

## How Schools Use Reportable Offenses in Maryland Frequently Asked Questions January 2025

Maryland school officials are legally obligated to provide all students with equal access to educational opportunities and to maintain safe learning environments. This frequently asked questions resource clarifies when law enforcement agencies must confidentially report to school officials the arrest of students for serious offenses that occur off school grounds. It also summarizes how school staff must use information about students' arrests for reportable offenses to develop plans for students' continued access to educational programs and for maintaining safe environments for all students and school staff.

During the 2023-24 school year, there were 1,637 reportable offenses incidents statewide.<sup>1</sup> Black students and students of two or more races, boys, and students with disabilities were overrepresented among students arrested for reportable offenses incidents. Black students and students of two or more races comprised 65% and 9% of students arrested for reportable offenses even though they represented only 33% and 5% of the statewide student population that school year.<sup>2</sup> Boys represented 73% of students arrested for reportable offenses but 51% of the statewide student population.<sup>3</sup> Similarly, students with disabilities represented 39% of students arrested for reportable offenses, but 13% of the statewide student population during the 2023-24 school year.<sup>4</sup> Some schools or school districts removed students from or changed their regular school program after determining that the student who was arrested for a reportable offense presented an immediate safety risk to students or staff.<sup>5</sup>

The goal of Maryland's reportable offenses law is not to punish students, but to ensure that school officials have the information they need to decide whether to make any adjustments to the educational programs of students who have been arrested for a reportable offense and to ensure that all students and school staff are safe.<sup>6</sup> The Gibson-Banks Center for Race and the Law at the University of Maryland Francis King Carey School of Law is committed to providing information to the public about Maryland education officials' legal obligations so that students and parents or legal guardians and education advocates may work to ensure that students have equal access to educational opportunities, and are treated fairly without regard to race, including its intersection with sex or disability.<sup>1</sup>

### 1. *What is a reportable offense?*

- A “reportable offense” is a specific crime that a Maryland public or non-public school student commits (or allegedly commits) in the community – not at school, not on school grounds, and not at a school-sponsored event.

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<sup>1</sup> The information contained in this resource is for informational purposes only and should not be construed as legal advice on any subject matter.

- Not every crime constitutes a reportable offense. Maryland law includes a list of serious crimes that are reportable offenses, including:
  - Any crime of violence, such as arson in the first degree, kidnapping, manslaughter, murder, rape, sexual offense, robbery, carjacking, home invasion, and assault (several types);
  - Various weapons offenses, e.g., firearm use/possession, possession dangerous weapon;
  - Various drug offenses, e.g., controlled dangerous substance manufacturing/distributing/possessing with intent to distribute as well as dispensing; and
  - Offenses related to a student’s involvement in a “criminal organization.”<sup>7</sup>

**2. *What must a law enforcement agency do with information about a student’s arrest, including any charges, for a reportable offense?***

- When a student is arrested for a reportable offense, the arresting law enforcement agency must notify the superintendent of the student’s school district, the principal of the student’s school, and the security officer for the student’s school (if there is a school security officer) within 24 hours of the arrest or as soon as feasible. Also, the law enforcement agency *may* notify the State’s Attorney of the arrest and charges.<sup>8</sup>

**3. *How will school officials use information about a student’s arrest for a reportable offense?***

- Once the principal is notified of the arrest, they may consider changing the student’s school placement. However, there are processes and procedures they must follow to do so. Importantly, the student and their parents or legal guardians have rights and must be included in these processes and procedures.
- Specifically, when notified of the student’s arrest and charges, the principal must consult with appropriate staff members and consider whether the student’s attendance in school presents a risk to the safety of other students and staff.<sup>9</sup> Here, the principal and staff are considering whether to change the student’s regular school program.
- The reportable offense cannot be the sole basis for changing the student’s regular school program.<sup>10</sup>
- Under Maryland law, the protections and processes owed to students facing suspension and expulsion also apply to students facing removal or exclusion from an educational program because of a reportable offense.<sup>11</sup>
  - As a result, a student can only be removed from their regular school program if the superintendent determines that they present “an imminent threat of serious harm to other students or staff.”<sup>12</sup>
  - This also means that school officials have to follow all school discipline procedures, including conducting a manifestation determination meeting for students with disabilities who have an individualized education plan (IEP), or a Section 504 plan as required by the federal Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973.<sup>13</sup>
- If the principal believes that the student presents a safety risk, they must *immediately* develop a plan that:

- “Addresses appropriate educational programming *and* related services for the student, *and*
- Maintains a safe school environment for all students and staff.”<sup>14</sup>
- The principal must request that the student’s parent or legal guardian:
  - Participate in developing the plan, *and*
  - Provide information relevant to developing the plan.<sup>15</sup>
- If the student has an attorney, the principal *must* invite the attorney to any meeting with the student’s parent or legal guardian to discuss the plan.<sup>16</sup>
- If the plan includes the student’s removal from their regular school program, the principal must inform the superintendent and *request* the removal.
  - Within 10 school days of receiving the principal’s request, the superintendent must hold a conference with the student, their parent or legal guardian and attorney to determine “whether the student poses an imminent threat of serious harm to other students or staff necessitating a removal.”<sup>17</sup>
  - The superintendent must “make a thorough investigation of the matter.”<sup>18</sup>
  - Superintendents can remove a student only if they determine that the student poses an imminent threat.

