



Mohammed Choudhury
State Superintendent of Schools

TO: Members of the State Board of Education
FROM: Mohammed Choudhury, State Superintendent of Schools
DATE: July 25, 2023
SUBJECT: COMAR 13A.08.01.17
School Use of Reportable Offenses
Permission to Publish

Purpose

The purpose of this item is to request permission to publish amendments to regulation COMAR 13A.08.01.17 *School Use of Reportable Offenses*.

Regulation Promulgation Process

Under Maryland law, a state agency, such as the State Board of Education (State Board), may propose a new or amended regulation whenever the circumstances arise to do so. After the State Board votes to propose such a regulation, the proposed regulation is sent to the Administrative, Executive, and Legislative Review (AELR) Committee for a 15-day review period. If the AELR Committee does not hold up the proposed regulation for further review, it is published in the Maryland Register for a 30-day public comment period. At the end of the comment period, Maryland State Department of Education (MSDE) staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because the suggested revision is not a substantive change; or (3) revise the regulation and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may recommend to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

Background/Historical Perspective

Under Maryland law, when a student is arrested for certain offenses, the law enforcement agency making the arrest shall notify the student's local superintendent, the school principal, and for a school that has a school security officer, the school security officer of the arrest and the charges within 24 hours of the arrest, or as soon as practicable. The offenses which necessitate this notification are known as "reportable offenses." Reportable offenses are those offenses that occur off school premises, did not occur at an event sponsored by the school, and are serious criminal offenses. Reportable offenses are dictated by statute and include murder, arson, armed carjacking, sexual offenses, among other serious offenses. Offenses that are related to the student's membership in a criminal organization must also be reported. See Md. Code, Education § 7-303.

The intent of the reportable offense law is not to “punish” the student, but instead to provide the local education agency (LEA) with information that may impact the safety dynamics within the school community. This is different from school discipline where the LEA is using positive and punitive measures to correct inappropriate behavior in school. The reportable offense law governs the exchange and use of arrest information regarding serious and criminal offenses for the purpose of educational programming and for the maintenance of a safe and secure school environment.

Proper implementation of State law and regulations governing reportable offenses can be difficult. LEAs must balance the educational rights and needs of the individual student charged with a reportable offense alongside the overall safety of the students and staff, often with very limited information about the circumstances of the offense. As the LEA is provided with information shortly after arrest, there often has not been a hearing by the adult or juvenile court to determine the student’s innocence or guilt, and students are cautious in sharing information with the LEA as that information may be used against them in court. This can lead to LEAs making decisions to remove a student from their regular school program out of an abundance of caution, even when it may not always be necessary to maintain the safety and security of a school.

In 2022, the Maryland General Assembly expressed concern about the purported misuse or overuse of school removals for students arrested for a reportable offense. In response, the General Assembly passed House Bill (HB) 146: *Education – Reportable Offenses, Student Discipline, and School Disruptions – Presence of an Attorney and Reporting* (2022 Md. Laws, Chap. 742). In general, the bill:

1. Amends the definition of a reportable offense in Md. Code, Education § 7-303 to clarify that the offense took place off school property and did not occur at an event sponsored by the school;
2. Requires MSDE to submit a report to the General Assembly by December 30th of each year regarding certain information about reportable offenses at the LEA level;
3. Requires the LEA to submit all necessary information to MSDE to comply with reporting requirements;
4. Requires the LEA to invite the student’s attorney, if the student has an attorney, to meetings regarding the removal of the student from the regular school program, including the manifestation determination review for students with disabilities;
5. Applies the provisions of Md. Code, Education § 7-305 (*Suspensions and Expulsions*) to a removal due to a reportable offense; and
6. Requires the LEA to comply with all the requirements of the Individuals with Disabilities Education Act (IDEA) including manifestation determination reviews, when removing a student due to a reportable offense.

While MSDE informed LEAs of the changes to the law, three legal advocacy organizations – Maryland Office of the Public Defender, the Public Justice Center, and Disability Rights Maryland – reached out to MSDE with concerns about the implementation of the law as it related to their clients. MSDE met virtually with these organizations on two occasions (July 8, 2022, and June 29, 2023) to learn more about the organizations’ experiences in representing their clients and used this information to help inform next steps. The legal advocacy organizations addressed concerns about the LEAs’ understanding of the definition of reportable offenses; data collection by the LEAs;

implementation of the requirements to invite the student's attorney, if the family has an attorney, to meetings to discuss any removal of the student from the school for a reportable offense; and application of requirements under IDEA. MSDE reviewed written documentation submitted by the organizations to Superintendent Choudhury. MSDE also conducted outreach to the LEAs to learn more about their reportable offenses policies. This information was considered when MSDE drafted the proposed regulations.

