

# EXHIBIT

## MONTGOMERY COUNTY PUBLIC SCHOOLS

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### **Suspension and Expulsion (State Law)**

- a) Suspension for not longer than 10 school days.
  - (1) In accordance with the rules and regulations of the county board, each principal of a public school may suspend for cause, for not more than 10 school days, any student in the school who is under the direction of the principal.
  - (2) The student or his parent or guardian promptly shall be given a conference with the principal and any other appropriate personnel during the suspension period.
- b) Suspension for more than 10 school days or expulsion.-- At the request of a principal, a county superintendent may suspend a student for more than 10 school days or expel him.
- c) Procedure for More Than 10-Day Suspension or Expulsion.
  - (1) If a principal finds that a suspension of more than 10 school days or expulsion is warranted, he immediately shall report the matter in writing to the county superintendent.
  - (2) The county superintendent or his designated representative promptly shall make a thorough investigation of the matter.
  - (3) If after the investigation the county superintendent finds that a longer suspension or expulsion is warranted, he or his designated representative promptly shall arrange a conference with the student and his parent or guardian.
  - (4) If after the conference the county superintendent or his designated representative finds that a suspension of more than 10 school days or expulsion is warranted, the student or his parent or guardian may:
    - (i) Appeal to the county board within 10 days after the determination;
    - (ii) Be heard before the county board or its designated committee; and

- (iii) Bring counsel and witnesses to the hearing.
- (5) Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the board.
- (6) The appeal to the county board does not stay the decision of the county superintendent.
- (7) The decision of the county board is final.

*Source:* Annotated Code of Maryland, Education, Section 7-305.

*Exhibit History:* January 1983; reviewed April 1994; revised April 2001.

## Suspension and Expulsion (State Regulation)

- C. (1) In those instances when the behavior of a student is disruptive and detrimental to the operation of the school, the student may be suspended or expelled.
- (2) Suspension for not more than 10 days
  - (a) In accordance with the rules and regulations of the local board, each principal of a public school may suspend for cause, for not more than 10 school days, any student in the school who is under the direction of the principal.
  - (b) The student or student's parent or guardian promptly shall be given a conference with the principal and any other appropriate personnel during the suspension period.
  - (c) At or before the conference, the student shall receive oral or written notice of the charges against him or her. If the student denies the charges, the student has the right to an explanation of the evidence supporting the charges and an opportunity to present his or her side of the story.
  - (d) A student whose presence in school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process may be removed immediately from school, if the notice and conference required by this subsection is provided as soon as possible.

F. Students with Disabilities

- (1) Suspension for Not More Than 10 School Days. In any disciplinary case deemed to warrant a suspension for not more than 10 consecutive school days, a student with disabilities may be suspended in accordance with the procedures set forth in Education Article, §7-305. This suspension may not constitute a change in the student's educational program. However, if a proposed suspension, including in-school and short-term suspensions as defined in §B of this regulation, would cause a student with disabilities to be subject to two or more suspensions whose total exceeds 10 school days per school year, the procedures set forth in §F(2) of this regulation apply.
- (2) Suspension for More Than 10 School Days or Expulsion. In any disciplinary case deemed to warrant suspension for more than 10 consecutive school days, suspension for a shorter period that would cause the student to be subject to two or more suspensions whose total exceeds 10 school days per school year, or expulsion by the local superintendent or designee, the following procedures apply:
  - (a) The matter shall be immediately referred to the appropriate Admission, Review, and Dismissal (ARD) Committee to determine as soon as possible whether the conduct which prompted the disciplinary action was a manifestation of the student's disability. At the discretion of the local school system, the ARD Committee meeting may be held in conjunction with the conference with the local superintendent or designee and the student and parents or guardians pursuant to Education Article, §7-304(c)(3), Annotated Code of Maryland, if the 10-day advance notice of any ARD Committee meeting, as prescribed by Education Article, §8-404.1, Annotated Code of Maryland, is waived by the parents or guardians.
  - (b) In making its determination, the ARD Committee shall consider pertinent information available, including whether the student has a documented history of engaging in the type of conduct for which he or she is being disciplined, the extent to which the conduct can be reasonably attributed to the student's disability, and any efforts by the school staff to deal with the conduct. If the ARD Committee determines that the conduct which prompted the disciplinary action was a manifestation of the student's disability, it shall further consider whether the student's program continues to be appropriate. If the ARD Committee determines that the student's program is no longer appropriate, the student's individualized

education program (IEP) shall be revised in accordance with COMAR 13A.05.01.06D(3) and implemented as soon as possible, but not more than 30 school days following its revision.

