

# **SB 812 Disciplinary Records Testimony\_Youth Educat**

Uploaded by: Delaena Stephens

Position: FAV

**EDUCATION, ENERGY, AND THE ENVIRONMENT COMMITTEE**  
**SENATE BILL 812**  
**HIGHER EDUCATION – DISCIPLINARY RECORDS – USE IN ADMISSIONS AND**  
**DISCIPLINARY PROCEEDINGS**  
**POSITION: SUPPORT**

The Youth, Education, and Justice Clinic (“the clinic”) at the University of Maryland Carey School of Law represents students excluded from school through suspensions, expulsions and other means. This clinic aims to keep children in school to ensure their access to the education they need and deserve. **The clinic strongly supports Senate Bill 812**, which would prohibit institutions of higher education from asking about an applicant’s disciplinary record during the admissions process.

Prohibiting institutions of higher education from asking about an applicant’s disciplinary record during the admissions process prevents the transfer of the discipline disparities that exist in K-12 education. These disparities—well documented at the state and national levels—disproportionately harm Black and Brown students, as well as students with disabilities.

In Maryland, Black students are roughly three times as likely to experience exclusionary discipline<sup>1</sup> than white students, despite the overall enrollment of Black and white students being the same.<sup>2</sup> In the 2021-2022 school year, Black students made up approximately 33% of the total enrollment in Maryland schools but approximately 60% of the state’s out-of-school suspensions and expulsions.<sup>3</sup> White students, on the other hand, also made up approximately 33% of the state’s total enrollment, but represented just 21.69% of the state’s out-of-school suspensions and expulsions.<sup>4</sup> Similar discipline disparities exist throughout the United States.<sup>5</sup> Nationally, Black students are almost twice as likely to receive a suspension or expulsion than white students for

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<sup>1</sup> “Exclusionary discipline” is defined as disciplinary actions that remove a student from the regular educational environment, including, but not limited to, suspensions and expulsions. Statewide data about in-school suspensions is not available because the Maryland State Department of Education only publishes data about out-of-school suspensions and expulsions.

<sup>2</sup> MD. STATE DEP’T. OF EDUC., MARYLAND PUBLIC SCHOOL SUSPENSIONS BY SCHOOL AND MAJOR OFFENSE CATEGORY, OUT OF SCHOOL SUSPENSIONS AND EXPULSIONS, 2021-22, 1 (2022), [https://marylandpublicschools.org/about/Documents/DCAA/SSP/20212022Student/2022\\_Student\\_Suspensions\\_By\\_School\\_OutOfSchool.pdf](https://marylandpublicschools.org/about/Documents/DCAA/SSP/20212022Student/2022_Student_Suspensions_By_School_OutOfSchool.pdf) (hereafter OUT OF SCHOOL SUSPENSIONS AND EXPULSIONS, 2021-22); MD. STATE DEP’T. OF EDUC., MARYLAND PUBLIC SCHOOL ENROLLMENT BY RACE/ETHNICITY AND GENDER AND NUMBER OF SCHOOLS, SEPTEMBER 30, 2021, 1 (2022), [https://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20212022Student/2022\\_Enrollment\\_ByRace\\_Ethnicity\\_Gender\\_Publication\\_Accessible.pdf](https://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20212022Student/2022_Enrollment_ByRace_Ethnicity_Gender_Publication_Accessible.pdf).

<sup>3</sup> See *supra* note 2.

<sup>4</sup> See *supra* note 2.

