
MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

WAYS AND MEANS COMMITTEE HOUSE BILL HB 23: School Discipline - Data Collection and School Resource Officers

JANUARY 20, 2022

POSITION: FAVORABLE WITH AMENDMENTS

The Maryland Coalition to Reform School Discipline (CRSD) brings together advocates, service providers, and concerned citizens interested in transforming school discipline practices within Maryland's public school system. We are committed to making discipline responsive to students' behavioral needs, fair, appropriate to the infraction, and designed to keep youth on track to graduate. CRSD supports with amendments HB 23, which will further strengthen efforts to promote data transparency and accessibility in the State and extend reporting requirements to include alternative schools and programs, and public separate day schools. The bill also prioritizes the reporting of disproportionality in discipline.

Addressing disparities in school discipline practices begins with data access and transparency. However, data on school discipline is very hard to find in Maryland. Part of the difficulty is that the data is contained in several different reports, all reported as pdf reports. Just finding these reports can be a challenge as it is not readily apparent where they are located on the state's website. While these reports are useful, they do not report discipline data at the individual school level. The web-based Maryland Report Card, the main accountability reporting mechanism for public schools in Maryland, includes a link to a spread sheet with school level data reported as frequencies and the percentage of total for various subgroups, but does not report disproportionalities. The usefulness of the spread sheet is limited. Data reported as frequencies masks disproportionalities. For example, a district may suspend 10 students with disabilities over the course of the year. That may not seem like a lot, but if the enrollment of students with disabilities are just 50 students, that means that 20% of all students with disabilities were suspended. In addition, the data reported is limited and requires analytical capabilities to use.

A primary reason to have access to discipline data is that school discipline policies and practices are a central factor in shaping the educational opportunities and life chances of students, particularly students from low-income and historically underserved populations. The Maryland Commission on the School-to-Prison Pipeline and Restorative Practices—a body created by the General Assembly and comprised of a diverse group of educators, parent representatives, and school discipline experts—documented the continued disparities in the use of exclusionary discipline in Maryland public schools.¹

¹ Maryland Commission on the School-to-Prison Pipeline and Restorative Practices (December, 20, 2018). Final Report and Collaborative Action Plan. Retrieved from: <https://www.law.umaryland.edu/media/SOL/pdfs/Programs/ADR/STPP%20%20RP%20Commission%20Final%20Report.pdf>.

During the 2015-16 school year, according to estimates released by the U.S. Department of Education in May 2020, ***there were 164,799 days of instruction lost due to out-of-school suspensions in Maryland. Of these, 68.5% of days missed were by African American students.***²

Given the awareness that the pandemic has raised to how missing school diminishes the opportunity to learn, it raises the question of how we can close the achievement gap if we do not close the discipline gap.³

Because of the important role discipline policies and practices have on the educational experiences of students, data about discipline actions should be transparent, reasonably detailed and accessible to policymakers, researchers, educators and the public. By ensuring that discipline data is in an accessible and transparent format; ***House Bill 23 encourages accountability for disciplinary actions and will facilitate dialogue about the consequences of disciplinary actions for different populations of students.***

By extending discipline reporting requirements to alternative schools and programs, and public separate day schools, HB 23 closes a gap in reporting requirements and encourages accountability for the use of punitive and exclusionary practices. Research found that alternative schools in Maryland are among the schools with the highest suspension rates.⁴

HB 23 also includes using an additional measure to identify “high suspending” schools and lowers the risk ratio currently used to identify a school as high suspending. These provisions would provide a better method of identifying schools that consistently disproportionately suspend students based on race/ethnicity, disability status, and English language ability. It would also provide an impetus for schools to assess their disciplinary practices to determine why suspensions rates are high, identify where there are disparities, and adopt and implement more effective practices.

Adopting an additional measure of disproportionality based on the percent of students suspended in one or more subgroups as HB 23 does would provide a substantive measure of removals – it commits the state to identifying a removal rate that it deems too high. This approach uses a removal rate that compares the removal rate of students in a particular subgroup *to the enrollment of students in that subgroup*. As such it is not subject to over or under estimating disproportionality because the base removal rate is low or high, an issue with the

² Civil Rights Data Collection (n.d.). <https://ocrdata.ed.gov/> (accessed 01/13/2021). To find the raw data, click on “State and National Estimations” on the left, click “2015-16 state and national estimations,” click “Discipline” in the last category on the page, and then click “Days missed due to out-of-school suspensions.”