- (c) If the ARD Committee determines that the conduct which prompted the disciplinary action was a manifestation of the student's disability, the student shall be immediately reinstated and the record of the disciplinary action shall be removed from the student's file. If the ARD Committee determines that the conduct which prompted the disciplinary action was not a manifestation of the student's disability, then the student may be suspended or expelled in accordance with the procedures set forth in Education Article, §7-304, Annotated Code of Maryland.
- (d) The local school system promptly shall give the student's parents written notice of any determination made by the ARD Committee under this section as well as notice of all applicable procedural safeguards in accordance with COMAR 13A.05.01.08C. If the local school system proposes to change the student's Individualized Education Program (IEP) or placement, or otherwise remove the student from his or her current educational placement for more than 10 school days per school year, the notice shall be sent at least 10 calendar days before the proposed action, unless waived by the parent, and the requirements of COMAR 13A.05.01.08D and E shall be met.
- (e) The student's parents or guardians may appeal any determination made by the ARD Committee, under this section, in accordance with the procedures set forth in Education Article, §8-415, Annotated Code of Maryland, and COMAR 13A.05.01.09.
- (f) The student may not be removed from the student's current educational placement for more than 10 days per school year, unless the:
  - (i) ARD Committee has determined that the conduct which prompted the disciplinary action was not a manifestation of the student's disability and the student's parents have not appealed that determination;
  - (ii) ARD Committee has determined, after consideration of such factors as the length of each suspension, the proximity of the suspensions to one another, and the total amount of time the child is excluded from school, that the cumulative effect of two or more suspensions totaling more than 10 days in the school year does not create a pattern of exclusion that significantly

impacts upon the student's educational program, and the student's parents have not appealed that determination;

- (iii) Student's parents have agreed to an alternative or interim educational placement; or
  - (iv) Maintenance of the student's current educational placement is substantially likely to result in injury to the student or to others, the student's parents have not agreed to an alternative or interim educational placement, and a State or federal court has temporarily enjoined the student from remaining in his or her current educational placement.
- (g) The procedures established by this regulation are in addition to the procedures set forth in Education Article, §7-304, Annotated Code of Maryland, and do not affect any rights which the student and his or her parents or guardians may have under that provision to appeal to the local board a suspension of more than 10 school days or expulsion. At the discretion of the local board, the hearing required under Education Article, §7-304(c) (4), Annotated Code of Maryland, may be stayed while any appeals under Education Article, §8-415, Annotated Code of Maryland, and COMAR 13A.05.01.09 and .10 are pending.
- (3) **Students Who May Be Disabled.** If a student not previously identified as disabled is suspended for more than 10 school days per school year or expelled, and there is reason to believe that the student may be disabled, then the student shall be immediately referred to the appropriate ARD Committee. The ARD Committee shall initiate, within 10 days of the exclusion, an evaluation to determine whether the student is disabled. The disciplinary action can be implemented before the ARD Committee reaches its decision. However, if the student is kept out of school, the evaluation process shall be completed within 30 days of the exclusion. If the student is determined to be disabled, the requirements in §F(2)(b) and (c) of this regulation shall be met and the local school system shall promptly give the student's parents or guardians written notice of the ARD Committee's determination and applicable procedural safeguards in accordance with COMAR 13A.05.01.08.
- (4) During the period of any proper suspension for more than 10 days or expulsion, the local superintendent of schools shall ensure that the student continues to receive appropriate educational and related services based upon the student's IEP to the extent practicable.