In addition to proposing updated regulations to the State Board, MSDE will be updating existing guidance, such as the *Model Policy Bulletin on School Use of Reportable Offenses*. MSDE is also planning technical assistance sessions for the LEAs, to be followed by open office hours to provide a consistent, scheduled opportunity to meet with MSDE staff for clarification and feedback.

Executive Summary

MSDE reviewed the regulation and made the proposed amendments with two goals in mind. First, the proposed regulation is amended to align with the statutory language of Md. Code, Educ. § 7-303 and 305. Second, and most importantly, MSDE thoughtfully considered how to provide enough clarity such that students facing community-based charges are not inappropriately removed from their educational program. MSDE is recommending the following amendments to the regulation:

A. Definitions.

MSDE updated the language of criminal "gang" to "organization" to align with the statute. MSDE also updated the definition of reportable offense to be consistent with the statute. This change clarifies that offenses occur off school property and not at school-sponsored events. It also updates the list of reportable offenses to match the statute.

MSDE also proposed a definition for "regular school program," which means "the courses, classes, and related services the student is enrolled in by a local school system at the time of the student's reportable offense." MSDE notes that while the language of "regular school program" also exists in the school discipline regulations, it is not the intent of MSDE to change the meaning of "regular school program" in that regulation, as defined by State Board appeals.

B. Notification by Law Enforcement.

In alignment with the statute, MSDE added language clarifying how law enforcement will inform the LEA of the reportable offense. MSDE will consider ways to work with partners to communicate expectations with local law enforcement agencies around the State.

C. Safety Determination Procedures and Plan.

MSDE drafted updated procedures that require the school principal, with appropriate staff, to determine if the student's presence presents a risk to the safety of other students and staff. If there is a safety concern, then the principal, with the input of the parent, will develop a safety plan. If the student has an attorney, the attorney must be invited to any meeting between the parent or guardian and the principal related to the safety plan.

D. Removal from the Regular School Program.

Consistent with new statutory requirements, proposed procedures require that if the school principal determines that removal from the regular school program is necessary for the maintenance of safety, the principal shall inform the local superintendent. The local superintendent will conduct a meeting with the parent or guardian and student and make a determination as to whether the student is an imminent threat of serious harm to other students or staff. The procedures apply a 10 school day timeline for this process, as well as instituting appeal provisions.

E. Review Procedures.

MSDE changed the review procedures to require that at a minimum any safety plan is reviewed every 45 school days, or when the LEA is notified of the disposition of the case. This review must include the input of the parent or guardian. MSDE also added appeal provisions.

F. Confidentiality of Information and Retention of Documents.

MSDE broke out existing general provisions into separate sections for ease of the reader. The confidentiality provisions and retention of documents are the same as the current regulations.

G. Students with Disabilities.

MSDE broke out existing general provisions into separate sections for ease of the reader. There is now a section focused on obligations to students with disabilities. This incorporates existing language and adds a new provision from the statute applying the manifestation determination review process to changes in placement resulting from a reportable offense removal.

H. Reportable Offense Involving Rape or a Sexual Assault.

MSDE broke out existing general provisions into separate sections for ease of the reader. This section contains the current language on sexual offenses and physical proximity to alleged victims. MSDE also incorporated a new provision from the Maryland Sexual Offender Registry statute that provides for alternative educational programming for student registrants.

I. General Provisions.

MSDE kept current language about the need to designate school security officers in public schools with students enrolled in grades six through 12. It also kept current language stating LEAs may not charge the student or parent for alternative educational programming or related services.

J. Data Collection.

MSDE added a new section to address data collection requirements from the statute. This data will be shared from the LEA to MSDE. MSDE will use this data to comply with statutorily required reporting to the Governor and General Assembly, consistent with federal and State privacy laws.

Action

MSDE requests permission to publish amended regulation COMAR 13A.08.01.17 *School Use of Reportable Offenses*.

