

Department of Legislative Services  
 Maryland General Assembly  
 2022 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

House Bill 23

(Delegate Washington)

Ways and Means

Education, Health, and Environmental Affairs

School Discipline - Data Collection

This bill requires the Maryland State Department of Education (MSDE) to make available, as a data download on its website, disaggregated discipline-related data at the State, local school system, and school levels. For all data made publicly available, MSDE must include disaggregated data related to any disproportional disciplinary practices of a local school system or public school, as specified, and annually report the data to the Governor and the General Assembly. MSDE must report the disproportionality data for any school identified as “high-suspending” as specified and include alternative schools and programs and public separate day schools in any calculation of disproportionality data. **The bill takes effect July 1, 2022.**

Fiscal Summary

**State Effect:** General fund expenditures increase by \$78,600 in FY 2023 to hire one educational specialist to implement the bill. Future year expenditures reflect annualization and ongoing costs for the position. No effect on revenues.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	78,600	93,800	96,400	99,000	101,600
Net Effect	(\$78,600)	(\$93,800)	(\$96,400)	(\$99,000)	(\$101,600)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** None. The bill does not alter the data that local school systems must collect and report.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** “High-suspending” includes an elementary school that suspends 10% or more of its students in each subgroup and a secondary school that suspends 25% or more of its students in each subgroup, disaggregated by race, ethnicity, disability status, and English language proficiency.

MSDE must maintain the risk ratio and State comparison threshold of 2.0 used for identifying action under federal regulations that implement the federal Individuals with Disabilities Education Act (IDEA) for schools with high disproportionality.

### Current Law:

#### *Suspension and Expulsion in General*

In accordance with rules developed by each local school board, a principal may suspend a student for cause for up to 10 school days. The principal must provide the suspended student and the student’s parents with a conference during the suspension period and a list of community resources. Upon request by a principal, a local superintendent may suspend a student for more than 10 days or expel a student, subject to investigation, conferencing, and appeal procedures in statute. A student may not be suspended or expelled only for attendance-related offenses but may be subject to in-school suspension for those offenses.

A student who has been suspended or expelled may not return to the classroom until the principal confers with (1) the teacher(s) who referred the student (if appropriate); (2) other appropriate school personnel; (3) the student; and (4) the student’s parent or guardian.

If disruptive behavior results in action less than suspension, the principal or designee must confer with the teacher who referred the student prior to the student returning to the teacher’s classroom.

#### *Suspension and Expulsion of Young Children*

Chapters 843 and 844 of 2017 prohibit a student in public prekindergarten, kindergarten, first, or second grade from being suspended or expelled, except that:

- a student in those grades may be expelled if required by federal law (generally, for bringing a firearm to school); and
- a student in those grades may be suspended for up to five days if the school administration, in consultation with a school psychologist or other mental health professional, determines that there is an imminent threat of serious harm to other students or staff that cannot be reduced or eliminated through interventions and supports.

For a student in prekindergarten through second grade who is suspended or who commits an act that would otherwise be grounds for suspension, local school systems must provide intervention and support to address the student's behavior. Intervention and support include (1) positive behavior interventions and supports; (2) a behavior intervention plan; (3) a referral to a student support team; (4) a referral to an individualized education program; and (5) a referral for appropriate community-based services.

The school system must remedy the effect of a student's behavior through appropriate intervention methods including restorative practices. Restorative practices are practices conducted in a whole-school ethos or culture that supports peacemaking and solves conflict by building a community and addressing harm in a school setting and that:

- are conducted by trained staff;
- focus on repairing the harm to the community through dialogue that emphasizes individual accountability; and
- help build a sense of belonging, safety, and social responsibility in the school community.

A public elementary school that has a suspension rate that exceeds 10% must implement a positive behavioral interventions and support (PBIS) program or an alternative behavior modification program in collaboration with MSDE. An elementary school that has already implemented a PBIS program or a behavior modification program must expand its existing program if it has a suspension rate that exceeds 10%.

