

Office of the Superintendent of Schools
MONTGOMERY COUNTY PUBLIC SCHOOLS
Rockville, Maryland

November 13, 2012

MEMORANDUM

To: Members of the Board of Education

From: Joshua P. Starr, Superintendent of Schools

Subject: Update on State Regulatory Changes: Suspensions

Executive Summary

The Maryland State Board of Education (State Board) proposed new discipline regulations, Code of Maryland Administrative Regulations (COMAR) 13A.08.01.11 (Attachment A), which reflect both a rehabilitative philosophy and a connection to comprehensive school reform. The proposed regulations are designed to reduce the number of long-term out-of-school suspensions for non-violent incidents, to eliminate disproportionate suspensions of minority students and students with disabilities, and to ensure that all students receive appropriate educational services during suspension or expulsion within identified timelines for the disciplinary process.

During the past two years, Montgomery County Public Schools (MCPS) actively provided feedback and recommendations to the State Board. MCPS administrators served on a panel to discuss the key disciplinary concerns and provided public comments. In addition, written testimony was submitted by the superintendent of schools, the Montgomery County Association of Administrators and Principals (MCAAP), and the Montgomery County Council of Parent Teacher Associations. Although MCPS has one of the lowest suspension rates in the state, the intent of the proposed regulations represent issues that MCPS has actively attended to for years.

MCPS recognizes the importance and is in agreement with the explicit intent of the proposed discipline regulations. MCPS is committed to providing a world-class education where core instruction weaves academic with social-emotional learning in a safe and respectful environment with all students actively engaged. Although the proposed regulatory changes will require modification of some of the current disciplinary procedures, our work aligns with the proposed suspension regulations to prepare all Maryland students to become career and college ready.

The paper provides an overview of the proposed regulatory changes, MCPS processes and strategies, as well as implications and challenges that address current resources and timelines. MCPS' focus on professional development, interventions, and parent and community engagement are the center for implementing changes in practice. A Suspension Regulation Implementation Team will be formed to gather input from stakeholders and provide guidance on how to best operationalize the regulations.

Background (Proposed Regulations: COMAR 13A.08.01.11)

In an effort to reform and bring consistency to school discipline policies and practices in Maryland Public Schools, the State Board conducted a two-year study to review and examine the issue. In February 2012, the State Board issued a draft report, *A Safe School, Successful Students, and A Fair and Equitable Disciplinary Process Go Hand in Hand*. The report incorporated several sources from educational research that concluded that there was little to no evidence that removing students for misbehaving improved student behavior or school safety. The report indicated the following:

- Minority students and/or those living in poverty were suspended most frequently.
- Most suspensions were for “nonviolent” behaviors.
- Suspensions at the middle-school level had negative results for the students.¹

The report referenced studies and the work from previous state-level task forces on attendance and school safety and emphasized that revisions to state discipline policy are directly related to student achievement and the closing of the existing achievement gap.

Subsequent to public testimony, a second report followed and provided further analysis of the data. The report, *School Discipline and Academic Success: Related Parts of Maryland’s Education Reform*, was issued in July 2012. School discipline reform as a part of the state’s broader reform initiatives is emphasized, with further reference to research literature and proposed changes to COMAR. The purpose of the reform is to ensure that school systems adopt a *rehabilitative discipline* philosophy by:

- including formal definitions of the types/duration of suspensions (short-term, long-term, extended suspension, and expulsion);
- mandating more stringent timelines for conducting investigative conferences, hearings, and rendering appeal decisions (expulsion process to be completed within 10 days);
- mandating provisions of minimum, continuous educational services for students who are suspended;
- examining the practices currently employed that demonstrate disproportionate suspension rates for minority and special education students; and
- developing and submitting an annual plan to reduce disproportionate suspensions within one year, and to eliminate disproportionate suspensions within a three-year period.

Attached is a summary of current and proposed regulations with implications for MCPS (Attachment B).

Rehabilitative discipline is derived from research indicating that zero tolerance policies do not work, and in fact, show that school suspension levels predict higher rates of misbehavior.² The report concludes that rehabilitative discipline must include commendable best practices

¹ Losen and Skiba, *Suspended Education: Urban Middle Schools in Crisis* (2010): <http://www.splecenter.org/get-informed/publications/suspended-education>

² *Are Zero Tolerance Policies Effective in Schools? An Evidentiary Review and Recommendations*, Report by American Psychological Association Zero Tolerance task Force (2006); <http://www.apa.org/pubs/infor/reports/zero-tolerance.pdf>

where supports, such as Positive Behavioral Interventions and Supports (PBIS)³, a three-tiered model, lead to increased student availability for learning. The State Board asked the state superintendent of schools to establish a School Discipline Best Practices Work Group to determine the types of professional development needed by teachers and administrators to implement best practices. Additionally, the State Board asked the state superintendent of schools to reconvene the Student Code of Conduct Work Group to identify how school systems will code violent versus non-violent offenses. The State Board has directed the Maryland State Department of Education (MSDE) to develop a way to analyze and identify districts as disproportionate.

MCPS Current State

MCPS is focused on the interrelationship between instruction and school discipline to continue the work to eliminate the achievement gap. MCPS is convening a Suspension Regulation Implementation Team to identify and recommend changes to existing policies, regulations, practices, and procedures to comply with the proposed COMAR regulations. The data indicate that MCPS has one of lowest out-of-school suspension rates (2.5 percent for 2009–2010 and 2.6 percent for 2010–2011), in comparison to other large Maryland districts.

Percent of Students Suspended Compared to Maryland and Local Out-of-School Suspensions		
	2009-2010	2010-2011
Total State	7.0	6.8
Anne Arundel	8.8	8.2
Baltimore City	8.4	9.1
Frederick	5.8	5.8
Howard	3.5	3.3
Montgomery	2.5	2.6
Prince George's	8.6	8.1

Note: 2011–2012 data not available yet.

Despite these overall percentages, disproportionate suspension rates persist for Black or African American, Hispanic/Latino, and special education students (Attachment C). Furthermore, Maryland suspension and expulsion data show that more than 61.6 percent of expulsions and suspensions were for nonviolent behaviors.⁴ The table below indicates that MCPS suspension and expulsion data reflect that 32.6 percent of suspensions are for nonviolent behaviors—much lower than the state average.

³ www.PBIS.org

⁴ See pg. 2 Exclusions Report Table 7a

Comparison of Maryland and MCPS Suspensions by Type of Offense 2010-2011						
School District	Non-Violent		Violent		Total	
	Number	Percent	Number	Percent	Number	Percent
MCPS	1,834	32.6	3,550	67.4	5,384	100.0
Maryland	59,098	61.6	36,768	38.4	95,866	100.0

Note: Violent and Nonviolent determined by MSDE Categories.⁵

MCPS has practices in place to systemically monitor and analyze suspension data to identify best practices to reduce disproportionate suspensions. The M-Stat Suspension Work Group provided data in reference to established targets, analyzed trends, and shared school-based best practices. Schools review monthly suspension data reports available on *myMCPS*.