<sup>5</sup> Johanna Lacoë & Mikia Manley, *Disproportionality in school discipline: An assessment in Maryland through 2018*, REG’L EDUC. LAB’Y MID-ATLANTIC 1 (Sept. 2019), <https://files.eric.ed.gov/fulltext/ED598820.pdf>.

the same misbehavior.<sup>6</sup> Students with disabilities are also twice as likely to be suspended or expelled than their non-disabled peers.<sup>7</sup>

The intersectionality of race, disability, and gender means that some students are even more impacted by the already-disparate application of school discipline. For example, Black girls in Baltimore are 4 times more likely to be suspended and twice as likely to be expelled than white girls,<sup>8</sup> and Maryland students with disabilities are suspended and expelled from school at more than twice the rates of other students.<sup>9</sup>

These disparities cannot be explained by different rates of student misbehavior, as studies have shown that all students misbehave at roughly the same rate, regardless of their race or gender.<sup>10</sup> Although poverty correlates with increases in disruption or behavioral disorders, those relationships tend to be small and do not come close to explaining the massive discipline gap between white and Black children.<sup>11</sup> These discipline gaps remain even when all other variables are removed. Thus, for the same infraction in similar circumstances, a white student is significantly less likely to be disciplined significantly than a Black peer.<sup>12</sup>

Instead, researchers have shown that implicit bias, cultural stereotypes, and even explicit prejudice explain why Black and Brown students are disciplined at much higher rates than white students.<sup>13</sup> This is particularly true for “subjective” offenses, such as defiance, disrespect, or disruption.<sup>14</sup> Implicit biases, stereotypes, and prejudice saturate teacher and administrative decisions to discipline students for subjective offenses.<sup>15</sup> Again, the Maryland data bears this out: in the 2021-22 school year, approximately 55% of the out-of-school suspensions and expulsions for disrespect or disruption were imposed on Black students.<sup>16</sup>

Put simply, teachers are more likely to refer Black students to the office for disciplinary action, even when they exhibit the same behavior as white students. And once Black students arrive in

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> CARA McCLELLAN, NAACP LDF INC., OUR GIRLS, OUR FUTURE: INVESTING IN OPPORTUNITY AND REDUCING RELIANCE ON THE CRIMINAL JUSTICE SYSTEM IN BALTIMORE 2 (2018), [https://www.naacpldf.org/wp-content/uploads/Baltimore\\_Girls\\_Report\\_FINAL\\_6\\_26\\_18.pdf](https://www.naacpldf.org/wp-content/uploads/Baltimore_Girls_Report_FINAL_6_26_18.pdf).

<sup>9</sup> Lacoë & Manley, *supra* note 5, at 1.

<sup>10</sup> MD. COMM’N ON THE SCHOOL-TO-PRISON PIPELINE AND RESTORATIVE PRACS., FINAL REPORT AND COLLABORATIVE ACTION PLAN, 29-30 (2018), <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/023600/023694/20190078e.pdf>. (hereafter, FINAL REPORT AND COLLABORATIVE ACTION PLAN).

<sup>11</sup> Nathan Barrett et al., *Technical Report: Disparities in Student Discipline by Race and Family Income*, EDUC. RSCH. ALLIANCE FOR NEW ORLEANS 8-9, 27 (Jan. 4, 2018), <https://educationresearchalliancenola.org/files/publications/010418-Barrett-McEachin-Mills-Valant-Disparities-in-Student-Discipline-by-Race-and-Family-Income.pdf>.

<sup>12</sup> *Id.* at 8-9.

<sup>13</sup> FINAL REPORT AND COLLABORATIVE ACTION PLAN, *supra* note 10, at 30. *See generally* Erik J. Girvan et al., *The Relative Contribution of Subjective Office Referrals to Racial Disproportionality in School Discipline*, 32 SCHOOL PSYCH. Q. 392 (2016).

<sup>14</sup> Girvan et al., *supra* note 13, at 400-02.

<sup>15</sup> FINAL REPORT AND COLLABORATIVE ACTION PLAN, *supra* note 10, at 29-30.

<sup>16</sup> [OUT OF SCHOOL SUSPENSIONS AND EXPULSIONS, 2021-22](#), *supra* note 2, at 1.

the principal’s office, they are more likely to receive a harsher punishment—for example, an in-school suspension instead of a detention, or an out-of-school suspension instead of an in-school suspension.<sup>17</sup>

While enacting SB 812 would prevent these disparities from entering the higher education admissions process, this bill would also codify a trend that already exists within the higher education landscape. Many institutions have changed their applications to only ask about academic and disciplinary violations that occurred in postsecondary school. Notably, in 2020, the Common Application—which is used by over 900 colleges and universities—removed its question about K-12 discipline.<sup>18</sup> This nationwide trend has even spread to law schools and state bar applications. Of the 42 states that make their bar questions public, we identified only 9 state bar applications (including Maryland) that do not limit their question about academic and disciplinary violations to incidents that occurred in institutions of higher education.