³ Losen, D. L. & Martinez, P. (2020). Lost opportunities: How disparate school discipline continues to drive differences in the opportunity to learn. Palo Alto, CA/Los Angeles, CA: Learning Policy Institute; Center for Civil Rights Remedies at the Civil Rights Project, UCLA. Retrieved from: <https://www.civilrightsproject.ucla.edu/research/k-12-education/school-discipline/lost-opportunities-how-disparateschool-discipline-continues-to-drive-differences-in-the-opportunity-to-learn/Lost-Opportunities-REPORT-v14.pdf>

Horrigan, J. B. (2020). Disconnected in Maryland: Statewide data show the racial and economic underpinnings of the digital divide. Baltimore, MD: Abell Foundation. Retrieved from: <https://abell.org/publications/disconnectedmaryland>

⁴ Sunderman, G. L. & Croninger, R. (2018). High suspending schools in Maryland: Where are they located and who attends them? College Park, MD: Maryland Equity Project, The University of Maryland. https://education.umd.edu/sites/education.umd.edu/files/MEP_High%20Suspending_Oct%202018.pdf

current MSDE measure. Finally, this measure will be helpful to schools because it provides information that they can use to review their practices and develop a corrective action plan if rates approach or surpass the threshold.

Although MSDE currently collects and disseminates school discipline data, HB 23 will strengthen reporting practices, enhance the accessibility of these data for additional stakeholders, and provide a better method of identify high suspending schools.

Regarding the addition to Section 7-1508 of the Education code, it would not uphold the spirit of data collection and this bill's intended purpose at it applies to school resource officer conduct.

Further, At Least Half of Maryland School Districts – Including the Largest Districts – Already Prohibit School Police From Enforcing Discipline Policies and Procedures. Nearly every school district in the state maintains a regular police presence in its schools, typically through a Memorandum of Understanding (MOU) with City or County police departments, and in the case of Baltimore City, through a district-run internal police force. At least twelve districts provide in their MOUs or other public statements that these police – or “school resource officers” (SROs) – cannot participate in student discipline matters, which fall within the purview of school administrators and other staff.

Most Violations of Student Codes of Conduct Could Also Be Characterized as Violations of Criminal Law; Thus, HB 23 Will Not Prevent SROs from Responding to – and Arresting Students for – Routine Childhood and Adolescent Misbehavior. Although HB 23 does not define “discipline-related policies, regulations, or procedures,” by common understanding, the term refers to violations of student codes of conduct that each district promulgates and publishes. Yet, virtually every violation of a student code of conduct – even routine misbehavior – also amounts to a violation of the state criminal code.

Because of the significant overlap between discipline related policy and criminal law, adding language to HB 23 that limits SROs to criminal enforcement only is unlikely to meaningfully alter their activities or reduce school-based arrests, even in districts that do not already embrace this limitation in their MOUs or otherwise.

For the forgoing reasons, CRSD supports House Bill 23 with the following amendments:

7-1508

~~(B) A SCHOOL RESOURCE OFFICER MAY NOT UNILATERALLY ENFORCE DISCIPLINE RELATED SCHOOL POLICIES, RULES, REGULATIONS, OR PROCEDURES.~~

CRSD Organizational Members

ACLU of Maryland
The Arc of Maryland

Attendance Works
BMore Awesome, Inc.
The Choice Program at UMBC
Community Law in Action
Disability Rights Maryland
Family League of Maryland
Maryland Developmental Disabilities Council
NARAL Pro Choice Maryland
Maryland Office of the Public Defender
Maryland PTA
Open Society Institute-Baltimore
Progressive Maryland
Project HEAL at Kennedy Krieger Institute
Public Justice Center
Restorative Counseling Services
Schools Not Jails
Youth, Education and Justice Clinic, University of Maryland Carey School of Law

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