#### 4. *When a student is arrested for a reportable offense, where can they receive educational programs and services?*

- **In their regular school**, if the student does not present an imminent threat of serious harm to other students or staff.
- If school officials decide that the student’s presence in school would present an imminent threat of serious harm to other students or staff, the student may:
  - **Receive virtual instruction**, where the student is at home and uses a computer to receive instruction from a teacher or to join a class.
  - **Attend an alternative school**, which is typically for students who are experiencing academic or behavioral difficulties.

#### 5. *Must school officials review their plans to remove students from their regular school program?*

- Yes. Once the student is removed from their regular school program, the superintendent must review the plan and “make adjustments as appropriate.”<sup>19</sup> They must do so with input from the principal, appropriate staff, the student, and the student’s parent or legal guardian.

- Also, the superintendent must review the plan:
  - immediately once the State’s Attorney notifies the superintendent or principal of the case result/disposition (the State’s Attorney must *promptly* notify the superintendent of principal of the case result); *or*
  - at a minimum of every 45 days (while waiting for notification from the State’s Attorney).<sup>20</sup>

**6. *May a student or the student’s parent or legal guardian appeal a determination that the student should be removed from a regular school program?***

- Yes. The student or their legal guardian can appeal the superintendent’s removal decision to the local school board within 15 calendar days of receiving the superintendent’s written decision. The board must issue a decision within 45 calendar days of receiving the appeal.<sup>21</sup>

**7. *Is information about a student’s arrest for a reportable offense confidential?***

- With narrow exceptions, the reportable information is confidential and may not be made part of the student’s permanent educational record.<sup>22</sup>
- In October 2024, the Maryland State Superintendent of Schools issued a guidance stating that when a student with a pending or court-resolved reportable offense transfers to a different school district in Maryland, the superintendent of the prior school district must send the information about the reportable offense as a confidential file to the superintendent of the new school district.<sup>23</sup>
- The reportable offense information must be destroyed when one of the following occurs first: the student graduates; the student permanently leaves school; the student turns 22 years old; the case involving the offense is dismissed; the student is found not guilty of the offense; or the student pleads to a lesser offense that is not a reportable offense.<sup>24</sup>

**8. *Is the Maryland State Department of Education required to collect data about reportable offenses?***

- Yes, each year the Maryland State Department of Education is required to submit to the Governor and the Maryland General Assembly a report that includes information about each reportable offense, including the type of offense; grade of the student arrested for the offense; race, ethnicity, gender, and disability status of the student arrested for the offense; action taken by the local school after notification of the offense; and if the student was removed from their regular school program, the length of the removal, etc.<sup>25</sup>

**9. *Must law enforcement agencies and school officials comply with nondiscrimination laws when considering student arrests for reportable offenses?***

- Yes. Federal civil rights laws prohibit discrimination based on race, color, or national origin,<sup>26</sup> sex,<sup>27</sup> or disability<sup>28</sup> under any program or activity that receives federal financial assistance. State and local school systems and schools that receive federal funds, such as grants, must comply with

these nondiscrimination laws. For example, school systems and schools must carry out student removals from education programs for disciplinary or safety purposes in a nondiscriminatory manner.<sup>29</sup>

***10. If a student, or the parent or legal guardian of a student, who has been arrested for a reportable offense, believes that school officials will request a change of or the student's removal from their regular education program, what can the student do?***

- The student or their parent or legal guardian may contact the Maryland Suspension Representation Project, <https://www.mdsuspensionrep.org/>, for assistance at (443) 873-3531 or [baltimoremsp@gmail.com](mailto:baltimoremsp@gmail.com).

## ENDNOTES

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<sup>1</sup> See Maryland State Department of Education, *Reportable Offenses Data: Maryland Public Schools, School Year 2023-2024 (Maryland Reportable Offenses Data)*, 10 (December 30, 2024), [https://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-303\(j\)\\_2024.pdf](https://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-303(j)_2024.pdf).