SB 812 will not fix the problems that exist in K-12 discipline, but it will ensure a more equitable review process for all applicants to Maryland institutions of higher education. By passing SB 812, the Maryland General Assembly can help ensure that the inequitable disciplinary practices that affect students across the country do not negatively impact their futures.

**For these reasons, the Clinic asks for a favorable report on SB 812.**

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law and not on behalf of the School of Law or the University of Maryland, Baltimore.

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<sup>17</sup> Lacoë & Manley, *supra* note 5, at 3-4.

<sup>18</sup> *E.g.*, Emma Steele, *Common App removes School Discipline question on the application*, COMMON APP (Sep. 30, 2020), (“We want our application to allow students to highlight their full potential. Requiring students to disclose disciplinary actions has a clear and profound adverse impact. Removing this question is the first step in a longer process to make college admissions more equitable.”), <https://www.commonapp.org/blog/common-app-removes-school-discipline-question-college-application>.

# **SB 812 SPC.pdf**

Uploaded by: Demetra Crawford, Ed.S.

Position: FAV



**BILL: Senate Bill 812 – Higher Education – Disciplinary Records – Use in Admissions and Disciplinary Proceedings.**

**FROM: Mrs. Demetra Crawford, Ed.S., President & Founder**

**POSITION: SUPPORT**

**DATE: 2/23/2023**

I am writing testimony in support of Senate Bill 812 – Higher Education – Disciplinary Records – Use in Admissions and Disciplinary Proceedings.

The Maryland Fair Access to Education Act of 2017 states that public institutions of higher learning cannot ask applicants about their criminal records. Lawmakers in Maryland approved this legislation acknowledging that it deters many students from accessing education for fear that their prior behavior record disqualifies them from admission. The practice places a barrier to higher education for students attempting to improve their quality of life. Revoking opportunities for students to achieve academic success due to barriers from high school could be considered harsh or unconstitutional depending on individual circumstances.

The Maryland Guideline for State Code of Discipline states “No student comes to school “perfect,” academically or behaviorally, and many face challenges in their homes and communities. All students, however, can succeed and deserve the opportunity to do so. Schools should provide the instruction and support necessary to address students’ academic and behavioral needs.” Understanding that in Maryland more than 70% of discipline issues are highest in the minority populations, the question then becomes, have we (stakeholders,



education professionals,) strategically come up with solutions or opportunities for this targeted group of students or young adults?

As an experienced education professional who has supported students between the ages of 14 and 24 for the past fifteen years, the importance of staff development through experiential learning is crucial for education/school support professionals. Especially those that service marginalized and misrepresented students. With the many pressures and barriers already faced as a student of color, limiting their educational experiences due to behavior issues (generally more allow health and left unsupported), can have lifelong effects. Preparing and developing school resource staff that service students' mental and socioemotional needs allow increased support and opportunities for student behavior improvement.

As of 2020, the Common App, whose application for admission is used by over 900 colleges and universities, as well as three million applicants, teachers, and counselors will no longer require applicants to report whether they've been cited for a disciplinary violation at school on the common portion of the application. This movement is one that has opened doors that were once closed for millions of applicants worldwide and thousands in the state of Maryland. Common Apps President & CEO, Jenny Rickard, opened this announcement to the world by saying: "We want our application to allow students to highlight their full potential. Requiring students to disclose disciplinary actions has a clear and profound adverse impact. Removing this question is the first step in a longer process to make college admissions more equitable. This is about taking a stand against practices that suppress college-going aspiration and overshadow potential." I agree!