Attachments

COMAR 13A.08.01.17 *School Use of Reportable Offenses*

COMAR 13A.08.01.17

School Use of Reportable Offenses

MARYLAND STATE BOARD OF EDUCATION | July 25, 2023

Presented By | Mary Gable, Assistant State Superintendent, Division of Student Support, Academic Enrichment, and Educational Policy



PRESENTATION OUTLINE

1. Summary of the Statute
2. Stakeholder Input
3. Amendments to COMAR 13A.08.01.17
School Use of Reportable Offenses

Summary of Md. Code, Educ. § 7-303, Arrest for Reportable Offense

- Amends the definition of reportable offense to clarify that the offense took place off school property and did not occur at a school sponsored event;
- Requires the Maryland State Department of Education (MSDE) to submit a report to the General Assembly by December 30th of each year containing certain information about reportable offenses at the Local Education Agency (LEA) level;
- Requires LEAs to submit all necessary information to MSDE to comply with reporting requirements;
- Requires the LEA to invite the student's attorney, if the student has one, to meetings regarding removal from the regular school program. This includes the manifestation determination review for students with disabilities;
- Applies the provisions of Md. Code, Educ. § 7-303 to removals due to a reportable offense; and
- Requires the LEA to comply with all requirements of the Individuals with Disabilities Act (IDEA), including manifestation determination reviews, when removing a student for a reportable offense.

Stakeholder Feedback

Three legal advocacy organizations – the Public Justice Center, Disability Rights Maryland, and Maryland Office of the Public Defender – contacted MSDE regarding implementation of the law as it related to:

- LEAs' understanding of the definition of reportable offenses
- Data collection by LEAs
- Implementation of the attorney invitation requirements in removal situations
- Application of requirements under IDEA

MSDE also conducted outreach to the LEAs to learn more about their reportable offense policies and any changes that had been made in response to the new statute.

Proposed Amendments to COMAR 13A.08.01.17

MSDE recommends amendments to the regulation in the following categories:

- Definitions
- Notification by Law Enforcement
- Safety Determination Procedures and Plan
- Removal from the Regular School Program
- Review Procedures
- Confidentiality of Information and Retention of Documents
- Students with Disabilities
- Reportable Offenses Involving Rape or Sexual Assault
- General Provisions
- Data Collection

[COMAR 13A.08.01.17](#)

13A.08.01.17 School Use of Reportable Offenses.

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

(1) "Appropriate educational programming" means a regular or alternative education program that allows a student the opportunity to continue the student's education within the public school system and, if in secondary school, the opportunity to receive credit.

(2) "Criminal [gang] *organization*" has the meaning stated in Criminal Law Article, §9-801, Annotated Code of Maryland.

(3) "Law enforcement agency" means the law enforcement agencies listed in Public Safety Article, §3-101(e), Annotated Code of Maryland.

(4) "Local school system" means the schools and school programs under the supervision of the local superintendent.

(5) "Local superintendent" means the county superintendent, for the county in which a student is enrolled, or a designee of the superintendent, who is an administrator.

(6) "Regular school program" means the courses, classes, and related services the student is enrolled in by a local school system at the time of the student's reportable offense.

[6](7) "Related services" means any supportive intervention that is available through the local school system.

[7](8) "Reportable offense" means *an offense that:*

(a) A crime of violence, as defined in Criminal Law Article, §14-101, Annotated Code of Maryland;

(b) Any of the offenses enumerated in Courts and Judicial Proceedings Article, §3-8A-03(d)(4), Annotated Code of Maryland;

(c) A violation of Criminal Law Article §4-101, 4-102, 4-203 or 4-204, Annotated Code of Maryland;

(d) A violation of Criminal Law Article, §5-602—5-609, 5-612—5-614, 5-617, 5-618, 5-627 or 5-628, Annotated Code of Maryland;

(e) A violation of Criminal Law Article, §4-503, 9-504 or 9-505, Annotated Code of Maryland;

(f) A violation of Criminal Law Article §6-102, 6-103, 6-104 or 6-105, Annotated Code of Maryland;

(g) A violation of Criminal Law Article §9-802 or 9-803, Annotated Code of Maryland;

(h) A violation of Criminal Law Article §3-203, Annotated Code of Maryland;

(i) A violation of Criminal Law Article §6-301, Annotated Code of Maryland;

(j) A violation of Criminal Law Article §9-302, 9-303 or 9-305, Annotated Code of Maryland;

(k) A violation of Criminal Law Article §7-105, Annotated Code of Maryland; or

(l) An offense related to membership in a criminal gang.]

