comprehensive BCPSS high schools with similar demographics - Frederick Douglass High School and Patterson High School - administered short-term out-of-school suspensions at the divergent rates of 7.2 percent and 27.5 percent, respectively.[33] One study found that schools in the top ten percent of out-of-school suspension use accounted for more than half of all suspensions.[34] Schools with higher percentages of students living in poverty tend to have higher suspension rates, although not all high poverty schools have high suspension rates.[35] High poverty schools maintain low rates of suspension when they adopt a proactive approach to improving school climate and behavior management, as evidenced by programs that teach and reward appropriate student behavior, train teachers in classroom management and conflict resolution, encourage parental involvement, etc.[36]

Variation in suspension rates among schools is due as much to the characteristics of the school and behavior of school personnel as to the behavior of students; schools with high suspension rates typically have high student-teacher ratios, low academic quality ratings, administrative indifference to school climate, reactive disciplinary programs, and ineffective school governance.[37] In fact, the presence or absence of these school characteristics, along with the specific student demographic characteristics outlined above (i.e., race and gender), make a more significant contribution to predicting suspension than student behavior itself.[38]

C. Variation among teachers within schools
Just as a school's characteristics can influence its suspension rate, an individual teacher's use of disciplinary exclusion as a classroom management tool can also substantially affect a school's suspension rate. For instance, Skiba described one middle school in which 25 percent of teachers were responsible for 66 percent of office referrals.[39] In a study of prekindergarten suspension and expulsion, Gilliam and Shahar found that the percentage of teachers expelling at least one child in the past year was four times higher when job stress and/or class size were high, in comparison to when these variables were lower.[40]

FIGURE 2: SUSPENSION BY MAJOR CATEGORY

MARYLAND PUBLIC SCHOOLS, 2006-2007



- **Suspension is most often used for non-violent student misbehavior**

The inconsistency of Maryland's suspension policies and practices in its various districts, schools, and classrooms is compounded by the increasing use of suspension for misbehavior that falls under broadly and difficult to clearly define categories. Many of these suspensions were given for the kinds of inappropriate or immature behavior that used to be labeled naughty, mischievous, or prankish and resulted in detention, school clean-up, or other similar consequences. But that has changed. Last year, for example, more suspensions were issued for truancy and tardiness than for dangerous substances, weapons, arson/fire/explosives, and sex offenses combined. An even greater number of suspensions were given for disrespectful and disruptive behavior - which can have serious, negative effects on school climate and teachers' ability to teach - but which previously were unlikely to result in a suspension.

Suspensions for non-violent misbehaviors are not only numerous, but they are also more likely to reflect the judgment of the teacher or administrator - which makes them particularly susceptible to discriminatory application. As discussed above, studies have shown that African American students are disproportionately punished for reasons that require the judgment of the teacher (e.g. disrespect, excessive noise, and loitering). Skiba et. al. also report that much of the racial disparity in disciplinary action originates at the classroom level, where teachers refer African American students to the office at much higher rates than white students.[41]

These trends mean that reducing the use of disciplinary exclusion requires changes at the district, school, and classroom level. In addition to the adoption of more appropriate and less exclusionary discipline codes, teachers and other school employees must be trained to use other, less punitive methods and to employ them consistently. Teachers, in particular, require additional support and training in implementing effective and culturally competent methods of classroom management in order to reduce biases in the administration of suspension and expulsion.

03. SUSPENSION CREATES POOR OUTCOMES FOR YOUTH

Far from acting as a deterrent for misbehavior, suspension and expulsion can actually reinforce negative behaviors. While suspended, students fall behind academically, engage in high risk behaviors, and face threats to mental health and physical safety.

In Maryland in 2006-2007, 74,594 individual students were suspended, for a total of 131,629 out-of school suspensions in Maryland. This paper frequently refers to the **suspension rate**, which is calculated by dividing the number of students who have received one or more out-of-school suspensions by the total number of enrolled students (as determined by the annual enrollment counts). Following national trends, the suspension rates of Maryland public schools have gradually increased in recent years, from 7.1 percent of students in the 1995-1996 school year to 9.0 percent in 2006-2007.