# **SB 812 - Higher Education - Disciplinary Records -**

Uploaded by: Monisha Cherayil

Position: FAV





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## Senate Bill 812: Higher Education – Disciplinary Records – Use in Admissions and Disciplinary Proceedings

Hearing before the Senate Committee on Education, Energy, and the Environment, February 24, 2023

### Position: FAVORABLE

The Public Justice Center (PJC) is a nonprofit legal services organization which advocates for social justice, and economic and racial equity in Maryland, including by upholding the rights of historically excluded and underserved students through individual representation, community outreach, and systemic advocacy. 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.

PJC supports SB812, which limits higher education institutions' use of applicants' student disciplinary records in making admissions decisions.

### Black Students are Disproportionately and Unfairly Subjected to Disciplinary Removal

Statewide, Black students constitute about a third of the student population, but they receive 60% of suspensions and expulsions and 56% of school-based arrests.<sup>1</sup> Research has shown that race-based discrepancies in discipline rates are not a product of measurable differences in behavior among students of different races.<sup>2</sup> Black students in Maryland (and nationwide) are thus more likely to face exclusionary discipline even when they engage in the same behaviors as their white peers.

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<sup>1</sup> Maryland State Department of Education Division of Assessment, Accountability, and Performance Reporting, Maryland Public School Enrollment by Race/Ethnicity and Gender and Number of Schools, at 1 (September 30, 2021), [https://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20212022Student/2022\\_Enrollment\\_ByRace\\_Ethnicity\\_Gender\\_Publication\\_Accessible.pdf](https://www.marylandpublicschools.org/about/Documents/DCAA/SSP/20212022Student/2022_Enrollment_ByRace_Ethnicity_Gender_Publication_Accessible.pdf); Maryland State Department of Education Division of Assessment, Accountability, and Performance Reporting, Suspensions, Expulsions, and Health Related Exclusions Maryland Public Schools 2021 – 2022, at 42 (Nov. 2022). [https://marylandpublicschools.org/about/Documents/DCAA/SSP/20212022Student/2022\\_Student\\_Suspension\\_Expulsion.pdf](https://marylandpublicschools.org/about/Documents/DCAA/SSP/20212022Student/2022_Student_Suspension_Expulsion.pdf); Maryland State Department of Education, Maryland Public Schools Arrest Data: School Year 2018-19, at 8 (2019), <http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf>.

<sup>2</sup> Russell Skiba et al., What do We Know about Racial and Ethnic Disproportionality in School Suspension and Expulsion? at 6-8 (Atlantic Philanthropies, 2011).

## **Discipline Questions on Admissions Applications Depress College Enrollment Among Students with Disciplinary History, Exacerbating Racial Inequities in Access to Higher Education**

Inquiring about disciplinary history – e.g. suspensions and expulsions – in the college admissions process decreases the extent to which students with any such history apply to and enroll in college. In 2019, students completing the Common Application (“Common App”), the most widely used college admissions tool in the country, were 10 percentage points less likely to submit their application if they declared any disciplinary history – e.g. suspension or expulsion – than students who did not have any such history.<sup>3</sup> A total of 7,000 students who declared disciplinary history did not ultimately submit their application, a group which was disproportionately Black and Latine.<sup>4</sup> The deterrent and racially disproportionate impact of the disciplinary history question prompted the authors of the Common App to abandon the question altogether.

A student’s disciplinary history has an adverse impact on college admissions that operates independently from other student-specific factors. Research has concluded that “[a]fter controlling for baseline academic achievement, socioeconomic status, and other potential confounders, the college attendance rate of students who were suspended once or twice in the first semester of tenth grade was approximately 10 percentage points lower than that of non-suspended students.”<sup>5</sup> The “disproportionate discipline of African American students” thus contributes directly to “racial differences in educational attainment” at the post-secondary level.

### **SB812 Will Mitigate the Impact of Student Disciplinary History on College Admissions and Enrollment**

SB812 prohibits colleges and universities from developing admissions applications that inquire about disciplinary history. For institutions that use a third-party application, the bill prohibits the disqualification of applicants based on their disciplinary history and requires public notice of that prohibition. Through these provisions, the bill de-links disciplinary history from higher education admissions decisions, paving the way for a more racially equitable admissions process and expanding access to college for Black and Latine students.