Schools participate in Study Circles, PBIS, and use the Collaborative Problem Solving (CPS) process to identify strategies to support students. The following tools, such as the Accessibility Planner (Attachment D) and the Document of Interventions (Attachment E) are available to support academic and behavioral needs of individual students. The Accessibility Planner is a tool that is used to develop instructional planning that is student specific. The Document of Interventions provides step-by-step guidance to plan and implement interventions and assist with identifying and meeting student needs. Behavior contracts, or a Functional Behavioral Assessment and Behavioral Intervention Plan are additional tools used to support individual students. School-based alternative programs also provide specialized supports for students with intensive needs. These systems and tools provide the framework to proactively address school climate, behavior, and academic performance. While MCPS has made progress, the challenges related to student discipline and disproportionality remain. It is clear that a one-size-fits-all approach is not the answer. The work of MCPS around best practices has resulted in significant reduction of suspensions over time; however, questions of consistency across the system remain.

Implications and Challenges

The proposed regulations will necessitate a coordinated effort among MCPS schools and central offices, parents, and the community. Policies, regulations, and practices will need to be aligned with the new regulations. Additional and or alternative strategies must be identified for suspended students in home schools and alternative programs.

Schools will need assistance with identifying alternatives to suspension that are equitable and not arbitrary. Monthly suspension data will need to align with regulatory changes for reporting

⁵MSDE categorized the following offenses as violent or likely to be dangerous and violent: firearm, other guns, other weapons, arson bomb threats, explosives, attacks on teachers, staff and students, extortion, sexual assault, Special Ed. – Weapons or Drugs, harassment, bullying, drugs, fighting, theft, trespass, destruction of property. (*A Study of School Discipline Practices and Proposed Regulatory Changes*, February 2012).

suspensions. Decentralizing disciplinary decision making around suspension and expulsion prioritizes the need to identify clear processes for continuous and appropriate instruction. The new regulations will challenge schools to do this with limited financial and personnel resources. In addition, MCPS Regulation JFA-RA, *Student Rights and Responsibilities*, will be revised to prohibit the continued use of mandatory (nondiscretionary) consequences for the following five offenses.

- Evidence of intent to distribute or distribution of controlled dangerous substances, MCPS Regulation COF-RA, *Intoxicants on MCPS Property*
- Possession of bombs, or facsimile, or bomb threat, MCPS Regulation EKC-RA, *Bomb Threats/Explosive Devices*
- Possession of firearms, including starter guns, MCPS Regulation COE-RA, *Weapons*
- Weapons used to cause bodily harm, MCPS Regulation COE-RA, *Weapons*
- Violent physical attack on a student or staff member

With an emphasis on keeping students in school and providing continuous educational services, it is clear that long-term suspensions and expulsions may only be used as last resort options. Further collaboration and cooperation will need to take place to provide proactive alternatives to suspension while maintaining the safety of our schools and students.

In alignment with our expected practices and protocol for providing student work, the proposed regulations mandate that suspended students must be provided with daily assignments (which must be returned and graded weekly), or the student must be placed in some form of alternative program. The new state regulations dictate that work must be graded by the teacher giving the assignment. The principal must identify and appoint a staff member to coordinate and monitor the services provided for students serving out-of-school suspensions, including a documented weekly contract.

Suspensions and Investigative Processes will be updated according to the new suspension terminology. For suspensions exceeding 10 days or expulsions, the appeal process must be completed by the tenth day, or the student will be permitted to return to school on day 11 unless the superintendent of schools or his designee determines it is unsafe to do so. Conduct must be determined to be violent, dangerous, or a threat to the safety of the school. We will need to examine how to complete this entire process within 10 days while ensuring a student's due process rights and determine which incidents might require more than 10 days to complete. Currently, with the exception of students with disabilities, the process takes more than 10 days as we need to accommodate parents' work schedules; the availability of attorney's retained by parents, school and pupil services staff availability, and the number of cases. The superintendent of schools has the authority to intercede to continue the suspension beyond 10 days depending on the circumstances.

The Montgomery County Board of Education (Board) must conduct a hearing within 30 days of an appeal being filed in discipline cases and must render a decision within 10 days of conducting the appeal hearing. The Suspension Regulation Implementation Team will need to establish a process to assure that suspension/expulsion appeals to the Board will complete the appeals process within the mandated time allotted by MSDE.

As the proposed regulations are designed to address the statewide suspension disparities issue with Black or African American, Hispanic/Latino, and special education students, school-based and central office staff members will need to continue to examine suspension infraction practices, especially those suspension infractions that have discretion in terms of consequences. The new regulations indicate that if there is a disparity in suspension data for any minority group, the local agency must submit a plan and eliminate the disparity within three years. While we appreciate this three-year goal, MCPS, MCAAP, and others provided testimony to the State Board expressing concern about how realistic this expectation is for local school districts without benefit of the underlying structures to systemically support the mandated changes.

The State Board will be accepting written comments from the community during the open period of November 2 through December 2, 2012. At a minimum, we will advocate for an implementation date no earlier than July 1, 2013. This will permit districts time to put best practices in place to meet student needs and to be in compliance with this state regulation.

Alignment with System Priorities

Inherent to procedural changes will be the need to support staff members and schools to best meet the needs of our students at risk for suspension. We will need to review our current professional development, prevention and intervention strategies, and how we work with families and community partners. Each area of focus will better inform and provide meaningful training and practice to address all of our students. No one single action or practice will address the requirements of this regulation. Rather, this is a shared responsibility that must be embraced by staff members, students, parents, and the community.

Professional Development for staff members is a focus area aligned with the belief that continued collaboration and skill building is essential to provide effective and engaging instruction. Professional development needs extend from instructional practices to deepening understanding of equity issues, establishing and maintaining a positive school climate, to a deep understanding of both the research and intent of the procedural changes to the actual regulations. This approach aligns with the renewed emphasis on professional development. Staff members will need to develop increased awareness and skill around cultivating school climates that are inclusive and not exclusive. Staff members must be prepared to engage differently with students in order to yield different suspension rates.

Prevention/Intervention aligns with the emphasis on core instruction and Curriculum 2.0, which embeds essential social-emotional strategies to ensure student engagement. Evidenced-based prevention and intervention strategies that supplement core instruction are key to providing meaningful alternatives to suspension. Existing interventions are in place that show promise for our students. Prevention and intervention frameworks such as PBIS demonstrate positive outcomes that correlate with increased engagement and academic achievement. The CPS process informs the use of specific academic and behavioral interventions to support individual students.

Parent and Community Engagement are critical to addressing the whole child and having student success go beyond the boundaries of a school day. The newly formed Office of Community Engagement and Partnerships will help to further enhance our networks of support for students and families, often extending beyond the traditional school day and year. School and central office Professional Learning Communities provide an ideal forum for the deep level of data analysis discussion, action planning, and implementation necessary to change beliefs and practices.