- **Suspension can increase student misbehavior.**

Disciplinary exclusion policies are based on the belief that removing misbehaving students from school will punish the "bad," deter others from misbehavior, and create an improved learning environment for students who remain. However, disciplinary exclusions are generally ineffective in improving behavioral problems. Several researchers have found that the rate of "repeat offenders" - that is, students who are suspended on multiple occasions - ranges from 35 percent to 42 percent of all suspended students.[42] In 2006-2007, 74,594 students accounted for the 131,629 out-of school suspensions in Maryland. Of these students, 28,431 - 38 percent - received multiple out-of-school suspensions during that school year, and

3,728 - five percent - received five or more.[43] This suggests that, for many students, suspension does not function as a deterrent. In fact, suspension may at times serve as an incentive for students who wish to avoid school or classroom instruction. Atkins et. al. looked at students' responses to discipline in an inner-city public school, finding that, when suspensions were consistently used as punishment for one group of students, the overall number of such punishments for that group increased; by contrast, when suspension for a second group of students was no longer used as a behavioral consequence, the misbehavior of students in the second group decreased.[44]

- **Suspension lowers academic achievement and increases a student's likelihood of dropping out.**

Numerous studies have found that suspension often contributes to a gradual process of academic and social disengagement that increases the probability of additional disciplinary exclusions, academic failure, and, eventually, drop-out.[45] Costenbader and Markson found that secondary school students who had been suspended were more likely than their peers to report anger with and alienation from the school community.[46] In a longitudinal study of 30,000 high school students, Elkstron et. al. reported that sophomores who had been suspended dropped out of school at three times the rate of their classmates.[47] Furthermore, Balfanz and Boccanfuso found that students who received an out-of-school suspension in middle school were half as likely to graduate on time as students who did not.[48] This increased likelihood of academic failure and drop-out is partially attributable to the disruption in students' education during periods of disciplinary exclusion. Alternative educational services are rarely provided to students who are excluded from school. In Maryland, for instance, during the 2005-2006 school year, more than three-quarters of suspended students were not provided with alternative educational services, even though students are legally entitled to such services.[49]

- **Suspension increases students' likelihood of juvenile justice involvement.**

The application of school discipline policies mirrors those of the juvenile justice system. Males, African Americans, and students with disabilities are more likely to be court-involved and detained. Noting this connection, many advocates, researchers, and educators have examined the laws, policies, and practices that gave rise to these trends and have made the case that America has created a school-to-prison pipeline.[50] In addition to higher drop-out rates, students who have been suspended are significantly more likely to become involved in the juvenile justice system than their peers.[51] As the Task Force on the Education of Maryland's African American Males wrote in its December 2006 report, "There's considerable evidence that a history of school suspension does one of two things - either it puts a child on the path toward delinquency or accelerates his journey there. Suspension, then, is not only an ineffective deterrent for misbehavior, it's - at best - an accelerant and - at worst - a catalyst for it."[52]

A study conducted by Skiba et. al. examined data from 37 states and found a strong relationship between rates of suspension and juvenile incarceration, as well as a correlation between racial disparities in school discipline and juvenile incarceration.[53] According to the Center for Disease Control, when students are removed from school, they become significantly more likely to engage in a variety of high-risk or illegal behaviors than students who are attending school.[54] These behaviors include: physical fighting; carrying a weapon; smoking; using alcohol, marijuana, and other drugs; and engaging in sexual intercourse.[55]

Suspension and expulsion have mental health and physical safety risks.

In a 2003 Policy Statement, the American Academy of Pediatrics (AAP) expressed grave concerns about the mental health impacts of suspension and expulsion on students.[56] According to the AAP, behavioral problems among school-age youth are associated with high rates of depression, drug addiction, and home-life stresses. For students with these mental health concerns, the AAP holds that suspension can increase stress and may predispose them to antisocial behavior and even suicidal ideation.[57] Despite the correlation between mental illness, home-life stresses, and school disciplinary problems, students are not routinely referred to mental health providers upon suspension or expulsion.[58] The AAP recommends a full social, medical, and mental health assessment by a pediatrician for students who have been suspended or expelled from school. Moreover, when students are disciplined for the use of alcohol, tobacco, or drugs, they recommend enrollment in an appropriate substance abuse treatment program.[59]

Likewise, the American Psychological Association (APA), in its Zero Tolerance Task Force Report (2006), found little evidence that suspension and expulsion benefited students or their communities, and expressed concern that disciplinary exclusion policies could increase "student shame, alienation, rejection, and breaking of healthy adult bonds," thereby exacerbating negative mental health outcomes for young people.[60] Removing students from school through disciplinary exclusion also increases their risk of becoming a victim of violent crime. Violence in schools in decreasing, despite high profile incidents to the contrary, and schools continue to be the safest places for youth. According to data published by the US Departments of Justice and Education from the 2003-2004 school year, rates of serious violent crime against schoolage youth, including rape, sexual assault, robbery, and aggravated assault, are more than twice as high outside of school as they are in school.[61] Furthermore, during that time period only 1.3 percent of all homicides of school-age youth were committed in a school building, on school property, in a school bus, or on the way to or from school, while the remaining 98.7 percent were committed outside of school.[62] For school-age youth, particularly those who live in neighborhoods with high rates of violent crime, school remains the safest place to be.