**For these reasons, the Public Justice Center strongly supports SB812.**

For more information contact:

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<sup>3</sup> Lindsay McKenzie, Common App Ditches High School Discipline Question, Inside Higher Ed (Oct. 5, 2020), <https://www.insidehighered.com/admissions/article/2020/10/05/common-app-stop-asking-students-about-their-high-school-disciplinary>.

<sup>4</sup> Id.

<sup>5</sup> Claire E. Kunesh, Disproportionate Discipline and Racial Differences in Educational Attainment: The Effect of Suspension on College Matriculation (PhD dissertation, University of California, Berkeley), <https://eric.ed.gov/?id=ED584435>.  
*The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.*

# **Testimony In Support of SB 812 - Senate - EEE - Sc**

Uploaded by: Rich Ceruolo

Position: FAV



Feb 23, 2023

Maryland Senate  
11 Bladen St.  
Annapolis, MD. 21401

**Testimony, In Support for SB 812: Higher Education - Discipline Records – Admissions and Discipline Process and Proceedings**

Good afternoon members of Senate’s EEE Committee.

We are an organization of military and non-military families with over 1500 members and fully support students with disabilities.

If we are to realize all that the Blueprint has to offer all of our children, we cannot continue to punish children that struggle with incomplete or inconsistent education plan implementation inside of their school buildings. These inconsistencies often cause the behaviors that are flagged and punished by school system personnel and school SROs leaving our children with criminal records when they are matriculating from elementary, middle and into high school settings.

Black and brown students, and those with disabilities are disproportionately impacted by the Discipline practices in school buildings that occur every day, all across our state and involve students from all socioeconomic and demographic groups. We don’t believe that it is fair or equitable for this kind of discipline data and reporting should follow a student as they transition into their next phase of their education, as they explore college and career opportunities. These practices have been shown to be detrimental to the growth, development and overall mental and physical health of students. And should not follow them and continue to punish them into the next phases of their lives.

Please return a favorable report on SB 812 so that students like our children with disabilities can move on with their academic and career training as we prepare them for the next steps of their lives, and for all students across the entire state of Maryland.

Thank you for considering our testimony in support of SB 812.

Mr. Richard Ceruolo | [richceruolo@gmail.com](mailto:richceruolo@gmail.com)  
Parent, Lead Advocate and Director of Public Policy  
Parent Advocacy Consortium (Find us on Facebook/Meta) |  
<https://www.facebook.com/groups/ParentAdvocacyConsortium>

# **SB 812 Disciplinary Records - Use in Admissions an**

Uploaded by: Anna Yates

Position: UNF

**Senate Bill 812**  
**Higher Education - Disciplinary Records - Use in Admissions and Disciplinary Proceedings**  
**Education, Energy, and the Environment Committee**  
**February 24, 2023**

**Unfavorable**

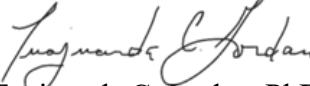
Chair Feldman, Vice-Chair Kagan, and Members of the Education, Energy, and the Environment Committee,

Thank you for the opportunity to share our thoughts on Senate Bill 812. Currently, St. Mary's College does not seek information regarding the disciplinary records of applicants who are in high school on neither the Common Application nor the College's own application. The College does, however, consider a student's disciplinary history if they seek admission as a transfer student. The Common Application college report, which is used by students wishing to transfer from another institution, requires the previous institution to disclose any disciplinary history and to indicate whether or not the student would be permitted to return to that institution in good standing. We understand that in the K-12 sector, there is evidence of disciplinary bias against marginalized students, especially males. However, in college, students are at a more mature developmental level and, as adults, should be held to a higher level of accountability. Data indicate there is a high correlation that a student's past disciplinary history at one institution of higher education will be repeated at another. This is information relevant to admission decisions to ensure a safe learning environment for all.