Conclusion and Next Steps

The work to reduce suspensions, which integrates effective instruction, student learning, social-emotional learning, equitable practices, and the intentional involvement of community partners, is ongoing and complex. The implementation of educational research outlining best practices is at the core of how MCPS functions. MCPS has made gains with closing the achievement gap and reducing suspension rates, yet we are well aware of our disproportionate suspension data and the need to address the whole child for meaningful impact. The current systems in place will continue to inform our work and lay the groundwork for establishing the necessary changes that transform practice. For example, current data monitoring systems, supports, and infrastructure will serve as tools for staff to meet requirements and timelines. Meeting our professional development needs, implementing prevention models and intervention strategies, and engagement with families and community partners will facilitate our shared responsibility to serve all students and ensure their future success.

The proposed regulations will require modifications to our current policies, regulations, and practices. MCPS currently is taking steps in preparation for the adoption of the proposed regulatory changes through professional development, identification of successful practices/interventions, and parent and community engagement efforts. We also have practical concerns regarding timing and cost, along with the lack of key components related to implementation. Given ongoing fiscal concerns and the reductions in school and central office staffing, it will be very challenging to meet these requirements; however, we are committed to providing a world-class education with the appropriate supports in place for all students to become college and career ready.

JPS:kmm

Attachments

PROPOSED ACTION ON REGULATIONS

1456

(3) *Students entering grade 9 in the 2013–2014 school year and each school year thereafter.*

B. Maryland High School Diploma. Except as provided in Regulation .12B of this chapter, to be awarded a Maryland high school diploma, a student shall:

(1) — (2) (text unchanged)

(3) Satisfy one of the following:

(a) — (c) (text unchanged)

(d) If the student is unable to meet the requirements in §B(3)(a)—(c) of this regulation, then satisfactorily complete the requirements of the Bridge Plan for Academic Validation *as set forth in §F of this regulation.*

[C.] *F.* (text unchanged)

[D.] C. Maryland High School Diploma by Examination.

(1) General Educational Development Testing Program. A Maryland High School Diploma by Examination may be awarded for satisfactory performance on approved general educational development tests if the student meets those requirements as defined in [Education] *Labor and Employment Article, [§7-206] §11-808, Annotated Code of Maryland, and COMAR [13A.03.03.01] 09.37.01.04.*

(2) Maryland Adult External High School Diploma Program. A Maryland High School Diploma by Examination may be awarded for demonstrating competencies in general life skills and individual skills on applied performance tests if the student meets those requirements as defined in COMAR [13A.03.03.02] *09.37.01.20.*

[E.] *D.* — [F.] *E.* (text unchanged)

[G.] (proposed for repeal)

LILLIAN M. LOWERY, Ed.D.
State Superintendent of Schools

Subtitle 08 STUDENTS

13A.08.01 General Regulations

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

Notice of Proposed Action

[12-300-P]

The Maryland State Board of Education proposes to amend Regulations .11, .12, and .15, and adopt new Regulation .21 under COMAR 13A.08.01 **General Regulations**. This action was considered at the Maryland State Board of Education meeting on July 24, 2012.

Statement of Purpose

The purpose of this action is to have each local board of education adopt a set of regulations that: (1) reflect a rehabilitative discipline philosophy based on the goals of fostering, teaching, and acknowledging positive behavior; (2) are designed to keep students in school so that they may graduate college and career ready; (3) prohibit disciplinary policies that trigger automatic discipline without the use of discretion; and (4) explain why and how long-term suspensions or expulsions are last resort options.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. **Summary of Economic Impact.** The proposed addition to COMAR 13A.08.01.11F(1)(b) requires assigning a school staff person the responsibility of serving as a liaison between teachers and the suspended student or his/her parents. Recognizing the current fiscal situation at both the State and local levels, there are a variety of

low-cost options to meet the liaison requirement, including assigning an additional planning period to a teacher, and/or designating this duty to a portion of a current administrator or counselor's job responsibilities if they have not already done so. The use of technology is another way to ensure that suspended students are able to continue their instructional program while out of school. Currently, most local school systems have instructional portals through Blackboard or Schoolmax, which allow class work and instructional materials to be posted and accessed by students and parents.

Since COMAR 13A.08.01.03 was adopted, suspension from school has been deemed a lawful absence. COMAR 13A.08.01.05B(5) has required that each local school system institute make-up work requirements including classroom teacher and student responsibilities, time limits, and grading policy for make-up work.

The proposed addition to COMAR 13A.08.01.11F(1)(b) strengthens the existing requirement by adding an explicit liaison component. The proposed regulation requires a liaison between teachers and suspended students or his/her parents. Some schools and districts already have an identified person who serves the liaison role during the suspension process. The Dropout Prevention/School Completion Intervention/Resource Guide (2011) contains a listing of alternative schools and programs reported by local school systems. Twenty-two school systems reported they provide either alternative programming and/or alternative school assignments to suspended students.

School systems that have schools with high rates of suspension are encouraged by the Department to implement Positive Behavioral Interventions and Supports (PBIS) and/or a similar evidenced-based behavior modification program to reduce the number of office referrals and suspensions. MSDE, at the 2013 PBIS Summer Institute, will give priority to schools that have high rates of out-of-school suspensions (300 + suspensions.)

For the school systems that currently have alternative education programs in place, the expense of providing education services to suspended/expelled students is already included in their budgets.

The proposed addition of data collection in COMAR 13A.08.01.12 and .15 requiring annual reporting of school arrests and referrals to law enforcement agencies or to the juvenile justice system will require changes to the Maryland Student Records System Manual and the collection of new data. The Department is able to absorb these costs through its current data collection systems.

Local school systems might experience economic impact by having to update their student data collection systems to record school arrests and referrals to law enforcement agencies or to the juvenile justice system. Estimated costs would vary depending on the local school systems' budget and technology systems.

The addition of COMAR 13A.08.01.21 will require the Department to enter into a contract with experts to design a Disproportionate Impact Model and analyze local school system discipline data to determine whether there is a disproportionate impact on minority students. Current studies done by the Department are being expanded to include this new requirement.

II. Types of Economic Impact.		Revenue (R+/R-)	Expenditure (E+/E-) Magnitude
A. On issuing agency:	NONE		
B. On other State agencies:	NONE		
C. On local governments:			
Costs on local education agency	(E+)		Minimal

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

C. Twenty-two of the 24 local education agencies report that they have alternative programs and/or schools currently in place. These program staff could serve the role of liaison. The number of schools reporting out-of-school suspensions of greater than 200 students and the alternative programs currently available for each local education agency is set forth as follows:

- Allegany Co., 1 school, Alternative School, Grades 7—12;
- Anne Arundel Co., 19 schools, Evening high school alternative education programs through home and hospital teaching and Mary Moss Academy;
- Baltimore City, 7 schools, Afternoon Middle School Learning Centers and Alternative Middle and High Schools;
- Baltimore Co., 32 schools, Afternoon middle and high schools and alternative middle and high schools;
- Calvert Co., 3 schools, Calvert County Alternative School and alternative programs, Grades 6—12;
- Caroline Co., 1 school, Caroline Alternative Program, Grades 6—12;
- Carroll Co., 0 schools, Gateway School and P.R.I.D.E., Grades 6—12;
- Cecil Co., 8 schools, Alternative suspension program and Cecil Alternative program;
- Charles Co., 9 schools, Behavior Education Program;
- Dorchester Co., 3 schools, Alternative Learning Center, Grades 6—12;
- Garrett Co., 0 schools, None reported;
- Frederick Co., 6 schools, Heather Ridge School and Heather Ridge Twilight Program;
- Harford Co., 6 schools, Alternative education programs;
- Howard Co., 1 school, Gateway High School, Grades 9—12, and In School Alternative Education Programs, Grades K—12;
- Kent Co., 0 schools, None reported;
- Montgomery Co., 1 school, Alternative Programs, Grades 6—12;
- Prince George's Co., 20 schools, Alternative Centers;
- Queen Anne's Co., 0 schools, Alternative Program, Queen Anne's County High School, Grades 9—12, and Mid-Shore Alternative Collaboration with Caroline County Public Schools, Grades 6—8;
- St. Mary's Co., 5 schools, Alternative school;
- Somerset Co., 1 school, Alternative Learning Center, Grades 6—10;
- Talbot Co., 0 schools, Alternative Educational Center, Grades K—12;
- Washington Co., 1 school, Washington County Evening High School, Grades 9—12;
- Wicomico Co., 7 schools, Alternative school; and
- Worcester Co., 0 schools, Stephen Decatur High School Evening Program, Grades 9—12, and alternative school.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Charles Buckler, Executive Director, Division of Student, Family and School Support, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-0292 (TTY 410-333-6442), or email to cbuckler@msde.state.md.us, or fax to 410-333-8148. Comments will be accepted through December 3, 2012. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Maryland State Board of Education during a public meeting to be held on January 22, 2013 at 9 a.m., at 200 West Baltimore Street, Baltimore, Maryland 21201.

11 Disciplinary Action.

A. Local Regulations. Each local board of education shall adopt a set of regulations [designed to maintain an environment of order and discipline necessary for effective learning. These regulations should provide for counseling and standards for appropriate disciplinary measures, and may permit suspension or expulsion] *that:*

- (1) *Reflect a rehabilitative discipline philosophy based on the goals of fostering, teaching, and acknowledging positive behavior;*
- (2) *Are designed to keep students in school so that they may graduate college and career ready;*
- (3) *Prohibit disciplinary policies that trigger automatic discipline without the use of discretion; and*
- (4) *Explain why and how long-term suspensions or expulsions are last resort options.*

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

- (1) (text unchanged)
- (2) "Expulsion" means[, at a minimum, the removal of the student from the student's regular school program and may be further defined by a local board of education] *the total exclusion of a student from the student's regular school program for 45 school days or longer for conduct that the superintendent determines, on a case-by-case basis, is violent or poses a serious danger of physical harm to others in the school.*
- (3) "Extended suspension" means the temporary removal of a student from [school for a specified period of time longer than 10 school days for disciplinary reasons by the local superintendent or the local superintendent's designated representative] *the student's regular school program for a time period between 11—45 school days for conduct that the superintendent determines, on a case-by-case basis, poses a danger of harm to others in the school.*
- (4) (text unchanged)
- (5) "Long-term suspension" means *the removal of a student from school for a time period between 4—10 days for disciplinary reasons by the principal.*

[(5)] (6) (text unchanged)

[(6)] (7) "Short-term suspension" means the removal of a student from school for up to but not more than [10] 3 school days for disciplinary reasons by the principal.

[(7)] (8) "Suspension" means the application of extended suspension, in-school suspension, [or] short-term suspension, *or long-term suspension.*

C. Suspension and Expulsion.

[(1)] In those instances when the behavior of a student is disruptive and detrimental to the operation of the school, the student may be suspended or expelled.]

[(2)] (1) — [(3)] (2) (text unchanged)

[(4)] (3) Suspension for More than 10 Days or Expulsion.
 (a) — (b) (text unchanged)
 (c) If after the investigation the local superintendent or designated representative finds that [a longer] *an extended* suspension or *an* expulsion is warranted, the superintendent or designated representative promptly shall arrange a conference with the student and the student's parent or guardian.

(d) *The process described in §C(3)(a)–(c) of this regulation shall be completed by the 10th school day of the initial suspension. If additional time is necessary to complete the process, the student shall be allowed to return to school, unless the local superintendent or designated representative determines that the conduct at issue was violent, dangerous, or a threat to the safety of the school.*

[(d)] (e) If after the conference the local superintendent or designated representative finds that *an extended* suspension [of more than 10 school days] or *an* expulsion is warranted, the student or the student's parent or guardian may[;]

[(i)] [Appeal] *appeal* to the local board within 10 days after the determination[;].

[(ii)] Be heard before the local board or its designated committee; and

(iii) Bring counsel and witnesses to the hearing.]

(f) *If an appeal is filed, it shall be heard before the local board or its designated committee or hearing officer and completed within 30 days of the date of appeal was received by the local board.*

(g) *The student or the student's parent or guardian:*

(i) *Shall be provided the school system's witness list and a copy of the documents that the school system will present at the hearing 5 days before hearing; and*

(ii) *May bring counsel and witnesses to the hearing.*

(h) *The local board shall issue its decision within 10 days after the close of the hearing.*

[(c)] (i) — [(g)] (k) (text unchanged)

[(5)] (4) A student expelled [under] or suspended from school shall remain away from the school premises during those hours each school day when the school the student attends is in session, and may not participate in school-sponsored activities. The expelled or suspended student may return to the school premises during the prohibited hours only for attendance at a previously scheduled appointment, and if the student is a minor then only if accompanied by the student's parent or guardian.

(5) *A student suspended or expelled from school shall be allowed to return to school on the day that the terms and conditions of the suspension or expulsion are met whether or not the student, parent, or guardian has filed an appeal of the suspension.*

(6) — (7) (text unchanged)

(8) A local superintendent may deny attendance to a student who is currently expelled *or on extended suspension* from another school system for a length of time equal to that expulsion *or extended suspension*. A school system shall forward information to another school system relating to the discipline of a student, including information of an expulsion or *extended suspension* of the student, on receipt of the request for information.

D. — E. (text unchanged)

F. *Minimum Education Services. In order to establish accountability and to keep suspended or expelled students on track with classroom work, as is reasonably possible, each local board shall institute education services that at minimum provide that:*

(1) *Each student suspended or expelled out-of-school who is not placed in an alternative education program shall receive daily classwork and assignments from each teacher which shall be reviewed and corrected by teachers on a weekly basis and returned to the student; and*

(2) *Each principal shall assign a school staff person to be the liaison between the teachers and the various students on out-of-*

school suspension or expulsion and to communicate weekly about classwork assignments and school-related issues by phone or email with those out-of-school suspended/expelled students and their parents.

.12 Arrests on School Premises.

A. — E. (text unchanged)

F. *Beginning in the 2013-2014 school year, data on school arrests shall be reported in a manner and format developed by the Department and approved by the State Board.*

.15 Reporting Delinquent Acts.

A. — B. (text unchanged)

C. *Beginning in the 2013–2014 school year, the local school systems shall report data to the Department on school arrests and referrals to law enforcement agencies or to the juvenile justice system in a form and manner developed by the Department and approved by the State Board.*

.21 Reducing and Eliminating Disproportionate/Discrepant Impact.