RECOMMENDATIONS AND CONCLUSION

An astonishing 74,518 Maryland students received out-of-school suspensions in 2006-2007, placing them at increased risk of academic failure, drop-out, and criminal justice involvement. This group of students was overwhelmingly male and comprised of a disproportionate number of special education students and students of color. This discriminatory and excessive application of disciplinary exclusion policies must end.

Because the negative consequences of out-of-school suspension and expulsion can seriously damage students' academic potential, school engagement, and emotional and physical wellbeing, school and school districts must be vigilant about reducing the use of disciplinary exclusion while improving school climate. Schools should focus on teaching, modeling, and rewarding students' positive behavior. Also, school districts should revise discipline codes to create meaningful consequences for student misbehavior, to require students to redress the harm of misbehavior, and ensure the equitable, appropriate, and limited use of suspension and expulsion. The third and final

paper in this series, On the Path to Success: Every Child in School Every Day, details these and other recommendations for policies and practices to boost school attendance, reduce suspension and expulsion, and ensure that all children are in an educational environment every day.

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Long-Term Suspensions & Expulsions/ Provision of Educational Services

Testimony for the Maryland State Board of Education

April 27, 2010

The ACLU of Maryland is encouraged that the State Board recognizes the importance of addressing the issues raised by *Atanya v. Dorchester County* and the very troubling number of suspensions/expulsions in Maryland public schools, as well as a lack of provision of educational services during them, in most instances. The ACLU nationally has had long-standing involvement in cases and studies involving discrimination in discipline. And in Maryland, as the representatives of the *Bradford* plaintiffs- parents of Baltimore City schoolchildren, we are fundamentally dedicated to uphold the state constitutional directive toward a "thorough and efficient" education. We also had the opportunity to serve on the committee which re-wrote the Baltimore City Schools Code of Conduct in school year 2008-09.

The ACLU believes that the State Board ought to take action-- in establishing a strong policy and regulations and in future implementation of policy and regulations -- to discourage the use of suspensions/expulsions as a solution for student behavior infractions and to require the provision of appropriate and adequate educational services when students are removed from the regular classroom setting. As the Board recognized in *Atanya,* a vast array of literature, beyond the scope of this testimony, outlines the negative effect of school suspension/ expulsion on children's short-term and long-term prospects for success in life. A few key points are noted here for your consideration.

1. The widespread use of suspensions by Maryland school systems should be a cause for alarm and concerted action on the part of the Board and local systems. Though we were invited to address the provision of educational services for suspended and expelled students, we urge the board to examine more broadly the pattern and extent of suspensions and expulsions in Maryland schools. Over 75,000 Maryland students were suspended last year, in more than 150,000 incidents. That number of students represents a group about the size of our fifth-largest school system, Anne Arundel County.

Maryland has made commendable progress in instituting expanded Positive Behavioral Interventions and Supports (PBIS) in recent years. Some systems, such as Baltimore City, have made a concerted, data-driven effort and have begun successfully to reduce

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suspensions. But the high number of suspensions and expulsions statewide still calls out for state and local action.

Removing a student from school is not a logical or appropriate consequence for most behavior infractions. Students need to learn different ways of behaving and be faced with the necessity to deal with the harm they have caused. And, they need to stay connected with school and be kept on-track with their studies. None of this is accomplished by removing a child from school.

We suggest that the goals of the Board and local systems ought to be to reduce radically the number of suspensions/expulsions by intensely providing needed interventions and natural consequences, such as forms of Restorative Justice. Then, alternative education programs can be provided for the most severe cases, still with an eye toward therapeutic interventions intended to help the student change behavior and return to a regular school.