Admission of transfer students is based on many factors to ensure that prospective students have the qualifications necessary to succeed. Past disciplinary history, however, does not categorically disqualify a prospective student from being admitted. The College will evaluate the nature of the student's past disciplinary history to determine whether the conduct in question rises to the level of warranting a denial of admission. Preserving the College's ability to consider the disciplinary history of a transfer student is essential, as it ensures that all of our students may thrive in a safe and robust academic environment.

For these reasons, I urge an unfavorable report on Senate Bill 812.

Thank you for your consideration and continued support of St. Mary's College of Maryland.

  
Tuajuanda C. Jordan, PhD  
President



*The*  
**NATIONAL  
PUBLIC  
HONORS**  
*College*



**SB812\_USM\_UNF.pdf**

Uploaded by: Zakiya Lee

Position: UNF





**SENATE EDUCATION, ENERGY, and the ENVIRONMENT COMMITTEE**

**Senate Bill 812**

**Higher Education – Disciplinary Records – Use in Admissions and Disciplinary Proceedings**

**February 24, 2023**

**Unfavorable**

Chair Feldman, Vice Chair Kagan, and committee members, thank you for the opportunity to share our position on Senate Bill 812. The bill prohibits institutions of higher education from using an admissions application that contains questions about the disciplinary record of the applicant. The bill would allow institutions of higher education to use third-party admissions applications that contain questions about the disciplinary record of the applicant as long as that application is not used to disqualify an applicant based on the applicant’s disciplinary record. Here, a disciplinary record is defined as any information relating to the discipline of a student from a school in any state including a public or private primary or secondary school; a private career school; a community college; and an institution of higher education.

Presently, institutions within the University System of Maryland (USM) may exercise the option to ask about students’ disciplinary records. This is a standard part of the admissions process that has never been used automatically or systematically to disqualify an applicant. Students are reviewed without looking at the disciplinary record. Then, once the general determination has been made, the disciplinary record is reviewed. Rarely has a decision ever been changed based on that record. The information is, however, used as one of many mechanisms to keep our university communities safe.

It is also important to note that this information should be accessible to professionals, so they can make informed decisions about admissions, as many of our degree programs are preparing students for careers in fields that have character and fitness requirements that must be satisfied in order to work in that field. USM institutions would not want students to have paid tuition for years and not be eligible for the job(s) for which they trained.

When a student indicates they have an issue on their disciplinary record, admissions professionals reach out to learn from the applicant more about the issue on their record. Every admissions cycle, students with previous disciplinary record issues are granted admission to USM institutions when admissions officer thoroughly and fairly review students’ records from high school or another level of education and determine that the issue has little to no chance of affecting the safety and security of a campus if the applicant enrolls in the institution. On the other hand, when a student’s record and subsequent examination and conversations reveal the possibility of continued, substantive disruptive behavior (including but not limited to stalking, violence to others, racially motivated violence or harassment), schools do have and should continue to have the ability to individually assess those situations and deny admission if it is in the best interest of the larger campus community.

USM institutions have employed this process in a fair and just manner for years and are committed to continuing to do so. However, we must urge an unfavorable report on Senate Bill 812, as institutions need the ability to address students’ disciplinary records on a case-by-case basis with the goal of admitting students while keeping the campus community safe.



### **About the University System of Maryland**

The University System of Maryland (USM)—one system made up of twelve institutions, three regional centers, and a central office—awards eight out of every ten bachelor’s degrees in the State of Maryland. The USM is governed by a Board of Regents, comprised of twenty-one members from diverse professional and personal backgrounds. The chancellor, Dr. Jay Perman, oversees and manages the operations of USM. However, each constituent institution is run by its own president who has authority over that university. Each of USM’s 12 institutions has a distinct and unique approach to the mission of educating students and promoting the economic, intellectual, and cultural growth of its surrounding community. These institutions are located throughout the state, from western Maryland to the Eastern Shore, with the flagship campus in the Washington suburbs. The USM includes Historically Black Colleges and Universities, comprehensive institutions, research universities, and the country’s largest public online institution.

USM Office of Government Relations - Patrick Hogan: [phogan@usmd.edu](mailto:phogan@usmd.edu)