(a) Occurred off school premises;

(b) Did not occur at an event sponsored by the school; and

(c) Involved any of the following:

(i) A crime of violence, as defined in § 14–101 of the Criminal Law Article;

(ii) Any of the offenses enumerated in § 3–8A–03(e)(4) of the Courts Article;

(iii) A violation of § 4–101, § 4–102, § 4–203, or § 4–204 of the Criminal Law Article;

(iv) A violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–606, § 5–607, § 5–608, § 5–608.1, § 5–609, § 5–612, § 5–613, § 5–614, § 5–617, § 5–618, § 5–627, or § 5–628 of the Criminal Law Article;

(v) A violation of § 4–503, § 9–504, or § 9–505 of the Criminal Law Article;

(vi) A violation of § 6–102, § 6–103, § 6–104, or § 6–105 of the Criminal Law Article;

(vii) A violation of § 9–802 or § 9–803 of the Criminal Law Article;

(viii) A violation of § 3–203 of the Criminal Law Article;

(ix) A violation of § 6–301 of the Criminal Law Article;

(x) A violation of § 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

(xi) A violation of § 7–105 of the Criminal Law Article;

(xii) A violation of § 6–202 of the Criminal Law Article; or

(xiii) A violation of § 10–606 of the Criminal Law Article.

[8] (9) “School principal” means the principal of the public or nonpublic school in which a student is enrolled, or a designee of the principal, who is an administrator.

[9] (10) “School security officer” means an individual designated to maintain the security and safety of a school.

(a) School security officer includes:

(i) A school principal or other school administrator;

(ii) A law enforcement officer; or

(iii) Other individual employed by a local school system or a local government who is designated by the county superintendent or a school principal to help maintain the security and safety of a school.

(b) School security officer does not include:

(i) A teacher;

(ii) A school counselor;

(iii) A school psychologist; or

(iv) A school social worker.

[10] (II) "Student" means an individual enrolled in a public school system in the State who is 5 years old or older and younger than 22 years old.

[B. Administrative Procedures.

(1) Promptly, upon receipt of information from a law enforcement agency of an arrest of a student for a reportable offense, the local superintendent shall provide the school principal of the school in which the student is enrolled with the arrest information, including the charges. If the student who has been arrested is an identified student with disabilities who has been enrolled by the public school system in a nonpublic school program, the local superintendent shall provide the principal of the nonpublic school with the arrest information, including the charges.

(2) The school principal with appropriate staff members shall immediately develop a plan that addresses appropriate educational programming and related services for the student and that maintains a safe and secure school environment for all students and school personnel. The school principal shall request that the student's parent or guardian:

(a) Participate in the development of the plan; and

(b) Submit information that is relevant to developing the plan.

(3) If the plan results in a change to the student's educational program, the school principal shall promptly schedule a conference to inform the parent or guardian of the plan. The plan shall be implemented not later than 5 school days after receipt of the arrest information.

(4) The school principal and appropriate staff shall review the plan and the student's status and make adjustments as appropriate:

(a) Immediately upon notification from the State's Attorney of the disposition of the reportable offense; or

(b) Pending notification from the State's Attorney, at a minimum on a quarterly basis.

(5) The parent or guardian shall be informed of any adjustments to the plan.

(6) Each local school system shall provide a review process to resolve any disagreement that arises in the implementation of this regulation.]

B. Notification by Law Enforcement. 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:

(1) Shall notify the following individuals of the arrest and the charges within 24 hours of the arrest or as soon as practicable:

(a) The local superintendent;

(b) The school principal; and

(c) For a school that has a school security officer, the school security officer; and

(2) May notify the State's Attorney of the arrest and charges.

[C. General Provisions.

(1) Except by order of a juvenile court or other court upon good cause shown or as provided in §C(2) of this regulation, the reportable offense information is confidential and may not be redisclosed by subpoena or otherwise and may not be made part of the student's permanent educational record.

(2) If the disposition of the reportable offense was a conviction, an adjudication of delinquency, or the criminal charge or delinquency petition is still pending, a local superintendent or school principal may transmit the information obtained under this regulation as a confidential file to the local superintendent of another public school system or to another nonpublic school in the state in which the student has enrolled or has transferred, to carry out the purposes of this regulation.

