

A. Purpose

To define and implement Maryland law regarding “Reportable Offenses” and to clarify necessary Frederick County Public Schools (FCPS) and local school actions related to educational programs and safety when a student is facing community-based charges.

B. Background

1. Under [Section 7-303](#) of the Education Article of the Maryland Code Annotated, if a student is arrested for a Reportable Offense or an offense that is related to the student’s membership in a criminal organization, the law enforcement agency making the arrest is required to notify the Superintendent or their designee, the school principal, and the school security officer, if the school has a school security officer, of the arrest and the charges within twenty-four (24) hours of the arrest or as soon as practicable.
2. In accordance with Maryland law, the Superintendent or their designee and the school principal shall consider prohibiting a student who is arrested for a Reportable Offense involving rape or a sexual offense from attending the same school or riding the same school bus as the alleged victim(s) of the Reportable Offense if such action is necessary or appropriate to protect the physical or psychological well-being of the alleged victim(s) and/or alleged suspect(s), and to maintain a safe and secure school environment for students and school personnel.

C. Definitions

1. “Alternative Education Program” or “Alternative Education Placement” is defined to mean a location within or outside of the designated home/service school designed to accommodate the needs of students who have demonstrated the need for significant academic or behavior support.
2. “Appropriate Educational Programming” is defined to mean a general or alternative education program that allows a student the opportunity to continue the student’s education within FCPS and, if in secondary school, the opportunity to receive credit.
3. “Assessment Team” is defined to mean a team comprised of school-based and central-office-based personnel who determine whether a charged student’s in-school presence poses an imminent threat of serious harm to other students or staff.
4. “Gang” or “Criminal Gang” or “Criminal Organization” is defined to mean an enterprise whose members:
 - a. Individually or collectively engage in a pattern of organized crime activity;

- b. Have as one of their primary objectives or activities the commission of one (1) or more underlying crimes, including acts by juveniles that would be underlying crimes if committed by adults; and
 - c. Have in common an overt or covert organizational or command structure., which may include, but is not limited to:
 - i. A name that separates the group from others;
 - ii. Identifiable marks and/or common symbols such as clothing of one color, hand signs, and graffiti;
 - iii. A claim to a specific geographic location inside or outside of a school; or
 - iv. Socialization with known gang members.
5. “Imminent Threat of Serious Harm” is defined to mean posing likely and immediate danger of significant physical injury.
6. “Individualized Education Plan” (IEP) is defined as written plan for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act (IDEA).
7. “Manifestation Determination” is defined to mean a process used to determine whether a student's behavior that resulted in a disciplinary removal is directly related to (i.e., a manifestation of) the student's disability.
8. “Parent” is defined to mean a biological or adoptive parent, a court-appointed custodian or guardian, a foster parent, or a caregiver (as defined by the Education Article of the Maryland Annotated Code or as designated by the United States Department of Health and Human Services, Office of Refugee Resettlement).
9. “Regular School Program” is defined to mean the courses, classes, and related services the student is enrolled in by FCPS at the time of the student’s Reportable Offense.
10. “Related Services” is defined to mean any supportive intervention that is available through FCPS.
11. “Reportable Offense” is defined to mean specific offenses that occurred off school property and did not occur at an event sponsored by the school and that are defined in Section 7-303 of the Education Article of the Maryland Code Annotated, as may be amended by the Maryland General Assembly.
12. “School Principal” is defined to mean the principal of the FCPS school or nonpublic school in which a student is enrolled, or a designee of the principal, who is an administrator.
13. “School Property” or “School Grounds” is defined to mean any school or other FCPS facility, including grounds owned or operated by FCPS, FCPS buses and other FCPS vehicles, chartered vehicles, and the facility and/or grounds of any FCPS-sponsored activity involving students.