We fully agree with the Board's comments in *Atanya* that, "Students who receive [long-term suspensions without access to educational services] may very well feel the effects of that punishment throughout their whole lives.... When students return to school after a period of expulsion, they usually do not advance to the next grade. They are more likely to become dropouts. If they do not dropout, they will have difficulty adjusting in classes ... More discipline problems will likely ensue. The consequences for students expelled for long periods without access to education services can be exceedingly negative and potentially devastating." [citations to research omitted]

2. Removal of a student from a school ought to be a rare event, and when it occurs, ought to be accompanied by provision of educational services or placement in an appropriate short-term alternative education program (AEP).

Depriving students of educational services, when suspended or expelled from their home school, is against the long-term best interest of the students, their families, and their neighborhoods. Schools can play a critical role in helping troubled young people turn their lives around. Otherwise, these students likely will never be provided viable educational options and will be "on the street," a consequence that is not only devastating to the student but also negatively affecting communities and those students still in school. It should go without saying that teenagers don't disappear from our lives when we reject them and offer no options to guide or support them.

Long-term suspended and expelled students should be provided with an education in an appropriate alternative setting. As this Board recognized in *Atanya*, the consequences of not doing so can be "exceedingly negative and potentially devastating." Similarly, the Supreme Court of Appeals of West Virginia noted, "Without alternative education, children similar to J.P.M. [student expelled in case] become orphans, abandoned by the educational system, without anyone to educate them and give them the opportunities inherent in being an educated person.... By providing alternative education for pupils, the

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State can accomplish both goals, helping pupils become educated citizens and creating safe and secure school environments." *Phillip Leon M. v. Greenbriar County Board of Education*, 484 S.E.2d 909, (1996)

Even young people at Baltimore's Eager Street facility and those found guilty and serving time in Maryland jails receive educational services. *See* Md. Code Ann. Educ. § 22-303 (requiring educational services for students in juvenile detention facilities).

A number of other states have implemented policies to ensure that students who are suspended or expelled nonetheless have a chance to receive an education. A New Jersey court has held that an AEP is required as a crucial part of rehabilitating delinquent students to responsive citizenship. *State ex. rel. v. G.S.*, 749 A.2d 902, 903 (NJ Supr. Ct. Ch. Div. 2001). Several other states mandate AEPs/educational services for expelled students, including Nebraska, Colorado, Connecticut, and Washington, D.C.; Neb. Rev. Stat. §79-266 (2003) (educational services must be made available to expelled students) Colo. Rev. Stat. § 22-33-203 (2)(a) (expelled students must be provided with educational services designed to return the student to school or to obtain a GED); Conn. Gen. Stat. §10-233d(d) (AEPs must be offered to expelled students); D.C. MUN. REGS. tit. 5B, § 2504.10 (a student suspended more than 11 days or expelled shall be placed in an AE[P] and allowed to earn credits).

In order to be effective, moreover, an AEP must not act as a "dumping ground" for problematic students, but rather should provide appropriate and adequate educational services that give such students a real chance. Thus, the AEP should provide an incentive for students to correct their bad behavior and provide a means by which a student can demonstrate an ability to conform to acceptable behavior standards. The Silent Treatment: Perpetual In-School Suspension And The Education Rights Of Students, 81 Tex. L. Rev. 1637, 1665 and n.180-182 (2003). The goal of an AEP should be to rehabilitate students to return to the regular classroom. Id.

Implementing these types of programs will act to potentially lessen the harmful consequences of suspension or expulsion that this Board has recognized, prevent students from falling behind, and increase the likelihood that students will continue with their education, benefiting themselves, their communities, and the state as a whole.

One immediate action that the board and school systems should take is to track specifically the number of short- and long-term suspensions and provision of educational services. Total numbers of expulsions are available on the MSDE website. Suspensions are not separated between short- and long-term, however. This is a critical piece of missing data. The site also reports that most of the 1,196 expelled students in SY08-09 received educational services (unlike, apparently, the suspended students). If this is the case, what sort of services? Occasional homework, as in *Atanya*? Or placement in an alternative school? I suggest that the type and intensity of educational services be delineated.

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3. The wide variation in the use of suspensions by the different school systems suggests disparate treatment of individual children for similar offenses, across the state.

Four school systems for the 2008-09 school year suspended 20% or more of their students. That is, one out of every five students. Did the students in Cecil, Dorchester, Somerset, and Wicomico commit so many more serious infractions thought to be deserving of suspension, than their peers in Baltimore City, Montgomery, Talbot, or the other ten counties with rates 10% or lower? School systems are required to have a system of graduated consequences to encourage positive behavior but the wide variability in suspension rates suggests that a number of counties are not implementing this system effectively. These disparate rates should provide an opportunity for the State Board and the school systems to examine current practices, take action to reduce suspensions/expulsions, and implement a policy that ensures that students that are suspended or expelled receive appropriate educational services.