A. *The Department shall develop a method to analyze local school system discipline data to determine whether there is a disproportionate impact on minority students.*

B. *The Department may use the discrepancy model to assess the impact of discipline on special education students.*

C. *If the Department identifies a school's discipline process as having a disproportionate impact on minority students or a discrepant impact on special education students, the local school system shall prepare and present to the State Board a plan to reduce the impact within 1 year and eliminate it within 3 years.*

D. *The local school system will report its progress annually to the State Board.*

LILLIAN M. LOWERY, Ed.D.
 State Superintendent of Schools

Subtitle 12 CERTIFICATION

13A.12.01 General Provisions

Authority: Education Article, §§2-205, 2-303(g), 6-202, and 6-701—6-705; Family Law Article, §10-119.3, Annotated Code of Maryland

Notice of Proposed Action

[12-299-P]

The Maryland State Board of Education proposes to amend Regulations .02, .06, and .11 under COMAR 13A.12.01 **General Provisions**. This action was considered at the Maryland State Board of Education meeting on August 28, 2012.

Statement of Purpose

The purpose of this action is to provide a fourth option for issuance of an Advanced Professional Certificate which is independent of course work.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

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

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Attachment B: Comparison Chart: MCPS Current Practice & MSDE Suspension Regulations 2012

Addressing Amendments to COMAR 13A.08.01.11 *Disciplinary Action**

MCPS Present State	Proposed Regulations	Implications
<p>Defines suspension as:</p> <ul style="list-style-type: none"> • Short-term—0 to 10 days • Extended suspension—greater than 10 consecutive days • Expulsion—an indefinite time 	<p>Defines suspension as:</p> <ul style="list-style-type: none"> • Short-term – 0 to 3 days • Long-term – 4 to 10 days • Extended – 11 to 45 days • Expulsion – >45 days 	<p>Definitions for suspension codes will have to be changed and incorporated into <i>myMCPS</i></p> <p>Identify best practices and provide professional development to school staff related to instruction, behavior, and school climate through the Suspension Implementation Team</p>
<p>In-school Suspension (ISS) per Regulation JGA-RA, <i>Classroom Management and Student Behavior Interventions</i>, is the exclusion of a student within the school setting from the student's regular education program for up to 10 days</p> <ul style="list-style-type: none"> • Under supervision • Not receiving direct instruction • Receives due process • ISS is counted toward 10 cumulative days of suspension <p>School staff may use <i>exclusion</i> (student is removed from classroom and not receiving instruction) for no more than 30 minutes to address student behavior included by the Behavioral Intervention Plan (BIP)</p> <p>In-school Intervention (ISI) is when a student is removed from the classroom and provided instruction and support. Not considered suspension</p>	<p>ISS is not considered suspension as long as student is afforded opportunity to:</p> <ul style="list-style-type: none"> • Appropriately progress in general education curriculum • Receive special education services as specified on IEP • Receive instruction commensurate to current educational program • Participate with peers to extent appropriate <p>Student and parent notification required</p> <p>School system shall develop and implement a behavioral program of positive interventions to address the causes of in-school suspension</p> <p>ISI is not addressed but aligns with reversed description of ISS</p>	<p>Review current procedures to further define procedures for ISS vs. ISI where the following is delineated:</p> <ul style="list-style-type: none"> • Appropriate progress in general education • Special education services • Instruction commensurate to current education program • Participation with peers • Alternatives to ISS <p>Suspension Implementation Team will need to address changes</p> <p>Provide additional professional development related to development of effective Functional Behavioral Assessments (FBAs) and BIPs</p>
<p>Disciplinary factors which have a mandatory recommendation for expulsion:</p> <ul style="list-style-type: none"> • Evidence of intent or distribution of controlled dangerous substances • Possession of bomb or bomb threat • Possession of firearm • Violent physical attack on a student or staff • Weapon used to cause bodily harm 	<p>Prohibits policies that require automatic discipline without the use of discretion</p> <p>Discretion is determined on a case by case basis distinguishing between violent behavior/behavior that poses a serious danger of physical harm to others and nonviolent behavior</p>	<p>Change regulation to allow discretion in addressing violent vs. nonviolent behaviors</p> <p>Provide professional development regarding rehabilitative discipline approach</p> <p>MSDE will delineate violent vs. nonviolent behaviors for reporting purposes</p>

Attachment B: Comparison Chart: MCPS Current Practice & MSDE Suspension Regulations 2012

Addressing Amendments to COMAR 13A.08.01.11 *Disciplinary Action**

MCPS Present State	Proposed Regulations	Implications
<p>The process for a suspension of more than 10 days or expulsion can extend beyond the 10th day of suspension to allow time for the investigative conference, the expulsion hearing, and the expulsion decision to be made and rendered</p> <p>General education students are provided with educational services including school assignments</p> <p>Special education students are provided with 11th day services by the school or attend Alternative Programs</p>	<p>The process must be completed by the 10th day of the initial suspension</p> <p>If the process is not complete within 10 days, the student is allowed to return to school unless the superintendent of schools or designee determines that the conduct was violent, dangerous, or a threat to the safety of the school and extends the suspension. The student may be placed in an alternative program or continue to receive daily assignments on a weekly basis</p>	<p>Review current procedures and existing resources to address required change of allotted time to complete the process within the 10 day time period</p> <p>May require additional resources to meet 10-day timeline</p>
<p>As per Regulation JGA-EB, <i>Suspension and Expulsion</i>, a principal may not return the student who is suspended or expelled without conferring with the teacher who referred the student for disciplinary action</p> <p>If a student's disruptive behavior results in action less than suspension, the principal shall confer with the teacher who referred prior to returning student to the classroom</p>	<p>A principal may not return the student who is suspended or expelled without conferring with the teacher who referred the student for disciplinary action</p> <p>If a student's disruptive behavior results in action less than suspension, the principal shall confer with the teacher who referred prior to returning student to the classroom</p>	<p>Review re-entry procedures for students returning to school after the suspension to include:</p> <ul style="list-style-type: none"> • Re-entry procedure within Collaborative Problem Solving (CPS) meeting to delineate plan for successful re-entry to school) • Teacher must be part of CPS meeting • Address interventions available to assist student • Review need for FBA/BIP <p>Address entry and exit procedures and available resources in Alternative Programs</p> <p>Provide professional development related to surface management skills, FBAs, BIPs, and best practices</p>
<p><i>Restitution</i>, per Regulation JGA-EB is reimbursement for damage to or substantial decrease in the value of property that occurs during or results from the violation of state or local law or</p>	<p>Restitution may be made, unless the student is referred to the Department of Juvenile Justice, in the form of monetary restitution not to exceed \$2,500 or by the student's assignment to a school</p>	

Attachment B: Comparison Chart: MCPS Current Practice & MSDE Suspension Regulations 2012

