

**Education Advocacy Coalition
For Students with Disabilities**

**HOUSE WAYS AND MEANS COMMITTEE
HOUSE BILL 118: PUBLIC SCHOOLS—STUDENT ATTENDANCE—EXCUSED ABSENCES FOR MENTAL
HEALTH NEEDS
JANUARY 20, 2022**

POSITION: SUPPORT WITH AMENDMENTS

The Education Advocacy Coalition (EAC), a coalition of approximately 40 organizations and individuals concerned with education policy for students with disabilities in Maryland supports House Bill 118 with several amendments intended to address unintended consequences of the bill, which would, if enacted, permit lawful absences from school for mental health reasons.

EAC members are concerned that HB 118 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 who may be in need of special education and related services. If students are repeatedly absent as a result of their mental health needs or are absent for an extended amount of time, 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 118 could 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 118 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:

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

Selene Almazan, Selene Almazan Law, LLC
Rene Averitt-Sanzone, The Parents' Place of Maryland
Linda Barton, Ms.Ed., Education Advocate
Elizabeth Benevides, Howard County Autism Society
Ellen A. Callegary, Law Offices of Ellen A. Callegary, P.A.
Rich Ceruolo, Parent Advocacy Consortium
Michelle Davis, ABCs for Life Success
Jennifer Engel Fisher, Weinfeld Education Group
Lisa Frank, Andrea Bennett, and Jen Ritchotte, Special Kids Company
Ann Geddes, Maryland Coalition of Families
Beth Ann Hancock, Charting the Course
Kalman Hettleman, Independent Advocate
Morgan Horvath, Abilities Network
Nicole Joseph, Law Offices of Nicole Joseph
Rosemary Kitzinger and Marjorie Guldan, Bright Futures, LLC
Leslie Seid Margolis, Disability Rights Maryland
Ellen O'Neill, Atlantic Seaboard Dyslexia Education Center
Rebecca Rienzi, Pathfinders for Autism
Jaime Seaton, BGS Law, LLC
Lori Scott and Ande Kolp, The Arc Maryland
Ronnetta Stanley, M.Ed., Loud Voices Together
Wayne Steedman, Steedman Law Group
Guy Stephens, Alliance Against Seclusion and Restraint
Maureen van Stone, Mallory Finn Legg, Alyssa Thorn, Project HEAL at Kennedy Krieger Institute
Daya Chaney Webb, IMPACT Advocacy
Jessica Williams, Educational Due Process Solutions, LLC
Winifred Winston, Decoding Dyslexia Maryland
Liz Zogby, Maryland Down Syndrome Advocacy Coalition