4. Depriving students, even those guilty of serious offenses, of a "thorough and efficient" education is inconsistent with the Maryland Constitution.

Current practices deprive a significant class of students of any meaningful educational opportunities, without provision for alternative educational services, in violation of the Maryland Constitution's guarantee of a "thorough and efficient" public school education. In similar contexts, other state courts with identical constitutional language have found that although a student may be removed from a particular educational environment in response to safety concerns, educational alternatives must be provided.

The state constitutional education clause of West Virginia is nearly identical to Maryland's clause guaranteeing "a thorough and efficient" education. W. Va. Const. Art XII, §1. In *Phillip Leon M. v. Greenbriar County Board of Education*, 484 S.E.2d 909, (1996), the Supreme Court of Appeals of West Virginia interpreted the meaning of that state's "thorough and efficient" clause as applied to a student expelled for one year for possessing a firearm. It concluded that the "fundamental right to an education, provided by the West Virginia constitution" required that, although a student could be removed from his current school for safety reasons, the "thorough and efficient" clause of Article XII, § I required the creation of an alternative program. *Id.* at 405. Citing the pernicious effect of depriving students of an education altogether, essentially "abandoning" them, the Court concluded that "the State is required to tailor narrowly the measures used to provide a safe and secure school environment so as to preserve the child's fundamental, constitutional right to an education. By providing alternative education for pupils, the State can accomplish both goals, helping pupils become educated citizens and creating safe and secure school environments."

New Jersey's "thorough and efficient" clause likewise has been interpreted to impose a

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constitutional obligation to provide an education to a juvenile judged delinquent by the state but not incarcerated for his offenses. The Superior Court ruled that under this clause, a student expelled by his local school district for making false bomb threats must be provided an alternative form of education up until his 19th birthday. *In the Interest of G.S.*, 749 A.2d. 902, (2000)

The ACLU of Maryland urges the Board to make changes to policies and regulations, on their face and as implemented in cases appealed to the Board, to send a message that there are no "throw away kids." Thank you for the opportunity to give input.

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MARYLAND DISABILITY LAW CENTER

mdlc

May 24, 2010

Mr. James DeGraffenreidt, Chair
Members of the Maryland State Board of Education
200 West Baltimore Street
Baltimore, Maryland 21201

Re: Plan to Study the Issue of Long-Term Suspension and Meaningful Access to Educational Services

Dear Mr. DeGraffenreidt and Members of the State Board of Education:

The Maryland Disability Law Center (MDLC) is the protection and advocacy organization for the state of Maryland and advocates on behalf of children and adults with disabilities. For many years, MDLC has done considerable work representing students with special needs who are suspended and/or expelled from school. In 2009, MDLC was also a member of the statewide committee that was reviewing the Guidelines for a State Code of Discipline. MDLC has long been concerned about the high number of suspensions of Maryland students and the inadequate educational services that students receive during a long-term suspension or expulsion. MDLC has also been a strong proponent of Positive Behavior Interventions and Supports (PBIS) as a vehicle to reduce the use of school suspension and to create a positive school environment.

MDLC applauds the State Board of Education for undertaking the study to examine the use of long-term suspension and expulsion throughout the state and the access to meaningful education services during a student's exclusion from school. These issues are paramount for MDLC, particularly when they involve students with disabilities. We appreciate the State Board's consideration of these comments as it proceeds with this important study.

The Disproportionate Impact of School Discipline

During the 2008-09 school year, Maryland suspended out-of-school over 60,000 students. While this constituted a decrease from the prior year, it still represented 7.2% of the student population. Students with disabilities made up 12.2% of the total student population, yet they accounted for close to 21% of the out-of-school suspensions. See *Suspensions, Expulsions, and Health Related Exclusions, Maryland Public Schools, 2008-9*, Table 14. Of the 12,571 students with disabilities suspended, 7,670 were African American students.[1] The data clearly indicates that students with disabilities, and particularly African American students with disabilities, are disproportionately impacted by Maryland's continued use of suspension as a response to behavior.

[1] During the 2008-2009 school year, 43% of students with disabilities were African American, yet 61% of the students with disabilities who were suspended that year were African American. See *Maryland Special Education/ Early Intervention Services, Census Data and Related Tables,* Table 9, October 31, 2008.

