



Working to end sexual violence in Maryland

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Testimony Supporting House Bill 472 with Sponsor Amendments Lisae C. Jordan, Executive Director & Counsel February 10, 2022

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 472 with Sponsor Amendments.

House Bill 472 – K-12 Education – Title IX – Policies and Procedures

HB472 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. Provisions creating a cause of action would assist with enforcement.

Sexual Assault in K-12 Schools. Unlike colleges, K-12 schools are not required to report sexual assault statistics, but available data show that sexual assault is a serious issue faced by middle and high school students. According to U.S. Department of Justice statistics, nearly 20% of girls ages 14 to 17 were sexually victimized. See U.S. News & World Report, "High Schools and Middle Schools Are Failing Victims of Sexual Assault," March 5, 2015, <http://www.usnews.com/news/articles/2015/03/05/high-schools-and-middle-schools-are-failing-victims-of-sexual-assault>. In 2012, the Centers for Disease Control and Prevention (CDC) found that nearly 30 percent of female rape victims were first raped between the ages of 11 and 17.6. "Sexual Violence," Facts at a Glance, Centers for Disease Control and Prevention, 2012, <http://www.cdc.gov/violenceprevention/pdf/sv-datasheet-a.pdf>.

House Bill 472 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

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

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 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.² 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. HB472 will help keep schools in compliance with the law and help improve the response to survivors.

Amendments. HB 472 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 HB472 be amended as follows: on page 2, in line 9, following “SEXUAL MISCONDUCT” insert “**IF THE STUDENT, IN CONSULTATION WITH THE SCHOOL COUNSELOR, REQUESTS TO DESIGNATE ANOTHER RESPONSIBLE PROFESSIONAL OR ADULT FOR NOTIFICATION OF A COMPLAINT RELATED TO SEXUAL MISCONDUCT, NOTIFY THE STUDENT'S DESIGNEE;**”

**The Maryland Coalition Against Sexual Assault
urges the Ways and Means Committee to
report favorably on House Bill 472 with Sponsor Amendments**

² See generally, A.Kimmel, *Title IX Litigation and Enforcement for K-12 Sexual Assault Survivors*, <https://www.publicjustice.net/wp-content/uploads/2016/05/Title-IX-and-K-12-Sexual-Assault.pdf>.