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June 30, 2017

The Honorable Pat McDonough
P.O. Box 15470
Baltimore, Maryland 21220

Dear Delegate McDonough:

You have asked for advice concerning any laws that would require the reporting of violence and weapons incidents in public schools in Maryland. The laws that require such reporting are discussed below.

The federal Gun Free Schools Act requires each State receiving certain federal funds to have a State law that requires local education agencies to expel any student who is found to have brought a firearm to school or to have possessed a firearm at school for at least one year but permits the local superintendent of schools to make exceptions with respect to the length of the suspension based on the facts of individual cases if the determination is made in writing. 20 U.S.C. § 7961(b)(1). The federal law also requires any local education agency seeking a share of federal funds received by the State to report on each expulsion under 20 U.S.C. § 7961(b)(1) and describe the circumstances of each expulsion, including the name of the school concerned, the number of students expelled from each school, and the type of firearms involved. 20 U.S.C. § 7961(d). The State is then required to report that information to the federal Secretary of Education. 20 U.S.C. § 7961(e). Finally, federal law provides that no funds shall be made available to a local education agency unless the local education agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to school. 20 U.S.C. § 7961(h).

In compliance with federal law, Maryland law provides, at Education Article, § 7-305(f)(2), that a student who is found to have brought a firearm onto school property shall be expelled for a minimum of one year. As allowed by federal law, Maryland law permits a county superintendent to set a shorter period of expulsion or transfer to an alternative educational setting on a case by case basis. Education Article, § 7-305(f)(3).

State regulations mirror State law on this point. COMAR 13A.08.01.12-1B. The regulations also require each local school system to submit a report to the State Board of Education that certifies that the local school system is in compliance with the regulation and also to describe the circumstances of any required expulsion, including the number of incidents in which a student brought a firearm onto school property or to a school-sponsored activity or possessed a firearm on

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school property, the name of the school where each incident took place, the type of firearm involved, the disposition of each case, including the number of students expelled or placed in alternative educational settings. COMAR 13A.08.01.12-1D(1). In addition, the regulations require that a local school system report each incident in which a student brings a firearm onto school property or to a school-sponsored activity or possesses a firearm on school property or at a school-sponsored activity to the appropriate juvenile justice or criminal enforcement agency. COMAR 13A.08.01.12-1D(2).

State regulations on education records generally also bear on this question. The *Maryland Student Records System Manual* (“*Manual*”) (2016), incorporated by reference at COMAR 13A.08.02.09, requires reporting of all incidents that result in a suspension or expulsion. *Manual* at 66. The information reported “must include the disciplinary action taken, a description of the student's behavior that resulted in the disciplinary action, school liaison information, educational services student is receiving, and copies of all correspondence sent to the parent(s) informing parent(s) of the disciplinary action.” *Id.* Among the codes provided are those for possession of firearms (301), other guns (302), and other weapons (303). *Id.* at 70.

Thus, in response to your question, local school boards are required to report incidents involving firearms to State education officials and to law enforcement or juvenile authorities.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Rowe', with a long horizontal flourish extending to the right.

Kathryn M. Rowe
Assistant Attorney General

KMR/kmr
mcdonough22.wpd