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The data further reveals that of the 153,110 total offenses, more than 58,000 were for "disrespect/insubordination/disruption." See Table 8. This suggests that school systems are using suspension as a primary tool for managing the school setting. Suspension should be used only as a last resort while other evidence-based practices, such as PBIS, must become the norm in order for Maryland to address its continued high suspension rates. By reducing the use of suspension for less serious incidents, school systems will be able to focus on the more challenging behaviors and provide much-needed educational and behavior support services to students involved in those cases.

The Current Lack of Adequate Services During Long-term Suspension or Expulsion

Under the Individuals with Disabilities Education Act (IDEA), an eligible student who is excluded from school for more than 10 consecutive school days or 10 cumulative days, must "continue to receive educational services… so as to enable the child to continue to participate in the general curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP." 34 C.F.R. Sec. 300.530(d); COMAR 13A.08.03.03B(3). However, despite this clear mandate, students with disabilities often face the same challenges as do regular education students in accessing meaningful educational services during their exclusion from school. MDLC has had cases in which special education students are offered work packets or, at times, no services at all. In another recent case, a student with emotional and learning disabilities was offered only two hours of instruction twice a week in math for which she has an IEP goal. Some school systems will place a student who has been suspended in an alternative placement, such as night school or a truncated day program, thereby leaving at-risk students at home with no supervision. These students need more structure and programming, not less. In fact, the Maryland State Department of Education has repeatedly found that the use of home teaching, consisting of a minimum of 6 hours of instruction a week, is not an appropriate alternative education setting for a special education student suspended for more than 10 school days.

For all students, homework packets without follow-up instruction or grading are insufficient and fail to allow the student to advance. MDLC's experience is consistent with the conclusion of the State Board of Education in *Atanya C. v. Dorchester County Board of Education:* that after an extended exclusion from school, students do not advance to the next grade, are more likely to dropout, and are more likely to have continued behavior problems. We urge the State Board to require appropriate educational services for all students who are subject to a suspension/expulsion of more than 10 days. Such a program must provide a structured alternative education setting that allows a student to progress in the general curriculum, continue to earn credits and prepare to return to a regular classroom.

Lack of Uniformity

An additional concern that needs to be addressed is the lack of uniformity throughout the counties as they implement suspension and expulsion procedures. As was noted during the meetings of the Statewide Committee to review the Guidelines for a State Code of Discipline, an offense subject to suspension in one county may not be addressed through suspension in another county. This varying response to behavior accounts for the widely disparate rates of suspension among the large and smaller school systems. In addition, the lack of guidance in Maryland's regulations regarding the discipline procedures has led to widely different practices. For

example, the state regulations provide little guidance on the procedures for a long-term suspension or expulsion. This means that the local boards of education are permitted to determine the process. For example, in one county there is a timeline for when the appeal hearing before the local board must take place and a decision rendered, while in another county, there are no timelines. MDLC has represented students who have languished for months with little or no education services pending the expulsion decision and appeal. Maryland should have statewide uniform suspension and expulsion procedures to ensure that the due process rights of students are protected.

Thank you for your consideration of these comments.

Sincerely,

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Baltimore County Public Schools

Suspensions: A Needed Tool

President DeGraffenreidt, Vice President Dukes, Dr. Grasmick, and members of the Board, I am Dale R. Rauenzahn, executive director of the Department of Student Support Services for Baltimore County Public Schools. I have been in this position for six years, and prior to that I was the director for the department for five years. As Dr. Grasmick is aware, I was the first alternative education specialist hired by Baltimore County Public Schools. I was the chairman of the 2008 task force for the Report on Multiple Suspensions for the Maryland State Department of Education (MSDE).

Today, I would like to take a few minutes to try to explain why suspensions are a valuable tool for local school systems and, as such, should be left to the local systems to regulate their use. After 25 years of providing supports, interventions, and alternative programs for students involved in disciplinary actions in Baltimore County Public Schools, it is apparent to me that not all students, parents, and caregivers have the same abilities, resources, and desire to deal with inappropriate behaviors of students.

