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Ways and Means Committee of the Maryland House of Delegates
Room 131, House Office Building
Annapolis, Maryland 21401

Maryland's Opportunity to Lead by Reducing the Use of Exclusionary Discipline

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Prepared Testimony of John. B King Jr, President and CEO, the Education Trust

Dear Chair Kaiser, Vice Chair Delegate Alonzo T. Washington, and the members of the House Ways and Means Committee,

Thank you for the opportunity to comment in support of HB0202 Restorative Schools Fund and Grants -- Establishment. I had the honor of serving with President Obama in his administration as the 10th Secretary of Education. I'm currently president and CEO of The Education Trust, a national nonprofit that, through our advocacy and research, works to shine light on and close opportunity gaps for students of color and those from low-income families.

I am proud to say that in addition to being a civil rights advocacy voice nationally, we are also doing work in a number of states, including Maryland, to advance equity for students of color and low-income kids. We have been convening coalitions of business leaders, civil rights leaders, disability and immigrants' rights organizations, educators, families, and students to support their efforts in the fight for educational opportunity and justice.

I am equally proud to say that I am a resident of Montgomery County and a proud parent of two daughters who are Maryland public school students.

I am grateful for Delegate Cain's invitation to share The Education Trust's perspective on the impact of exclusionary discipline on students and restorative justice. The research is clear that the current use of exclusionary discipline is both neither an effective nor accurate response to student behavior. Rather than improving academic outcomes and contributing to positive school climates, suspensions and expulsions have been proven to have profoundly negative effects on students. By adopting alternatives to exclusionary discipline such as restorative justice, Maryland has an opportunity to make schools safer and improve student learning, particularly for students of color who are currently being suspended and expelled far out of proportion to their white peers. However, in order to Maryland to seize this opportunity it must ensure that there are adequate resources necessary to support the development and implementation of restorative justice programs.

Part 1. The Impact of Exclusionary Discipline on Students

The disproportionate use of punitive or exclusionary discipline is an urgent problem with profoundly negative effects on children.

Studies have shown that missing valuable school time puts students at a greater risk of falling behind and, ultimately, not graduating. According to the [*Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings*](#) released in 2014 by the Departments of Education and Health and Human Services, youth who are expelled or suspended are as much as 10 times more likely to drop out of high school, experience academic challenges and grade retention, hold negative school attitudes, and face incarceration than those who are not expelled or suspended.

The data also suggest that there are profound racial inequities in the ways that we respond to student behavior both nationally and in Maryland. Behavioral differences do *not* explain these disparities. Rather, school policies, practices, and the mindsets of adults in the building are a key driver of disparities.

(Source: [The School Discipline Dilemma: A Comprehensive Review of Disparities and Alternative Approaches](#), Richard O. Welsh, Shafiqua Little, September 17, 2018)

School discipline practices disproportionately affect students of color and students with disabilities, placing them on a pathway to a very real school-to-prison pipeline — locking up their futures before they even have a chance to reach their full potential.

Let me share some national data on suspensions:

Black students are 16 percent of total enrollment nationally, but represent 39 percent of students who are suspended.

- Black boys are 8 percent of the total enrollment, but represent 25 percent of students who are suspended out of school.
- Black girls are 8 percent of the total enrollment, but make up 14 percent of the students who are suspended out of school.

Students with disabilities are 12 percent of those enrolled, but make up 26 percent of students suspended out of school.

(Source: [U.S. Department of Education, Office of Civil Rights, 2015-2016 Civil Rights Data Collection: School Climate and Safety](#), published 2018.)

Equally concerning, here is what we know about expulsions nationally:

Black students are 16 percent of total enrollment, but 33 percent of students who are expelled.

- Black boys are 8 percent of the total enrollment, but represent 23 percent of students who are expelled.
- Black girls are 8 percent of the total enrollment, but make up 10 percent of the students who are expelled.

Students with disabilities are 12 percent of those enrolled, but make up 24 percent of students expelled.

(Source: [U.S. Department of Education, Office of Civil Rights, 2015-2016 Civil Rights Data Collection: School Climate and Safety, published 2018.](#))

In Maryland, the patterns are similar:

- Black students in Maryland are more than three times more likely to be suspended than White students. (Source: [Maryland State Department of Education, 2017.](#))

Now is the time for Maryland to lead

In the Obama administration, we put out [school discipline guidance](#) in 2014 to help states, districts, and schools intervene when there are disparities in discipline to help enhance school climate and reduce inequities in exclusionary discipline.

And children were less likely to be suspended in 2016 than they were in 2012. From 2011 to 2016, the proportion of all students suspended from school at least once during the year fell from 5.6 to 4.7 percent. Hispanic students experienced the largest decrease — a 30 percent drop in suspensions. (Source: [Analysis of data from the 2011-12, 2013-14, and 2016-16 Civil Rights Data Collection by NPR and Child Trends.](#))

Recently, the current administration rescinded that guidance in spite of students, educators, families, and civil rights advocates repeatedly asking to keep this guidance in place. And, we know that federal and state policies can make a big difference in reducing exclusionary discipline policies and in reducing the disproportionate effect they have on students of color.