(3) A local superintendent or school principal who transmits information about a student under §C(2) of this regulation shall include in the confidential transmittal information on any educational programming and related services provided to the student.

(4) A fee may not be charged to the student or parent or guardian for the alternative educational programming or related services that are developed for the student.

(5) Notice of the reportable offense charge alone may not be the basis for suspension or expulsion of the student. However, nothing in this regulation is intended to limit the manner in which a school obtains information or uses information obtained by any lawful means other than through notice of the arrest.

(6) Appropriate educational programming and related services shall be provided to an identified student with disabilities in accordance with the Individuals with Disabilities Education Act and State special education law and regulations, including COMAR 13A.05.01.

(7) The reportable offense information obtained by a local superintendent, school principal or school security officer shall be:

(a) Transmitted only to school personnel of the school in which the student is enrolled as necessary to carry out the purposes set forth in this regulation; and

(b) Destroyed when the first of the following occurs:

(i) The student graduates;

(ii) The student otherwise permanently leaves school;

(iii) The student turns 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.

(8) Reportable offense involving rape or a sexual offense.

(a) Except as otherwise provided in paragraph §C(8)(b) of this regulation, the local superintendent 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 on the same school bus as the alleged victim of the reportable offense if such action is necessary or appropriate to protect the physical or psychological well-being of the alleged victim.

(b) If a student is arrested for a reportable offense involving rape or a sexual offense and is convicted of or adjudicated delinquent for the rape or sexual offense, the student may not attend the same school or ride on the same school bus as the victim.

(9) Nothing in this regulation is intended to limit the manner in which a local school obtains information or uses information obtained by any lawful means other than that set forth in §C(2) of this regulation.

(10) Each public school that enrolls students in grades six through 12 in the State shall designate at least one school security officer.]

C. Safety Determination Procedures and Plan.

(1) Promptly, upon receipt of information from a law enforcement agency or another verified source of an arrest of a student for a reportable offense:

(a) The local superintendent shall provide the school principal of the school in which the student is enrolled with the arrest information, including the charges.

(b) If the student who has been arrested is an identified student with disabilities who has been enrolled by the public school system in a nonpublic school program, the local superintendent shall provide the principal of the nonpublic school with the arrest information, including the charges.

(2) The school principal, in consultation with appropriate staff members, shall consider whether the student's presence presents a risk to the safety of other students and staff.

(3) If the school principal believes the student presents a safety risk, the school principal shall immediately develop a plan that:

(a) Addresses appropriate educational programming and related services for the student; and

(b) Maintains a safe and secure school environment for all students and staff.

(4) The school principal shall request that the student's parent or guardian:

(a) Participate in the development of the plan; and

(b) Submit information that is relevant to developing the plan.

(5) 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.

D. Removal from regular school program.

(1) A student may not be removed from the student's regular school program unless the student presents an imminent threat of serious harm to other students or staff.

(2) If the plan developed in paragraph C(3) of this regulation includes removal of the student from the student's regular school program, the school principal shall promptly inform the local superintendent in writing.

(3) Upon receipt of a written report from a school principal requesting a removal from the regular school program, and no later than 10 school days from the notification of the reportable offense, the local superintendent shall:

(a) Promptly hold a conference with the student and the student's parent or guardian; and

(b) Make a determination as to whether the student poses an imminent threat of serious harm to other students or staff necessitating a removal.

(4) Implementation of the plan must occur by the tenth school day following notification of the reportable offense.

(5) If after the conference, the local superintendent finds that a removal from the regular school program is warranted, the student or the student's parent or guardian may appeal the removal to the local board within 15 calendar days after the determination.

(6) If an appeal is filed, the local 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:

(a) This timeline period may be extended if the parent, guardian, or his/her representative requests additional time; and

(b) This timeline shall also apply if the local board elects to use a hearing examiner.

(7) If due to extraordinary circumstances or unusual complexity of a particular appeal, the local board determines that it will be unable to hear an appeal and issue a decision within 45 calendar days, it may petition the State Superintendent for an extension of time.

(8) The student or the student's parent, guardian, or representative:

(a) 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 5 business days before the hearing; and

(b) May bring counsel and witnesses to the hearing.

(9) Unless a public hearing is requested by the parent or guardian of the student, a hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the local board.

(10) The appeal to the local board does not stay the decision of the local superintendent.