The local school systems have put in place the Character Education programs, positive behavior systems, such as the most recognized Positive Behavior Support Interventions (PBIS) of George Segi. They have put in place the three tier model of interventions originally developed by Adelman, now implemented as the Response to Intervention model known as RTI, and we cannot leave out the push for alternatives to suspensions and the creation of alternative learning programs, centers, and schools. Finally, the last ten years have seen the implementation of policing in almost all school systems; the use of school security, the School Resource Officer program, and the partnerships of local police and sheriffs' departments have placed law enforcement in most high schools and in some jurisdictions, middle schools.

Almost every school system has as one of their primary goals, the safe and orderly schools verbiage. Understand that today we have students with significant juvenile records, wearing monitor systems, on home detention, and just on probation for armed robbery to sexual assault and car theft sitting in schools next to students who are innocent and have no background in these types of behaviors. Additionally, the local schools feel the pressure of the closings of juvenile facilities and our responsibility to educate all children. School administrators are also dealing with the mental health of students who are deeply involved in a wide variety of mental, emotional, and social disorders that are often reflective in their behaviors. We must have tools to use that fit all ranges of the continuum of behaviors. This is vital to the protection of these students, other students, staff, and ultimately the communities where schools are located.

School systems understand that multiple suspensions do not work. But, it does appear that most students who are not in the extreme end of the behavior continuum do respond to a single suspension. The largest number of students receive only one suspension. Those students' behaviors are disruptive to other students, disruptive to the school environment, and/or of a violent nature, and must be dealt with using a variety of

strategies. This includes the in-school Character Education programs, behavior systems and interventions, the out-of-school options, such as transfers, assignments to alternative programs, and ultimately the use of suspension. In Baltimore County Public Schools we use the suspension process to help focus the interventions, bring in additional resources, and most importantly, to get the attention of the student, parent, or caregiver.

The real key to this is the support for mental health services in the schools and in the alternative programs. I have been developing, implementing, and monitoring alternative programs for 25 years. The most successful programs are those that have specific criteria for entry, mental health supports for the type of students they serve, and a holistic approach that focuses on the relationship with the student, the academics, and the changing of behaviors. One program does not work for all students. The need for students to make choices and move to programs that they see fit their needs is critical to the reduction in the use of suspensions.

When we have good alternatives, we see results. The example I will use is the opening of the Crossroads Center as an academic alternative program for students in Grades 6-10. All students are transferred to the center; no suspensions are involved in the choice to go to this center for support of academics and behavior. We have seen a drop in suspensions at the schools that Crossroads services. Overall, suspensions in middle schools are down 19 percent and down 10 percent in high schools. We have intervened, changed behaviors, and, most importantly, supported students who can be successful given the program designed for success of a specific student group.

Leave the regulation of suspensions to the local school systems and their Boards. Lead us to behavior systems, interventions, and unique alternative programs. Support PBIS, RTI, and specific alternative programs that support the reduction of suspensions, both in school and out of school. We need MSDE to help in the technical advisement and support of major initiatives in these areas. An example is the reduction of funding in the PBIS training area and the loss of federal funding in the Safe and Drug-Free Schools, which we use for our Character Education programs and Violence Prevention programs, which include bullying and gang prevention. This is where the efforts, funding, and expertise of the Maryland State Department of Education should be directed.

I thank you for listening and giving me the time to present today.

STATE OF MARYLAND

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July 20, 2010

Mr. James DeGraffenreidt, Chair
Members of the Maryland State Board of Education
200 West Baltimore Street
Baltimore, Maryland 21201

RE: Plan to Study the Issue of Long-Term Suspension/Expulsion and Access to Educational Services

Dear Mr. DeGraffenreidt and Members of the State Board of Education:

The Maryland Office of the Public Defender (OPD) represents youth charged with delinquent acts in juvenile courts who cannot afford private attorneys. Frequently, the delinquency attorneys are faced with youth entering the system who need advocacy in the school arena. Similar to national trends, Montgomery County has seen an increase in students being arrested by law enforcement and prosecuted for behavior in school. The State's Attorney's Office in Montgomery County has an attorney dedicated to prosecuting cases occurring at school.

In 2006 I was hired by OPD to advocate for students in education cases in Montgomery County. Since then I have represented our clients in disciplinary hearings and special education proceedings in Montgomery County Public Schools (MCPS), juvenile detention centers and the Montgomery County Correctional Facility. My role is to help clients stay in school or reengage with school so they can graduate and avoid the "School to Prison Pipeline."1

A majority of our juvenile and adult clients have experienced long histories of school disciplinary problems and academic difficulties. An issue that greatly impacts some of them is the lack of educational services for regular education students who have been expelled from MCPS. When youth, particularly those who come from low-income families, completely lose the structure of school, they are susceptible to engaging in further delinquent or other risky behavior. The students who need additional services and more supports end up with nothing.