### *Discipline Guidelines*

The State Board of Education must establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards. The guidelines were last updated in 2014. In December 2018, the board established a Task Force on Student Discipline Regulations to review the guidelines and regulations. The task force issued its [final report](#) in August 2019, but no changes to the regulations or guidelines were made as a result.

The State board must also (1) upon request, provide technical assistance and training to local school boards on the use of restorative practices and (2) assist each local school board with implementing the guidelines. Each local school board must adopt regulations designed to create and maintain within schools the atmosphere of order and discipline necessary for effective learning. The local regulations must state that the primary purpose of any disciplinary measure is rehabilitative, restorative, and educational. They must also provide for educational and behavioral interventions, restorative approaches, counseling, student and parent conferencing, and alternative programs.

### *State and Local Report Card*

Under the federal Every Student Succeeds Act (ESSA), the most recent version of the Elementary and Secondary Education Act, both states and local school districts receiving Title I, Part A funds must prepare and widely disseminate an annual report card. Among other requirements, information submitted to the Civil Rights Data Collection biennial survey regarding in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, chronic absenteeism, and incidents of violence (including bullying and harassment) must be reported within the report card. ESSA requires that accountability data be reported for all students and for the following “subgroups” of students: economically disadvantaged students; students from major racial and ethnic groups; children with disabilities; and English learners.

### *Addressing Disproportionate and Discrepant Impacts of School Discipline*

State regulations require MSDE to develop a method to analyze local school system discipline data to determine whether there is a disproportionate impact on minority students. MSDE may use the discrepancy model to assess the impact of discipline on special education students. The discrepancy model uses a risk ratio of 3.0 as the threshold for determining whether disproportionality exists; a risk ratio of 3.0 means that a target population (*e.g.*, Black males) is three times more likely than a control population (*e.g.*, all other males) to be identified for special education services or disciplined in some manner. A risk ratio over 1.0 indicates overrepresentation. If MSDE 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 must prepare and present to the State Board of Education a plan to reduce the impact within one year and eliminate it within three years. A local school system must report its progress annually to the State board. See **Additional Comments** below for more information on the State’s use of risk ratios.

### *Data Collection and Presentation*

MSDE must collect data on alternative school discipline practices in public schools for each local school system, including (1) the types of alternative school discipline practices that are used in a local school system and (2) the type of misconduct for which an alternative discipline practice is used. Also, MSDE must disaggregate the information in any MSDE student discipline data report by race, ethnicity, gender, disability status, eligibility for free or reduced-price meals or an equivalent measure of socioeconomic status, and English language proficiency for (1) the State; (2) each local school system; and (3) each public school. Special education-related data in any such report must be disaggregated by race, ethnicity, and gender.

**State Expenditures:** General fund expenditures increase by \$78,608 in fiscal 2023 for MSDE to hire one education program specialist to perform data and program analysis, report local school system data, and provide technical assistance as needed. This estimate reflects a 90-day start-up delay from the bill’s July 1, 2022 effective date. It includes salary and fringe benefits for the educational specialist, one-time start-up costs, and other ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$71,265
Operating Expenses	<u>7,343</u>
<b>Total FY 2023 State Expenditures</b>	<b>\$78,608</b>

Future year expenditures reflect annualization, annual increases, employee turnover, ongoing operating expenses, and elimination of one-time costs.

**Additional Comments:** MSDE advises that, consistent with federal requirements and the bill’s provisions, it uses a risk ratio of 2.0 as the threshold for determining disproportionality with regard to the implementation of the federal IDEA. However, as noted above, State reporting and accountability related to disproportionality in student discipline uses a risk ratio of 3.0 as the threshold, which is not affected by the bill.

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### **Additional Information**

**Prior Introductions:** HB 171 of 2021, a similar bill, passed the House and received a favorable report from the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. HB 328 of 2020, a similar bill, passed the House and was referred to the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

**Designated Cross File:** None.

**Information Source(s):** Maryland State Department of Education; Maryland Center for School Safety; Baltimore City Public Schools; Baltimore County Public Schools; Montgomery County Public Schools; Prince George’s County Public Schools; U.S. Department of Education; Department of Legislative Services

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Analysis by: Michael C. Rubenstein

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510