<sup>2</sup> *Maryland Reportable Offenses Data*, *supra* note 1, at 18. See also, Maryland State Department of Education, Maryland State 2023-2024 School Report Card, Demographics/Enrollment (*2023-2024 Report Card, Demographics*) (2024), <https://reportcard.msde.maryland.gov/Graphs/#/Demographics/Enrollment/3/17/6/99/XXXX/2024>.

<sup>3</sup> *Maryland Reportable Offenses Data*, *supra* note 1, at 19. See also, *2023-2024 Report Card, Demographics*, *supra* note 2.

<sup>4</sup> *Maryland Reportable Offenses Data*, *supra* note 1, at 20. See also, Maryland State Department of Education, Maryland State 2023-2024 School Report Card, Demographics/Student Group Populations <https://reportcard.msde.maryland.gov/Graphs/#/Demographics/StudentPopulation/1/2/99/XXXX/2024>.

<sup>5</sup> See *Maryland Reportable Offenses Data*, *supra* note 1, at 23-25.

<sup>6</sup> Carey M. Wright, Ed.D., State Superintendent of Schools, Maryland State Department of Education, Memorandum to Members of the State Board of Education dated October 22, 2024, 1, (stating “[t]he intent of the reportable offense law is not to “punish” the student, but instead to provide the LEA with information that may impact the safety dynamics within the school community.”), <https://www.marylandpublicschools.org/about/Documents/Regulations/Emergency/COMAR-13A.08.01.17F-Confidentiality-Information-Retention-Documents-a.pdf>.

<sup>7</sup> See MD. CODE ANN, EDUC. § 7-303(a)(6) (2024) and Code of Maryland Regulations (COMAR) 13A.08.01.17.A(8). A criminal organization is defined by MD Code Ann, Crim Law § 9-801 as:

an enterprise whose members: (1) individually or collectively engage in a pattern of organized crime activity; (2) have as one of their primary objectives or activities the commission of one or more underlying crimes, including acts by juveniles that would be underlying crimes if committed by adults; and (3) have in common an overt or covert organizational or command structure.

<sup>8</sup> See MD. CODE ANN, EDUC. § 7-303(b); COMAR 13A.08.01.17.B.

<sup>9</sup> See COMAR 13A.08.01.17.C.

<sup>10</sup> See COMAR 13A.08.01.17.D(2).

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<sup>11</sup> See MD. CODE ANN, EDUC. §7-305(h) (2022) (stating that student suspension and expulsion protections “...apply to a student regardless of the cause for which a student is being disciplined, including any removal or exclusion of a student from the student's regular school program arising out of a reportable offense under § 7-303 of this subtitle.”).

<sup>12</sup> See COMAR 13A.08.01.17.D(1).

<sup>13</sup> See MD. CODE ANN, EDUC. §7-305 (g)(1); COMAR 13A.08.01.17.G

<sup>14</sup> See COMAR 13A.08.01.17.C(3)(emphasis added).

<sup>15</sup> See COMAR 13A.08.01.17.C(4).

<sup>16</sup> See COMAR 13A.08.01.17.C(5).

<sup>17</sup> COMAR 13A.08.01.17.D(3) and (4)(b).

<sup>18</sup> See MD. CODE ANN, EDUC. §7-305(d)(2)

<sup>19</sup> COMAR 13A.08.01.17.E(1).

<sup>20</sup> *Id.*

<sup>21</sup> See COMAR 13A.08.01.17.D(6).

<sup>22</sup> See MD. CODE ANN, EDUC. § 7-303(d)(1); COMAR 13A.08.01.17.F(1).

<sup>23</sup> See generally Carey M. Wright, Ed.D, State Superintendent of Schools, Maryland State Department of Education, Memorandum to Members of the State Board of Education dated October 22, 2024, <https://www.marylandpublicschools.org/about/Documents/Regulations/Emergency/COMAR-13A.08.01.17F-Confidentiality-Information-Retention-Documents-a.pdf>.

<sup>24</sup> See MD. CODE ANN, EDUC. § 7-303(d); COMAR 13A.08.01.17.F.

<sup>25</sup> See MD. CODE ANN, EDUC. § 7-303(j); COMAR 13A.08.01.17.J.

<sup>26</sup> See Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, *et seq.* (“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”)

<sup>27</sup> See Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C §1681, *et seq.* (“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”).

<sup>28</sup> See Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 (stating “[n]o otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”)

<sup>29</sup> See, e.g., Office for Civil Rights, U.S. Department of Education and Civil Rights Division, U.S. Department of Justice, *Resource on Confronting Racial Discrimination in Student Discipline* (May 2023), <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf>. See also, Office for Civil Rights, U.S. Department of Education, *Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline Under Section 504 of the Rehabilitation Act of 1973* (July 19, 2022), <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/504-discipline-guidance.pdf>.

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