1" High School dropouts are three and one-half times more likely than high school graduates to be arrested and more than eight times as likely to be in jail or prison. Across the country, 68 percent of state prison inmates do not receive a high school diploma." *School or the Streets: California's Dropout Crisis*, 2007 at www.fightcrime.org/state/california/reports/school-or-streets-crime-and-californias-dropout-crisis-2007.

We ask that the State Board consider requiring school districts to provide access to educational services to expelled students, particularly those students who are under the compulsory education age of 16 years old. Specifically, we request that a program provide a structured setting that allows the child to continue to progress in the curriculum and to earn credits for graduation.

The current system in MCPS

Currently, if a regular education student is expelled from MCPS, he or she is not provided with any educational services regardless of age. If an expelled student has an IEP, he or she is sent to the Randolph Academy, which is an alternative school program that provides 3 hours of instruction per day. Thus, students without IEPs, even those under 16 years of age, are completely excluded from all school services. This is despite MCPS's focus on truancy for students under 16 years of age. Over the past school year, MCPS has instituted two truancy court programs in middle schools to address students who are chronically absent. Yet, students who are under 16 years of age are expelled with no educational services.

After the prescribed time determined by MCPS, a student may apply for readmission to MCPS through the Expulsion Review Board (ERB). The ERB process occurs three times a year and a youth must complete a readmission packet and appear before an Expulsion Review Board to explain what they have accomplished during their expulsion and why they are ready to return to school. The ERB may decide to continue the expulsion, send the child to an alternative school program or have them return to a comprehensive high school. There is no appeal from the ERB decision.

The lack of services disproportionately impacts youth with disabilities, youth of color and low-income students

The research consistently shows that students of color and those with disabilities are suspended and expelled at a higher rate than their white, non-disabled peers. Youth of color are also overrepresented in the juvenile justice system.2 It is one thing to read the studies, but attending juvenile court is a lesson in the stark reality – the majority of youths standing before the judges are African American and Latino. Some have disabilities that are not being addressed effectively by the school system. Many of the parents, particularly those who do not speak English, do not understand the expulsion hearing process and how to effectively navigate through it. If a child is expelled, he or she is typically left at home without supervision while the parents are at work. It does not take a study to know that a child sitting at home with no supervision and no structured activities may lead to unproductive behavior.

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2 See Johanna Wald and Daniel Losen, The Civil Rights Project, *Defining and Redirecting a School-to-Prison Pipeline,* Sponsored by The Civil Rights Project at Harvard University and Northeastern University's Institute on Race and Justice, May 2003 found at justicepolicycenter.org/Articles%20and%20Research/Research/testprisons/SCHOOL_TO_%20PRISON_%20PIPELINE2003.pdf

A client example

We represent Maria, a 15 year-old regular education student. 3 She is a ninth-grade student at an MCPS high school. Her mother is Spanish-speaking and works long hours to provide for Maria and her older sister. Maria progressed through middle school; however, she started having problems in high school and did not earn any credits in the first semester. Maria was expelled in December 2009 for fighting with another student. She also had to go to juvenile court because of the incident. She tried on her own to get back into school, but was denied. She has received no educational services since her expulsion. During her expulsion, Maria became pregnant. She has an ERB hearing this July and is hoping to convince the ERB to allow her to return to school so that she can earn her high school diploma so that she is able to provide for her baby. If she is readmitted to MCPS, she will repeat ninth grade for the second time while balancing taking care of a new baby.

Students, like Maria, who experience difficulties in school and exhibit behavior resulting in disciplinary removal, need more services not less. Many students do not have the structure and resources from home to engage in positive activities while expelled. Typically, the students are already behind in earning credits. Losing a semester or a year's worth of school significantly impacts their ability to get back on track to earning a high school diploma. Those students who are under 16 year of age and are expelled without any services cannot even choose to take the GED exam because of the requirement that an applicant be at least 16 years old. This prolonged disengagement from school puts youth at an increased risk for dropping out of school and becoming involved in the justice system. In Maria's case, the lack of structure resulted in a teenage pregnancy. For others of our clients, it has resulted in serious crimes that have placed children in adult jails.

Thank you for your consideration of these comments.

Sincerely,

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3 I have changed the name of the client for confidentiality purposes.