14. "School Security Officer" is defined as an individual designated to maintain the security and safety of a school, and includes only:
 - a. A school principal or other school administrator;
 - b. A law enforcement officer; or
 - c. Other individual employed by FCPS or a local government who is designated by the local superintendent or a school principal to help maintain the security and safety of a school.
15. "Section 504 Plan" is defined to mean a written document developed for an eligible student that allows the student to receive a free and appropriate education in the least restrictive environment.
16. "Student" is defined to mean an individual who is enrolled in FCPS and for whom FCPS maintains the student's records or personally identifiable information. "Student" does not mean an individual who has not been in attendance at an FCPS school or program.
17. "Student With a Disability" is defined to mean a student, age three (3) years old through the end of the school year in which the student turns twenty-one (21) years old, who falls within one of the classifications set forth in the IDEA and who, because of the disability, needs special education and related services. This also includes students who qualify as a student with a disability pursuant to Section 504 of the Rehabilitation Act (Section 504), and who, because of such qualification, requires a Section 504 Plan.
18. "Weapon" is defined to include:
 - a. Any dangerous or deadly instrument or destructive device which can be used to inflict harm or serious injury to others, including but not limited to: pepper mace or oleoresin capsicum (OC) spray, dirk knife, bowie knife, switchblade knife, star knife, sand club, metal knuckles, razor, nunchaku, handgun, shotgun, rifle; and any explosive, incendiary, or poison gas such as bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device.
 - b. Any type of weapon by whatever name known which will, or which may be converted to, expel a projectile by the action of an explosive or other propellant.

D. Procedures

1. **Notice of a Reportable Offense**
 - a. The Superintendent designates the director of Safety and Emergency Management (SEMD) to receive all Reportable Offense notices on behalf of the Superintendent to ensure that the notices are processed in a consistent and expeditious manner.
 - b. Upon receipt of notification that a student has been arrested and charged with a Reportable Offense in the community, the director of SEMD or their designee will notify the school principal and appropriate Central Office personnel.
 - c. If the student who has been arrested has an Individualized Education Program (IEP) or Section 504 Plan, the director of SEMD or their designee will ensure notification of the

- arrest information, including the charges, is provided to the Associate Superintendent of Special Education and Student Services.
- d. If the student who has been arrested is an identified student with a disability and enrolled by FCPS in a nonpublic school program, the director of SEMD or their designee will provide arrest information, including the charges, to the Associate Superintendent of Special Education and Student Services, who is then responsible for providing notification to the principal of the nonpublic school.
2. The Superintendent or their designee maintains the responsibility for determining the education program of a student charged with a Reportable Offense independent of the criminal charges. Notice of an arrest for a Reportable Offense cannot be the sole basis for altering the student's regular school program (*i.e.*, courses, classes, and related services the student is enrolled in at the time of the student's Reportable Offense).
3. **Safety Determination and Educational Plan**
 - a. **Information Review and Consultation.** Upon receipt of the notice of a Reportable Offense, the school principal, in consultation with the director of SEMD or their designee and the appropriate School Administration and Instructional Leadership (SAIL) director, will review the information provided to determine whether the charged student's in-school presence presents a risk to the safety of other students and staff.
 - b. **Assessment Team Meeting and Development of Education Plan**
 - i. If, after consultation with the appropriate staff members, the school principal determines the charged student's in-school presence presents a risk to the safety of other students and staff, the school principal shall immediately convene an Assessment Team meeting to develop an educational plan with input from the student's parent(s) and the student's attorney, if they have one, that addresses appropriate educational programming and related services for the charged student and that maintains a safe and secure school environment for all FCPS students and staff. The plan shall be implemented no later than ten (10) school days following the director of SEMD or their designee's receipt of the Reportable Offense notification and arrest information.
 1. An Assessment Team may consist of individuals such as a school psychologist, a pupil personnel worker (PPW), the director of SEMD or their designee, the appropriate SAIL director, and the appropriate director of Special Education, if the student is a student with a disability.
 2. The appropriate SAIL director, may appoint additional members or designees.
 - ii. The school principal shall request that the student's parent or guardian attend the Assessment Team meeting to participate in the development of the plan and submit information relevant to its development. Students/parents who are non-English-speaking may request an interpreter if needed.
 - iii. If the student has an attorney, the school principal shall invite the student's attorney to participate in any meeting with the student's parent or guardian to discuss the plan.
 - iv. In the event the meeting needs to be rescheduled due to scheduling conflicts with the student's parent and/or the student's attorney, if they have one, FCPS staff will make reasonable efforts to reschedule the meeting within ten (10) school days

following the director of SEMD or their designee's receipt of the Reportable Offense notification and arrest information. If reasonable efforts to find a convenient time within the stated time frame are unsuccessful, the meeting will proceed as scheduled to ensure compliance with all relevant federal and state laws and regulations regarding changes to the student's regular education program.

