

Informational Only SB 1032

Public Schools - Student Use of Force – Authorization
Testimony of Aubrey Edwards-Luce, Esq., MSW
Wednesday, February 28, 2024
Senate Education, Energy, and the Environment

Senator Feldman, Vice-Chair Kagan and Members of the Committee:

I am the Executive Director of the Sayra and Neil Meyerhoff Center for Families, Children and the Courts (CFCC) at the University of Baltimore School of Law. CFCC envisions communities where children and families thrive without unnecessary involvement in the legal system. We engage communities in all that we do to work towards transforming systems that create barriers to family well-being. CFCC respectfully provides the following informational testimony relating to **SB1032**.

In formulating our testimony, CFCC has involved the perspectives of the Baltimore City Public School students enrolled in our Tackling Chronic Absenteeism Project (TCAP). TCAP is a holistic, restorative, voluntary program for elementary, middle, and high school students. The overarching goal of the TCAP is to reduce chronic absenteeism by reconnecting students and their families with their schools and to break the school-to-prison pipeline for vulnerable and at-risk youth. The program employs a team-based, holistic approach that encompasses mentoring, continual and consistent follow-up and oversight, tutoring, social services and referrals, and legal guidance and referrals.¹

The TCAP students overwhelmingly supported the goal of SB 1032, which we understood as prohibiting school from disciplining student victims of violence when they use reasonable force to protect themselves from a physical attack. In the context of restorative circles, multiple TCAP students recounted instances of being the victim of student violence and then receiving a detention or suspension alongside the students who were attacking them. Students identified these practices as unfair. These practices can lead to students receiving punishment at home as well, creating unintended consequences for victim-students beyond the school walls.

The elementary and middle school students who shared their thoughts on SB1032 were confused about the impact of the bill's changes to Section 7-307, which allows students to use reasonable action necessary to prevent violence including intervening in a fight. SB 1032 permits student to intervene in school violence, but the bill does not ban schools from punishing students who intervene. Nor does the bill require schools to investigate students who intervene in school violence. Based on our experience, schools will use their discretion to decide whether to punish students who intervene in school violence. This discretionary decision point is an

¹ The TCAP program supports families to obtain essential needs and referrals to services to help reduce the barriers that keep children and families from engaging in and attending school. Based on a trauma-informed approach that incorporates legal, psychosocial, and social service expertise, the TCAP Team (a volunteer Judge, Mentor, Coordinator, Attorney, and Case Manager) works to reduce social, emotional, economic, and environmental barriers to a student's education and to develop and capitalize on each student's connections to their family, school, and community. All students receive: one-on-one weekly conversations with a judge, mentoring, parent/caregiver outreach, case management services, and resource referrals, as needed. In addition, the TCAP Case Manager provides resources, referrals, and case management services, and the TCAP Attorney provides legal services, advocacy, and guidance, as needed, to all families whose children participate in the TCAP. The TCAP Mentor provides individual mentoring, reaches out to every family each week, and facilitates restorative circles during weekly sessions. Volunteer tutors from the University of Baltimore community are recruited and trained, who provide academic support both during the weekly sessions, as well as virtually, if requested.

CFCC has been operating the Tackling Chronic Absenteeism Project for more than 19 years. During that time, the TCAP has worked in Baltimore City, Baltimore County, Anne Arundel County, and Montgomery County; however, the primary focus has always been in Baltimore City. The TCAP is funded through grants from state and federal agencies, as well as private foundations, so we can provide the program to schools at no-cost.

opportunity for intrapersonal biases to influence decision-making. We are concerned that Black and Hispanic students as well as students with disabilities and male-presenting students who intervene will be punished disproportionately. We recommend that SB1032 be amended to require principals and school administration to:

1. investigate whether a student was intervening pursuant to section 7-307; and
2. track and report the demographic data of students who are punished after intervening.

TCAP students also noted some implementation challenges to the investigation that would be required if SB 1032 were enacted. First, students noted that while investigations are necessary to ensure that victims are not being unfairly punished, many instances of intra-student violence begin with conflict, harassments, and threats that occur days and sometimes weeks before a physical altercation. The students seemed concerned about schools' ability and commitment to conducting thorough investigation of each fight. At the same time, students were concerned that lengthy investigations might prolong animosity between students.

The TCAP students' reflections on SB1032 caused me to examine what I have learned about child safety and legislatively mandated investigations. In my decade plus of child welfare legal practice and policy advocacy, I have learned that legislatively mandated investigations change the dynamics of a situation. Investigations turn concerned parents into "unreliable informants" and frightened children into "uncompliant witnesses." Black and Hispanic Marylanders are especially at risk of falling prey to this type of biased characterization.

We join students in their condemnation of the practice of subjecting victims of violence to exclusionary discipline. Additionally, as a program that has championed restorative practices in schools for over 19 years, we believe that restorative practices can produce positive outcomes that punitive responses fall short of. We see schools as the perfect venue to teach students how to respond to instances of violence in a way that heals victims, teaches offenders how to repair the harm they have caused, and rebuilds a sense of community and safety. We recommend that SB1032 be amended to help Maryland schools move towards utilizing restorative responses to intra-student violence by changing the school codes of conduct to require principals or school administration to prioritize equity, being trauma-informed, developmental appropriateness, restorative justice when making disciplinary decisions after instances of intra-student violence.