



Working to end sexual violence in Maryland

P.O. Box 8782
Silver Spring, MD 20907
Phone: 301-565-2277
Fax: 301-565-3619

For more information contact:
Lisae C. Jordan, Esquire
443-995-5544
www.mcasa.org

Testimony Supporting House Bill 1536 with Amendments
Lisae C. Jordan, Executive Director & Counsel
Rebecca Berkowitz, School and Prevention Policy Attorney
March 4, 2020

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence in the State of Maryland. We urge the Ways and Means Committee to report favorably on House Bill 1536 with Amendments.

House Bill 1536

Primary and Secondary Education – Title IX – Policies and Procedures

HB1536 requires the State Board of Education to develop a uniform policy for schools to follow when investigating and resolving Title IX complaints related to incidents of sexual misconduct. The policy would include a state wide database of complaints and would require schools to notify faculty and students of who their Title IX coordinator is and how to file a misconduct complaint. A uniform Title IX procedure would ensure that student survivors receive the protections they are entitled to.

House Bill 1536 would provide clarity for students and school administrators in sexual misconduct cases. Title IX is a federal civil rights law which requires all schools that receive federal financial assistance to investigate and resolve sexual misconduct complaints in a prompt and equitable manner.¹ Although K-12 schools are bound by Title IX, primary and secondary institutions frequently fail to implement and follow the procedures required by the law, leaving sexually assaulted or harassed students without the remedies they are entitled to.

Confusion over Title IX procedures jeopardizes students' future and wellbeing. Title IX affords student survivors protections so that they can continue to access their education following an assault or harassment incident. Necessary protections include academic accommodations, the ability to transfer schools within a district, and ensuring the perpetrator and survivor attend different classes. However, without clear guidance in place, schools often treat

¹ 20 U.S.C. § 1681; 34 C.F.R. Part 106.8

serious sexual assaults as mere “bullying” incidents, abrogate their responsibility to investigate to local law enforcement, or implement disciplinary action against survivors for engaging in sexual conduct on campus. Without Title IX protections, student survivors are more likely to suffer mental harm, be truant, or fail classes.

Schools are vulnerable to lawsuits and US Department of Education Complaints when they fail to respond to sexual assault and fail to comply with Title IX. Most public school districts, regardless of size, have only one Title IX coordinator for the entire district. Other individual school administrators often lack training and knowledge regarding their obligations under Title IX. Students and parents have no direct contact with their district’s Title IX Coordinators and may not know how to file a complaint or who to contact regarding their rights. This means students do not have access to the protections they need and schools are exposed to liability. HB1536 will help keep schools in compliance with the law and help improve the response to survivors.

Amendments. HB 1536 requires schools to notify parents when a student makes a sexual misconduct complaint, with no exceptions. While students usually choose to involve their parents in their Title IX case, having an inflexible requirement may prevent some students from reporting serious sexual misconduct, particularly students who come from religious or cultural backgrounds that place blame on sexual assault victims, or in cases that involve drug or alcohol use. We note that complaints against teachers, coaches, or other persons in authority at the school are covered by Family Law §5-704, Maryland’s mandatory reporting law regarding child sex abuse, and by Criminal Law §3-308 prohibiting certain professionals from sexual activities with students; providing an exception to the parental reporting requirement would not change that.

MCASA respectfully suggests that HB1536 be amended as follows: on page 2, in line 6, following “SEXUAL MISCONDUCT” insert “UNLESS THE STUDENT REQUESTS OTHERWISE AND IT IS IN THE BEST INTERESTS OF THE STUDENT TO INVOLVE ANOTHER RESPONSIBLE PROFESSIONAL OR ADULT”

**The Maryland Coalition Against Sexual Assault
urges the Ways and Means Committee to
report favorably on House Bill 1536 with Amendments**