But, just because that guidance has been rolled back on the federal level, does not mean that states like Maryland don't have the opportunity and the responsibility to act. It is now up to all of us as advocates to protect students and their futures.

I am strongly encouraged that Maryland has decided to be a leader and innovator, and has prioritized reducing the use of exclusionary discipline.

Part 2. Bringing the Equity Lens to School Discipline and Restorative Justice

There is some compelling evidence that using a restorative approach is a better idea — for all students and particularly for students of color.

Examples:

- The [Maryland Commission on the School-to-Prison Pipeline and Restorative Practices Final Report and Collaborative Action Plan](#) details substantial research on the effectiveness of restorative practices, including promising evidence of significantly reduced suspensions in Oakland, California and Denver, Colorado.
- One study of Positive Behavioral Intervention and Support (PBIS) programs found that they reduced overall out of school suspension rates by roughly 20 percent, and reduced the disproportionality of suspensions for Black students by roughly 15 percent. (Source: McIntosh, et al., [Do Schools Implementing SWPBIS Have Decreased Racial and Ethnic Disproportionality in School Discipline?](#), 2018.)

However, the data suggest that how the strategies and supports are implemented matters, and in order for Maryland to do this equitably, there are a few questions that we encourage you to ask.

- *Do the discipline policies focus on repairing and sustaining relationships between individuals when conflict occurs?*
- *How will the data be collected, used, and shared?*
- *How will resources be increased — and equitably distributed — to ensure that there are enough well-trained adults in schools to effectively support students? How will the state ensure that all adults (teachers, administrators, and staff) receive ongoing professional development/implicit bias training and support in developing equitable classroom management strategies?*
- *What preventative measures can the state put in place (e.g., policies and curricula that emphasize cultural relevancy and diversity alongside academic rigor) to keep all students engaged and on the path to college and career?*
- *How can the state require district and school leaders to meaningfully engage families and communities in the development of discipline policies?*
- *How can the state ensure that students who are suspended have the academic and other supports needed both during and after their suspension so that they can successfully return to school?*
- *How can the state ensure that school systems implement research-based restorative justice approaches for which there is early evidence of positive impact?*
- *How can the state ensure that the resources provided go to the schools with the highest need, and that these resources will only be used for the purposes of implementing alternatives to exclusionary discipline?*

Part 3. Putting Restorative Justice and Disparities in Discipline in a Larger Context

Let me close with this: We have to realize that the disparities in discipline are not isolated from the broader disparities in access to other resources and opportunities. Right now, Maryland is not providing students of color, and the schools that serve them, the resources that they need to succeed.

For example, our data suggest that the districts with the most students of color are shortchanged the most by the state's funding formula. As the percentage of Black and Latino students in a district goes up, so does the gap between the amount of money the state says students need and the amount of money those districts actually get. (Source: *Adequacy of Education Funding in Maryland*, [Presentation to the Commission of Innovation and Excellence by Department of Legislative Services](#), Office of Policy Analysis, January 9, 2017 and [The Education Trust analysis of data from the 2015-16 Common Core of Data](#).)

Nearly half of Maryland's Black or Latino students attend schools in one of the three most underfunded districts in the state. These districts receive about \$4000 less per student than the Thornton formula says they should. (Source: *Adequacy of Education Funding in Maryland, Presentation to the Commission of Innovation and Excellence by Department of Legislative Services, Office of Policy Analysis, January 9, 2017* and *The Education Trust analysis of data from the 2015-16 Common Core of Data*.)

We also have to think about how we recruit and retain diverse teachers, and what happens to students when we don't provide them access to strong, diverse teachers.

- Although 38 percent of Maryland students are White, 74 percent of teachers and 61 percent of principals are White. (Source: *Maryland State Department of Education, Division of Curriculum, Research, Assessment, and Accountability, Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools, September 2017* and *Professional Staff by Assignment, Race/Ethnicity and Gender: Maryland Public Schools, October 2017*.)
- Black and Latino students are less likely to experience disproportionate discipline when they have a teacher of the same race. (Source: *Lindsay, C. & Hart, C. (2017), "Teacher Race and School Discipline," Education Next, p. 72-78*.)

Maryland also needs more counselors in order to support the delivery of these services. From the Civil Rights Data Collection, we know that, nationally, 1.6 million students, kindergarten through high school, attend a school with a Sworn Law Enforcement Officer (SLEO) and NO school counselor. (Source: *U.S. Department of Education, 2013-14 Civil Rights Data Collection: A First Look*.)

- The American School Counselor Association recommends 250 students per one counselor. In Maryland the ratio is 389:1. There are even fewer counselors per student in schools serving the most students of color and students from low-income backgrounds. (Source: *The Education Trust analysis of data from the 2015-16 Civil Rights Data Collection and the 2015-16 Common Core of Data*.)

It is vital that we seize the opportunity presented by the Kirwan Commission to comprehensively address the broad inequities faced by students.

I want to close on a note of optimism. I believe this problem is solvable. There is nothing wrong in public education that can't be solved by what's right in public education.

I am encouraged by all of the work and thought that the General Assembly and advocates such as the Maryland Coalition to Reform School Discipline have put into addressing this problem. This is urgent work, and we must get this right because our students' futures depend on it.

Thank you for your time.

John B. King Jr.