- v. If the Assessment Team determines that the presence of the charged student poses an imminent threat of serious harm to other students or staff, the Assessment Team will recommend an alternative education placement. The principal and PPW will jointly communicate in writing to the student, the student's parent, and the student's attorney, if they have one, the Assessment Team's decision and the Educational Plan, copying the director of SEMD, the director of Student Services, and the appropriate SAIL director.
- c. **Manifestation Determination.** If the student is a student with a disability under the IDEA or Section 504, the Assessment Team shall consult with the Office of Special Education to ensure that the plan provides appropriate educational programming and related services to the student in accordance with federal and State laws and regulations.
 - i. Removal or exclusion from a student's regular school program for more than ten (10) consecutive school days due to a Reportable Offense must be conducted in compliance with the requirements of the IDEA, Section 504, and Maryland special education laws and regulations, including requirements related to a manifestation determination.
 - ii. The principal or Superintendent/designee is required to invite the student's attorney, if the student has an attorney, to participate in the manifestation determination. In the event the meeting needs to be rescheduled due to scheduling conflicts with the student's parent and/or the student's attorney, if they have one, FCPS staff will make reasonable efforts to reschedule the meeting within ten (10) school days following the director of SEMD or their designee's receipt of the Reportable Offense notification and arrest information. If reasonable efforts to find a convenient time within the stated time frame are unsuccessful, the meeting will proceed as scheduled to ensure compliance with all relevant federal and state laws and regulations regarding changes to the student's regular education program.
 - iii. For students with an IEP and/or Section 504 Plan, the written notice required under paragraph D(3)(b)v) will include notification that an IEP/Section 504 Plan meeting will be held during the enrollment process at the receiving school.
- d. **Review of/Adjustments to Educational Plan**
 - i. With the input of the principal, the director of Student Services, the appropriate instructional director, the director of SEMD or their designee, any other necessary staff member, the student, and the student's parent, and the student's attorney, if they have one, the Superintendent or their designee, who is an administrator, must review the plan and the student's status and make adjustments as appropriate:
 - 1. Immediately upon notification from the State's Attorney of the disposition of the Reportable Offense; or
 - 2. Pending notification from the State's Attorney, at a minimum on a quarterly basis, or every forty-five (45) days.

- ii. The student, the student's parent, and the student's attorney if they have one, shall promptly be informed of any adjustments made to the plan or to the student's placement or to both.
- 4. **Reportable Offenses Involving Rape or Other Sexual Assaults and Prohibition of Student to Attend the Same School or Ride the Same Bus as Victim**
 - a. A student adjudicated delinquent or found guilty of a Reportable Offense involving rape or a sexual offense may not attend the same school or ride the same school bus as the victim(s).
 - b. A student adjudicated delinquent or found guilty of a reportable sexual offense who is a registered sex offender is prohibited from entering onto school property. A student who is a registered sex offender shall receive education as outlined in [FCPS Regulation 200-50](#), *Registered Sex Offenders – Entry Onto School Property*.
- 5. **Appeal Process**
 - a. If a student or the student's parent disagrees with a decision made under this regulation, including the removal of a student, the student or the student's parent may appeal the decision of the assessment team to the Board within fifteen (15) calendar days after the student's or the student's parent's receipt of the written determination and notice of appeal rights. An appeal to the Board does not stay the decision of the assessment team.
 - b. If an appeal is filed, the Board or its designated committee or hearing officer shall have 45 calendar days from the date the appeal was received to hear the appeal and issue a decision, as follows:
 - i. This timeline period may be extended if the student's parent or the student's attorney, if they have one, requests additional time; and
 - ii. This timeline shall also apply if the Board elects to use a hearing examiner.
 - c. If, due to extraordinary circumstances or unusual complexity of a particular appeal, the Board determines that it will be unable to hear an appeal and issue a decision within forty-five (45) calendar days, it may petition the State Superintendent for an extension of time.
 - d. The student or the student's parent, or the student's attorney if they have one:
 - i. Shall be provided with the school system's witness list and a copy of the documents that the school system will present at the hearing no later than five (5) business days before the hearing; and
 - ii. May bring counsel and witnesses to the hearing.
 - e. Unless a public hearing is requested by the student's parent or the student's attorney, if they have one, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the Board.
 - f. The decision of the Board is final.
- 6. **Confidentiality/Guidelines relating to Reportable Offense Information**
 - a. All information related to a student charged with a Reportable Offense, including the charges, shall remain confidential. This information will be kept in a separate confidential file and shall not be included in the student's permanent educational record.