(11) The decision of the local board is final.

E. Review Procedures.

(1) With the input of the school principal, appropriate staff, the student, and the student's parent or guardian, the local superintendent shall review the plan and the student's status and make adjustments as appropriate:

(a) Immediately upon notification from the State's Attorney of the disposition of the reportable offense; or

(b) Pending notification from the State's Attorney, at a minimum every 45 school days.

(2) If the student has an attorney, the local superintendent shall invite the student's attorney to participate in any meeting with the student or the student's parent or guardian to discuss the review of the plan.

(3) The student and the student's parent or guardian shall be provided in writing with the local superintendent's review decision.

(4) If the student or the student's parent or guardian disagrees with the local superintendent's review decision, the student or the student's parent or guardian may appeal the decision consistent with paragraphs §D(5)-(11) of this regulation.

F. Confidentiality of Information and Retention of Documents.

(1) Except by order of a juvenile court or other court upon good cause shown or as provided in §F(2) of this regulation, the reportable offense information is confidential and may not be redisclosed by subpoena or otherwise and may not be made part of the student's permanent educational record.

(2) If the disposition of the reportable offense was a conviction, an adjudication of delinquency, or the criminal charge or delinquency petition is still pending, a local superintendent or school principal may transmit the information obtained under this regulation as a confidential file to the local superintendent of another public school system or to another nonpublic school in the state in which the student has enrolled or has transferred, to carry out the purposes of this regulation.

(3) A local superintendent or school principal who transmits information about a student under §F(2) of this regulation shall include in the confidential transmittal information on any educational programming and related services provided to the student.

(4) Nothing in this regulation is intended to limit the manner in which a local school obtains information or uses information obtained by any lawful means.

(5) The reportable offense information obtained by a local superintendent, school principal or school security officer shall be:

(a) Transmitted only to school personnel of the school in which the student is enrolled and as necessary to carry out the purposes set forth in this regulation; and

(b) Destroyed when the first of the following occurs:

(i) The student graduates;

(ii) The student otherwise permanently leaves school;

(iii) The student turns 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.

G. Students with Disabilities

(1) Appropriate educational programming and related services shall be provided to an identified student with disabilities in accordance with the Individuals with Disabilities Education Act and State special education law and regulations, including COMAR 13A.05.01.

(2) Removal of a student with a disability resulting in a change of placement under COMAR 13A.08.03.05 shall be conducted in conformance with the requirements of the Individuals with Disabilities Education Act, and State special education law and regulations, including requirements related to a manifestation determination.

(3) If the student has an attorney, the attorney shall be invited to attend any meeting to discuss the manifestation determination.

H. Reportable Offense Involving Rape or a Sexual Offense.

(1) Except as otherwise provided in paragraph § H(2) of this regulation, the local superintendent 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 on the same school bus as the alleged victim of the reportable offense if such action is necessary or appropriate to protect the physical or psychological well-being of the alleged victim.

(2) If a student is arrested for a reportable offense involving rape or a sexual offense and is convicted of or adjudicated delinquent for the rape or sexual offense, the student may not attend the same school or ride on the same school bus as the victim.

(3) Consistent with Criminal Procedure Article, § 11-722(e), Annotated Code of Maryland, a student who is required to register with the Maryland Sex Offender Registry may receive an education in accordance with State law in any of the following locations:

(a) A location other than a public or nonpublic elementary or secondary school, including by:

(i) Participating in the Home and Hospital Teaching Program for Students; or

(ii) Participating in or attending a program approved by a local board;

(b) A Regional Institute for Children and Adolescents; or

(c) A nonpublic educational program as provided by § 8-406 of the Education Article if:

(i) The registrant has notified an agent or employee of the nonpublic educational program that the registrant is required to register under this subtitle; and

(ii) The registrant has been given specific written permission by an agent or employee of the nonpublic educational program to attend the nonpublic educational program.

I. General Provisions

(1) Each public school that enrolls students in grades six through 12 in the State shall designate at least one school security officer.

(2) A fee may not be charged to the student or parent or guardian for the alternative educational programming or related services that are developed for the student.

J. Data Collection.

(1) Each year the local school system shall provide to the Department the following information for each reportable offense for which the local school received information under this regulation:

(a) The nature of the reportable offense;

(b) Verification that the offense occurred off school premises;

(c) Action taken by the local school and local 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; and

(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.