Addressing Amendments to COMAR 13A.08.01.11 *Disciplinary Action**

MCPS Present State	Proposed Regulations	Implications
<p>regulation (unless the student is referred to the Department of Juvenile Justice) in an amount not to exceed \$2,500 or in work assignments or both</p>	<p>work project, or both</p>	
<p>After case is heard at the Superintendent of Schools' level or by his designee, appeals are sent to the Montgomery County Board of Education (Board) within 10 days</p> <p>The superintendent of schools has 10 days to submit a response to the appeal and may change the decision of his designee</p> <p>The superintendent of schools' response is provided to the parent</p> <p>The Board decides whether to hear the case or refer the case to a hearing examiner, who must be a licensed attorney</p> <ul style="list-style-type: none"> • The Board does not have to accept the hearing officer's findings <p>Student, parents/guardians, and their counsel and witness may participate in the hearing</p> <p>Both parties disclose documents they will rely on for the hearing (names in documents are redacted as appropriate)</p> <p>Witnesses are called and participate in the hearing</p> <p>Hearings are closed unless a parent request an open hearing</p>	<p>If appeal is filed, the hearing shall be completed within 30 days of the date appeal was received by the Board</p> <p>Appeals may be heard before the local Board, or a designated committee, or a hearing officer</p> <p>The Board shall issue its decision within 10 days after the close of the hearing</p> <p>The student or student's parent or guardian shall be provided with the MCPS's witness list and copy of any documents that will be presented at the hearing five days before the hearing</p> <p>The student or student's parent or guardian may bring counsel and witnesses to the hearing</p>	<p>Change existing Board process to meet 30-day timeline and allocate necessary resources required and 10 days for written decision</p> <p>Address how to provide necessary information prior to a hearing while maintaining confidentiality of witnesses</p> <p>Implement procedures to provide necessary documentation five days prior to scheduled hearing</p> <p>If counsel is provided by parent—stipulate protocol and address timeline constraints</p> <p>Develop a format for inclusion of witnesses</p> <p>Review legal implications of having witnesses present in hearings in closed session</p>

Attachment B: Comparison Chart: MCPS Current Practice & MSDE Suspension Regulations | 2012

Addressing Amendments to COMAR 13A.08.01.11 *Disciplinary Action**

MCPS Present State	Proposed Regulations	Implications
<p>Parents, the Board, and the superintendent of schools receive hearing examiner's written finding of fact, conclusions of law and recommendation, and have the opportunity to present an oral argument before the Board</p> <p>Hearing format is organized and structured to hear all evidence and investigative variables as required by the school (not a courtroom—but equitable process to hear from school staff and student with his/her family or designee)</p> <p>Following oral argument, the Board makes a decision which is later reduced to writing and disseminated at a future date</p> <p>Sometimes parents request to waive their right to a hearing to proceed directly to oral argument</p>		
<p>Suspensions are recorded as excused absences</p> <p>Class work is provided by teacher or assigned liaison</p>	<p><i>Minimum Education Services</i></p> <p>Teachers provide daily assignment for students not in an alternative educational program on a weekly basis :</p> <ul style="list-style-type: none"> • Reviewed and corrected weekly • Returned to students <p>A school suspension liaison must be appointed at each school to maintain weekly contact by phone or e-mail with students and parents regarding assignments and school-related issues</p>	<p>Update current procedure to address:</p> <ul style="list-style-type: none"> • Case manager/liaison • Delivery and correction of assignment on a weekly basis • Return of graded work to students • Maintain and verify contact with student and parent on a weekly basis by phone or e-mail
<p>Addressing COMAR 13A.08.01.12 <i>Arrests on School Premises</i></p>		
	<p>Beginning 2013–2014 school year, data on school arrests shall be reported</p>	<p>Develop format to collect data for report to Maryland State Department of Education (MSDE)</p>

Attachment B: Comparison Chart: MCPS Current Practice & MSDE Suspension Regulations 2012

Addressing Amendments to COMAR 13A.08.01.11 *Disciplinary Action**

MCPS Present State	Proposed Regulations	Implications
--------------------	----------------------	--------------

Addressing COMAR 13A.08.01.15 *Reporting Delinquent Acts*

	2013–2014 school year, MCPS shall report data to the MSDE on school arrests and referrals to law enforcement agencies or juvenile justice system	Develop format to collect data for report to MSDE
--	--	---

Addressing Amendments to COMAR 13A.08.01.12-1 *Bringing or Possessing a Firearm on School Property*

<p>As per Regulation COE-RA, <i>Weapons</i>, prohibits possession of weapons considered dangerous or deadly. Weapons are defined as implements that can cause bodily harm. Weapons includes firearms, knives, and any object used as a weapon</p> <p>Defined as non-discretionary offense</p>	<p>If the superintendent of schools finds that a student has brought a firearm on school property or to a school-sponsored activity, the student shall be expelled for a minimum of one year</p> <ul style="list-style-type: none"> • Superintendent of schools may specify in writing, on case by case basis, a shorter period of expulsion or assignment to an alternative educational setting 	<p>Change language in regulation to specifically address firearms and align with proposed regulations</p>
---	---	---

Addressing Amendments to COMAR 13A.08.01.21 *Reducing and Eliminating Disproportionate/Discrepant Impact*

<p>MCPS directed analysis of suspension and expulsion data by subgroup and formed the suspension M-Stat group to also identify best practices</p>	<p>MSDE will develop a method to analyze local school system discipline data to determine whether there is a disproportionate impact on minority students</p>	<p>Align procedures for analysis by subgroup with MSDE regulations</p> <p>Review how analysis of data informs current practice, implementation, and professional development</p>
<p>Discipline data on special education students is collected and analyzed monthly</p>	<p>MSDE may use a discrepancy model to assess the impact of discipline on special education students</p>	<p>Address how the data analysis has informed changes in practice and implementation</p> <p>Address current interventions and how they align with the IEP and accompanying FBA/BIP</p>
<p>MCPS <i>Report on Disproportionality 2009–2010</i> addressed discrepancy data between subgroups with action plan</p> <p>MCPS established Disproportionality Committee (2010–2012 school year) to address action items to reduce disproportionate numbers</p>	<p>If MSDE identifies MCPS’s discipline process as having a disproportionate impact on minority students or discrepant impact on special education students, MCPS shall prepare a plan to reduce the impact within one year and eliminate it within three years</p>	<p>Review existing action plan within MCPS <i>Report on Disproportionality</i> and progress towards implementation recommendations</p>

