

HOUSE WAYS AND MEANS COMMITTEE

HOUSE BILL 496: PRIMARY AND SECONDARY EDUCATION – MENTAL HEALTH SERVICES –
EXPANSION (COUNSELORS NOT COPS ACT)

February 3, 2021

POSITION: SUPPORT

Disability Rights Maryland (DRM), a non-profit legal advocacy organization, is the federally-mandated Protection and Advocacy agency for the State of Maryland, charged with defending and advancing the rights of persons with disabilities. We have been serving children, youth, and adults with disabilities in our state for over 40 years. As a leader in Maryland's educational advocacy community, DRM advocates for fair and equitable discipline practices, especially for students with disabilities and students of color who are disproportionately impacted by exclusionary school discipline practices that force them out of school and into the juvenile or criminal justice systems (i.e. the school-to-prison pipeline). **Disability Rights Maryland strongly supports House Bill 496**, which redirects \$10 million a year from the School Resource Officer (SRO) fund (Educ. § 7-1508) to student mental health services, wraparound supports, and restorative approaches.

Students with disabilities and students of color are disproportionately harmed by the presence of police in schools. **In Maryland, students with Individual Education Programs (IEPs) receive 23% of school-based arrests despite comprising 12% of the student population.**¹ According to data from the U.S. Department of Education's 2015-16 Civil Rights Data Collection, students with disabilities nationally are 2.9% more likely to be arrested than students without disabilities when police are present in schools.² Black boys with disabilities suffer the highest arrest rate, at five times the rate for all students.³

As attorneys who represent students with disabilities, we have seen first-hand the traumatic and harmful interactions that school police have with students with disabilities and we have seen **students criminalized for non-violent, disability-related behavior**. We are also concerned about the **risk of harm for students with disabilities that can result from being physically restrained or secluded by police at school**, aversive interventions that already disproportionately impact students with disabilities.

¹ Maryland State Department of Education, Maryland Public Schools Arrest Data: School Year 2018-19 (2020), <http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf>.

² ACLU, COPS AND NO COUNSELORS: HOW THE LACK OF MENTAL HEALTH STAFF IS HARMING STUDENTS 23 (March 2019), https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf.

³ Id. at 30.

In one particular case, my client, a middle-schooler diagnosed with multiple disabilities including Autism Spectrum Disorder, did not want to go to class because he had a disagreement with a classmate and wanted to remain in an empty classroom. Because my client wasn't following the directives of the school staff and returning to class, the SRO stationed at the school was radioed to respond. The SRO became involved, the situation escalated, and a power struggle resulted with my client being forcibly dragged to a seclusion-type room by the SRO and school staff. Once in the room, my client began trying to bang his head against the wall. The SRO responded by handcuffing my client, which resulted in my client being restrained in handcuffs for over 30 minutes. My client screamed and cried the whole 30 minutes and begged for the handcuffs to be removed (this entire incident was captured on video, which I observed with the parent). After the incident, my client's parent took him to the hospital where it was determined that he suffered a fractured wrist. He was also diagnosed with Post Traumatic Stress Disorder (PTSD) as a result of the incident and didn't want to return to school. This incident illustrates the danger of having SROs respond to student behavior instead of relying on trained professionals like social workers, behavior specialists, and counselors who have the expertise to intervene and support students. Had my client been allowed to successfully de-escalate in the empty classroom without an armed police officer responding to escalate the situation and ultimately handcuff and restrain him, he would not have had to suffer this terrible injury and traumatic life event.

House bill 496 is critical because it redirects the \$10 million per year SRO fund to a variety of services and resources that have been proven to effectively support our most vulnerable students. With this funding, school districts would be able to hire needed counselors, social workers, school psychologists, restorative approach practitioners, and community school coordinators. Districts could also use the funding to implement trauma-informed practices and restorative approaches. There is no empirical evidence that school police keep students and educators safe. Effective alternatives to school police include supporting students' positive behavior, prioritizing their social-emotional well-being, and strengthening and investing in relationships among students, staff, and parents.⁴ For students with disabilities, proper special education planning and implementation supports positive behavior.⁵

SROs, armed law enforcement officers that are stationed in schools and directly contribute to funneling students into the school-to-prison pipeline, are ill equipped to respond to a variety of situations our students face. HB 496 provides Maryland the chance to redirect funds and hire trained professionals who actually have the expertise to effectively support and nurture our students so that they may thrive.

For these reasons, Disability Rights Maryland strongly supports HB 469.

⁴ Maryland Commission on the School-to-Prison Pipeline and Restorative Practices, Final Report and Collaborative Action Plan at 21- 22 (2018), <https://www.law.umaryland.edu/media/SOL/pdfs/Programs/ADR/STPP%20%20RP%20Commission%20Final%20Report.pdf>.

⁵ Sugai et al, Applying Positive Behavior Support and Functional Behavioral Assessments in Schools, Journal of Positive Behavior Interventions, Vol. 2, Issue 3 (2000); Perry A. Zirkel, Case Law for Functional Behavior Assessments and Behavior Intervention Plans: An Empirical Analysis, 35 Seattle Univ. L. Rev. 175 (2011).

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