

Education Advocacy Coalition For Students with Disabilities

HOUSE WAYS AND MEANS COMMITTEE

**HOUSE BILL 461: PUBLIC SCHOOLS—STUDENT ATTENDANCE—EXCUSED ABSENCES FOR
MENTAL HEALTH NEEDS**

FEBRUARY 3, 2021

POSITION: SUPPORT WITH AMENDMENTS

The Education Advocacy Coalition (EAC), a coalition of more than 30 organizations and individuals concerned with education policy for students with disabilities in Maryland supports House Bill 461 with several amendments intended to address unintended consequences of the bill, which would, if enacted, permit at least one excused day of absence each quarter due to a student's mental health needs.

EAC members understand that the intent of House Bill 461 is to not penalize students for taking an occasional break from school for mental health reasons. However, as worded, the bill permits "at least" one day of absence in each quarter of each school year. The bill does not impose a limit on the number of days of excused absences per quarter. EAC members are concerned that HB 461 could inadvertently result in the failure of school systems to comply with their obligation under the Individuals with Disabilities Education Act, 20 U.S.C. §1401 *et seq.* to identify students who may have emotional disabilities and be in need of special education and related services. If students are repeatedly absent as a result of their mental health needs, that could very well be an indication that special education services or, at the least, accommodations under Section 504 of the Rehabilitation Act, 29 U.S.C. §794 are needed. Excused absences with no documentation requirements by a physician would leave families and IEP or Section 504 teams without the information necessary to make decisions about the education needs of the student and the supports needed by the student in school.

HB 461 would have another unintended consequence. Currently, many students are illegally removed from school when their parents are called to come pick them up or told to keep them home. These illegal "send homes" are particularly hard to address and eliminate because they are not documented as suspensions; in fact, they are not documented as disciplinary actions. EAC members are concerned that HB 461 could inadvertently increase the number of undocumented disciplinary removals from schools because parents may be pressured by school staff to keep their child with behavior challenges home for mental health reasons when, in fact, the school is suspending the child.

We believe both of these unintended consequences could be addressed by the following amendments:

Remove the provision that allows for "at least" one day per quarter of unexcused absences so that students may be absent only one day per quarter: "A COUNTY BOARD SHALL EXCUSE ~~[AT LEAST]~~ 1 DAY OF ABSENCE IN EACH QUARTER OF EACH SCHOOL YEAR DUE TO A STUDENT'S MENTAL HEALTH NEEDS.

Add a provision: THE PROVISIONS OF THIS ACT MAY NOT BE USED TO DELAY OR PREVENT REFERRALS TO CHILD FIND FOR STUDENTS WHO MAY NEED SPECIAL EDUCATION NOR TO THE PUPIL SERVICES TEAM FOR STUDENTS WHO MAY NEED SERVICES UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973, 20 U.S.C. §794 et. seq.

Add a provision: THE PROVISIONS OF THIS ACT MAY NOT BE USED FOR DISCIPLINARY REASONS OR TO BYPASS DISCIPLINE DOCUMENTATION REQUIREMENTS.

Add a provision: STUDENTS MAY NOT BE PENALIZED FOR SCHOOL ABSENCES OCCURRING FOR MENTAL, BEHAVIORAL OR PHYSICAL HEALTH APPOINTMENTS WHICH ARE DOCUMENTED BY THE HEALTH CARE PROVIDER PROVIDING THE CARE.

Please feel free to contact Leslie Seid Margolis, chairperson, at lesliem@disabilityrightsmd.org or 410-370-5730 for more information or to discuss these proposed amendments.

Respectfully submitted,

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