- b. Reportable Offense information obtained by the Superintendent or their designee and/or school principal shall be transmitted only to school personnel of the school in which the student is enrolled and as necessary to provide appropriate educational programming and related services to maintain a safe and secure school environment for students and school personnel.
 - c. If the disposition of the Reportable Offense was a conviction or an adjudication of delinquency or the criminal charge or delinquency petition is still pending, the Superintendent or their designee or the school principal shall transmit the Reportable Offense information as a confidential file to the local superintendent of another public school or nonpublic school in the state in which the student has enrolled or transferred or to another principal within FCPS if it is believed that the student's presence might pose a safety risk for the students and staff of the receiving school. The transmittal must include information regarding any educational programming and related services provided to the student.
 - d. All information relating to a student's Reportable Offense shall be maintained in accordance with COMAR 13A.08.01.17(F)(5) and destroyed when the first of the following occurs:
 - i. The student graduates;
 - ii. The student otherwise permanently leaves school;
 - iii. The student turns twenty-two (22) years old.;
 - iv. The criminal case involving the Reportable Offense is dismissed;
 - v. The student is found not guilty of the Reportable Offense; or
 - vi. The student pleads to a lesser offense that is not a Reportable Offense.
7. **Reporting.** In accordance with State law, the following Reportable Offenses data will be submitted annually to the Maryland State Department of Education (MSDE):
- a. The nature of the Reportable Offense.
 - b. Verification that the offense occurred off school premises.
 - c. Action taken by the local school and the Board after being notified of the Reportable Offense.
 - d. The race, ethnicity, gender, and disability status of the student arrested for the Reportable Offense.
 - e. The grade of the student arrested for the Reportable Offense.
 - f. The regular school program of the student arrested for the Reportable Offense.
 - g. Whether the student's regular school program was altered as a result of the Reportable Offense.
 - h. If the student was removed from the student's regular school program as a result of the Reportable Offense:
 - i. The amount of time during which the student was removed; and
 - ii. The student's placement and educational programming during the period of removal.
 - i. If removed from the student's regular school program, the student's academic performance during the time period the student was removed, including attendance, grades, and standardized test scores, and any additional disciplinary actions.