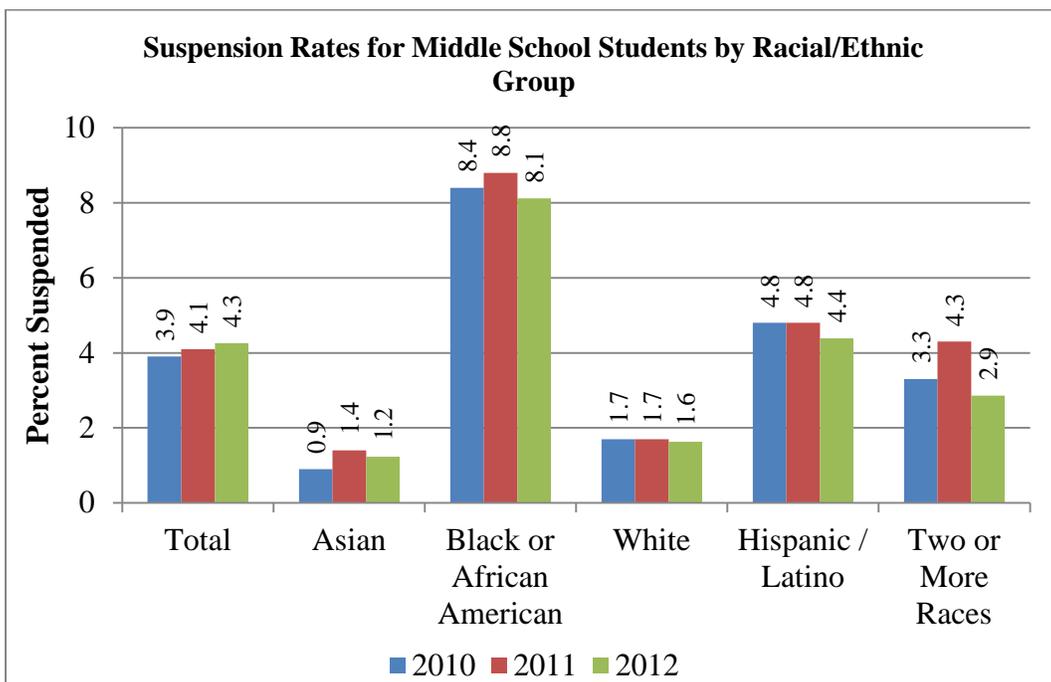
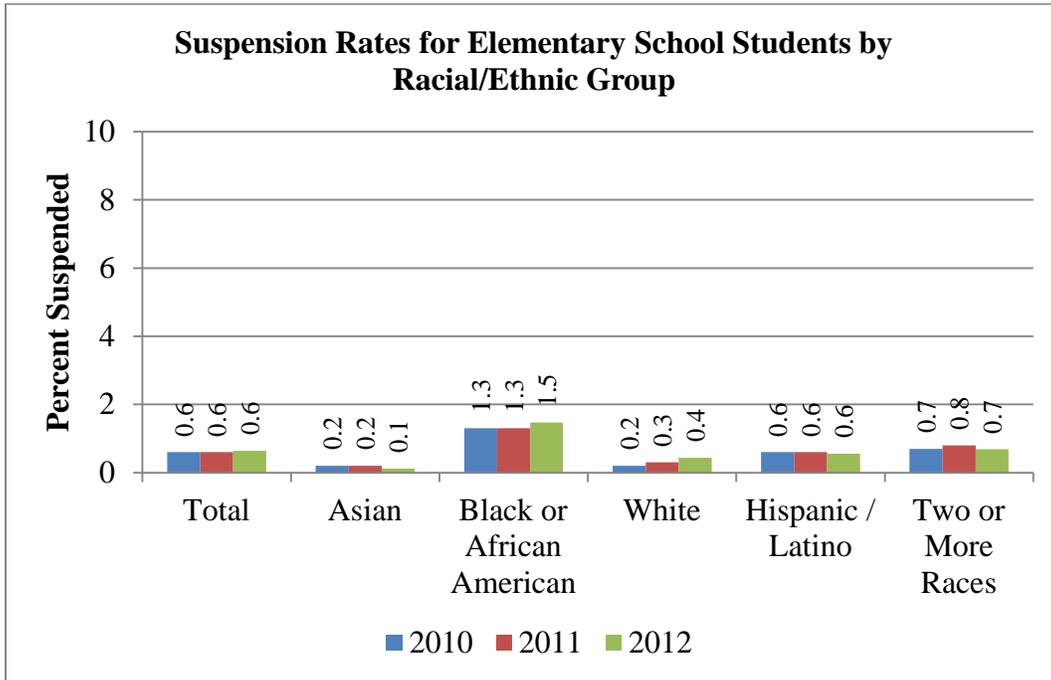
Attachment B: Comparison Chart: MCPS Current Practice & MSDE Suspension Regulations | **2012**

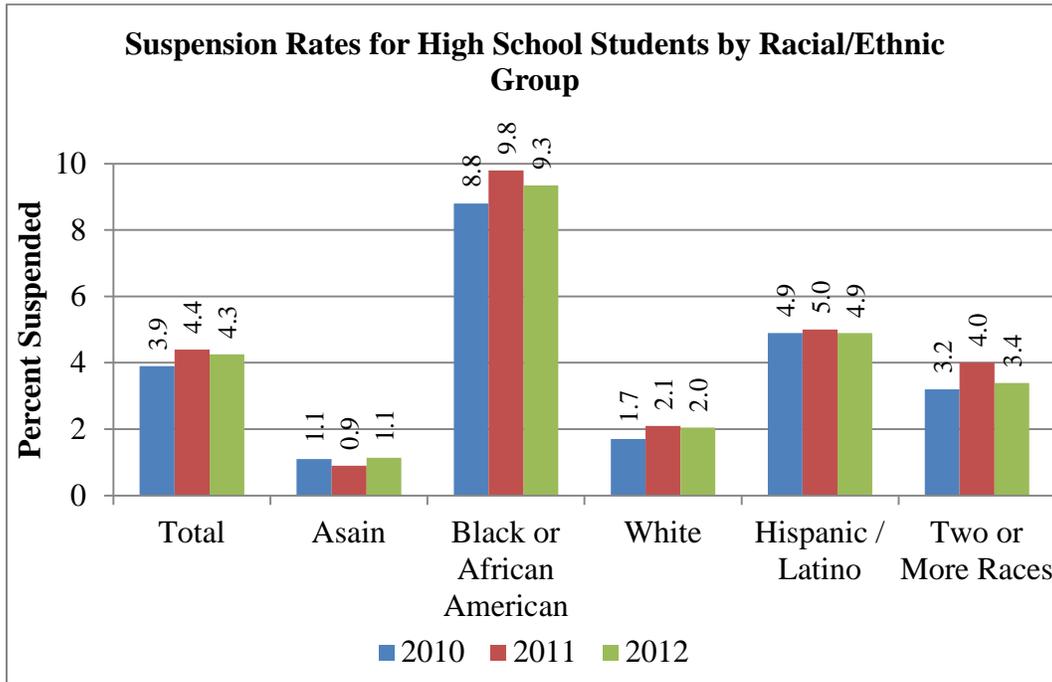
Addressing Amendments to COMAR 13A.08.01.11 *Disciplinary Action**

MCPS Present State	Proposed Regulations	Implications
		Develop a plan to reduce the disproportionate impact of suspensions on minority students and/or discrepant impact on special education students by year <ul style="list-style-type: none"> • Year 1 • Year 2 • Year 3—eliminate disproportionality
Corrective Action Plan is required if suspended student with disabilities are disproportionate	MCPS will report progress annually to State Board	Create progress report to MSDE based on yearly plan

Disproportionate Impact of Suspension Across School Levels

Suspension rates across all school levels disproportionately impact Black or African American and Hispanic/Latino students. In particular at the middle and high school level, Black or African American students are approximately four times as likely to be suspended as White students.





Disproportionate Impact of Length of Suspension

More than 50 percent of the long term (4–10 days) suspensions were given to Black or African American students compared to 28.6 percent of Hispanic/Latino students and 12.8 percent of White students.