E. Related Information

1. **Board Policy**
 - a. [Policy 111](#), *School and Workplace Safety*
 - b. [Policy 403](#), *Student Discipline*
 - c. [Policy 423](#), *Gang Activity*
2. **Code of Maryland Regulations (COMAR)**
 - a. [COMAR 13A.05.01](#), *Provision of a Free Appropriate Public Education*
 - b. [COMAR 13A.08.01.17](#), *School Use of Reportable Offenses*
 - c. [COMAR 13A.08.03.03](#), *Authority of School Personnel – Removal of a Student with a Disability*
 - d. [COMAR 13A.08.03.08](#), *Manifestation Determination*
3. **FCPS Regulations**
 - a. [Regulation 100-11](#), *School and Workplace Safety – Behavior Threat Assessment*
 - b. [Regulation 200-50](#), *Registered Sex Offenders – Entry Onto School Property*
 - c. [Regulation 400-22](#), *School Individualized Education Program (IEP Team)*
 - d. [Regulation 400-87](#), *Gang Activity*
 - e. [Regulation 403-01](#), *Student Discipline*
 - f. [Regulation 408-01](#), *Suspension and Expulsion*
4. **FCPS Resources**
 - a. [400-60 Assessment Team Worksheet Form](#)
 - b. [Parent/Student Handbook and Student Code of Conduct](#)
5. **Federal Law**
 - a. [Individuals with Disabilities Education Act \(IDEA\), 20 U.S.C. §§1400 et seq.](#)
 - b. [Section 504 of the Rehabilitation Act, 29 USC § 794](#)
6. **Maryland Statutes**
 - a. [Md. Code Ann., Cts. & Jud. Proc. § 3-8A-03\(d\)\(4\)](#)
 - b. [Md. Code Ann., Crim. Law § 3-203](#)
 - c. [Md. Code Ann., Crim. Law § 4-101](#)
 - d. [Md. Code Ann., Crim. Law § 4-102](#)
 - e. [Md. Code Ann., Crim. Law § 4-203](#)
 - f. [Md. Code Ann., Crim. Law § 4-204](#)
 - g. [Md. Code Ann., Crim. Law § 4-503](#)
 - h. [Md. Code Ann., Crim. Law § 5-602](#)
 - i. [Md. Code Ann., Crim. Law § 5-603](#)
 - j. [Md. Code Ann., Crim. Law § 5-604](#)
 - k. [Md. Code Ann., Crim. Law § 5-605](#)
 - l. [Md. Code Ann., Crim. Law § 5-606](#)
 - m. [Md. Code Ann., Crim. Law § 5-607](#)
 - n. [Md. Code Ann., Crim. Law § 5-608](#)
 - o. [Md. Code Ann., Crim. Law § 5-608.1](#)
 - p. [Md. Code Ann., Crim. Law § 5-609](#)
 - q. [Md. Code Ann., Crim. Law § 5-612](#)

- r. [Md. Code Ann., Crim. Law § 5-613](#)
- s. [Md. Code Ann., Crim. Law § 5-614](#)
- t. [Md. Code Ann., Crim. Law § 5-617](#)
- u. [Md. Code Ann., Crim. Law § 5-618](#)
- v. [Md. Code Ann., Crim. Law § 5-627](#)
- w. [Md. Code Ann., Crim. Law § 5-628](#)
- x. [Md. Code Ann., Crim. Law § 6-102](#)
- y. [Md. Code Ann., Crim. Law § 6-103](#)
- z. [Md. Code Ann., Crim. Law § 6-104](#)
- aa. [Md. Code Ann., Crim. Law § 6-105](#)
- bb. [Md. Code Ann., Crim. Law § 6-202](#)
- cc. [Md. Code Ann., Crim. Law § 6-301](#)
- dd. [Md. Code Ann., Crim. Law § 7-105](#)
- ee. [Md. Code Ann., Crim. Law § 9-302](#)
- ff. [Md. Code Ann., Crim. Law § 9-303](#)
- gg. [Md. Code Ann., Crim. Law § 9-305](#)
- hh. [Md. Code Ann., Crim. Law § 9-504](#)
- ii. [Md. Code Ann., Crim. Law § 9-505](#)
- jj. [Md. Code Ann., Crim. Law § 9-801](#)
- kk. [Md. Code Ann., Crim. Law § 9-802](#)
- ll. [Md. Code Ann., Crim. Law § 9-803](#)
- mm. [Md. Code Ann., Crim. Law § 10-606](#)
- nn. [Md. Code Ann., Crim. Law § 14-101](#)
- oo. [Md. Code Ann., Educ. § 7-303](#)

F. Regulation History (Maintained by Legal Services)

<i>Responsible Office</i>	Security and Emergency Management Department; Department of Special Education and Student Services
Adoption Dates	12/02/91
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