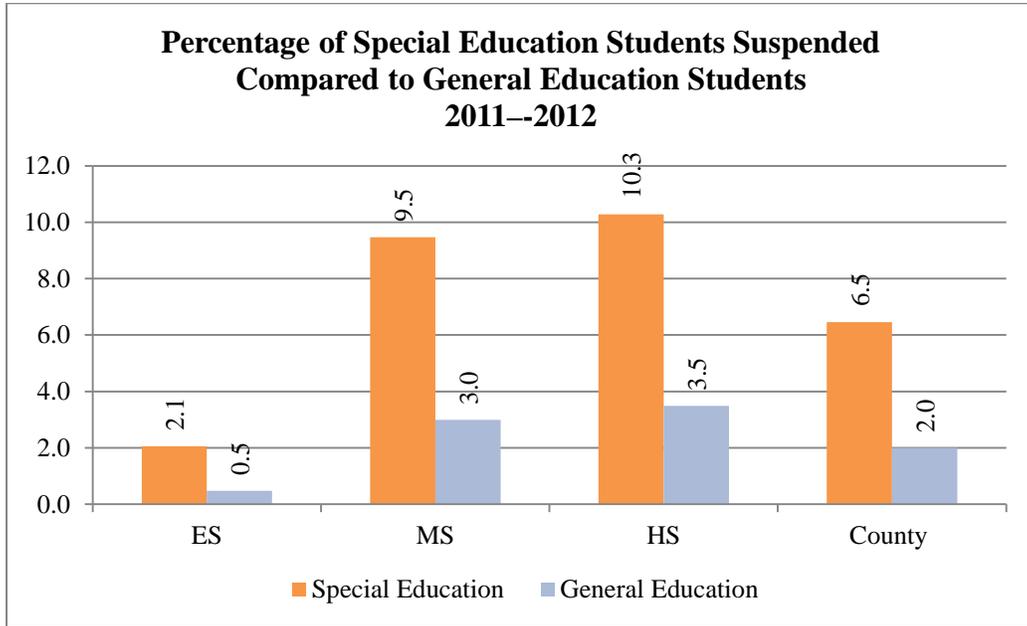
More than 50 percent of the extended suspensions (11–45 days) were given to Black or African American students compared to 24.0 percent of Hispanic/Latino students and 14.7 percent of White students.

Number and Percentage of Suspensions by Race and Length of Suspension 2011–2012								
	0–3 days		4–10 days		11–45 days		Total	
	Num.	Percent	Num.	Percent	Num.	Percent	Num.	Percent
Asian	108	3.4%	48	3.3%	6	4.0%	162	3.4%
Black or African American	1,613	50.9%	742	50.8%	81	54.0%	2,436	51.0%
White	539	17.0%	187	12.8%	22	14.7%	748	15.7%
Hispanic/Latino	786	24.8%	417	28.6%	36	24.0%	1,239	25.9%
Two or More Races	117	3.7%	60	4.1%	4	2.7%	181	3.8%
Total	3,169	100.0%	1,460	100.0%	150	100.0%	4,779	100.0%

Note: Students may be counted more than once. Data includes violent and non-violent suspensions.

Disproportionate Impact of Suspension on Special Education Students

At the middle and high school levels, special education students are more than three times as likely to be suspended out-of-school than general education students.



Accessibility Planner

Enduring Understanding
 Essential Question
 Indicator(s)

Lesson or Unit Demands
 ▪ What are students expected to know and do? Consider tasks and content.

Checking for Understanding
 ▪ How will students demonstrate their learning?

Students' Strengths and Needs	Potential Lesson or Unit Barriers What difficulties do you anticipate?	Accessibility Strategies	
		What resources, strategies, and scaffolds are included in the instructional guide?	What additional resources, strategies, and scaffolds are needed?
	Instructional Implications As co-teachers, what can we do to support students?		

Documentation of Interventions



Department of Student Services
MONTGOMERY COUNTY PUBLIC SCHOOLS
Rockville, Maryland 20850

MCPS Form 272-10
August 2009

CPS _____
Date

EMT _____
Date

Student _____ ID # _____

School _____ Teacher _____ Grade _____ DOB _____

Gender _____ Race _____ MCPS Enrollment Date _____

PARENT/GUARDIAN

Name: _____

Address: _____

Telephone: Home _____

Cell or Other: _____

PLAN

Problem-Solving Considerations: Describe as specifically as possible.

Identify the Problem (Use clear and measurable terms):

Factors Affecting Identified Problem (Environment, Curriculum, and/or Instruction):

Define Goal (Identify the target the student is to achieve by date compared to where the student is at present):

DO

Name of Intervention #1:

Start Date _____	Baseline Performance Level: _____	Expected Rate of Progress: _____
Academic Area: _____		Behavior: _____
Group size (<input checked="" type="checkbox"/> one): <input type="checkbox"/> Individual <input type="checkbox"/> 2-5 <input type="checkbox"/> 6-10 <input type="checkbox"/> 10-20 <input type="checkbox"/> Class		
Frequency (<input checked="" type="checkbox"/> one): <input type="checkbox"/> 1x/wk <input type="checkbox"/> 2x/wk <input type="checkbox"/> 3x/wk <input type="checkbox"/> 4x/wk <input type="checkbox"/> Daily		
Duration (<input checked="" type="checkbox"/> one): <input type="checkbox"/> 15 min. <input type="checkbox"/> 20 min. <input type="checkbox"/> 30 min. <input type="checkbox"/> 45 min. <input type="checkbox"/> Other:		
Intervention provided by: _____		
End Date _____	Progress Monitoring Tool: _____	Frequency of Progress Monitoring: _____

Name of Intervention #2:

Start Date _____	Baseline Performance Data: _____	Expected Rate of Progress: _____
Academic Area: _____		Behavior: _____
Group size (<input checked="" type="checkbox"/> one): <input type="checkbox"/> Individual <input type="checkbox"/> 2-5 <input type="checkbox"/> 6-10 <input type="checkbox"/> 10-20 <input type="checkbox"/> Class		
Frequency (<input checked="" type="checkbox"/> one): <input type="checkbox"/> 1x/wk <input type="checkbox"/> 2x/wk <input type="checkbox"/> 3x/wk <input type="checkbox"/> 4x/wk <input type="checkbox"/> Daily		
Duration (<input checked="" type="checkbox"/> one): <input type="checkbox"/> 15 min. <input type="checkbox"/> 20 min. <input type="checkbox"/> 30 min. <input type="checkbox"/> 45 min. <input type="checkbox"/> Other:		
Intervention provided by: _____		
End Date _____	Progress Monitoring Tool: _____	Frequency of Progress Monitoring: _____

STUDY

Effect of interventions on student performance:

Intervention #1	
What evidence do you have that the student met the goal?	What evidence do you have that the student did not meet the goal?

Intervention #2	
What evidence do you have that the student met the goal?	What evidence do you have that the student did not meet the goal?

ACT

Should the intervention/strategy be continued, changed, or discontinued? Explain.
Intervention #1
Intervention #2

List any out-of-school interventions presently provided to the student:

Name of Person Completing Form

Position