

MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

SENATE EDUCATION, ENERGY, AND THE ENVIRONMENT COMMITTEE

SENATE BILL 829: PRIMARY AND SECONDARY EDUCATION—VIRTUAL EDUCATION-- REQUIREMENTS

DATE: MARCH 1, 2023

POSITION: LETTER OF INFORMATION

The Maryland Coalition to Reform School Discipline (CRSD) brings together advocates, service providers, and community members dedicated to transforming school discipline practices within Maryland's public school systems. CRSD is committed to the fair and equitable treatment of ALL students, including pregnant or parenting students, regardless of race, ethnicity, gender, gender identity, sexual orientation, disability, religion, and socio-economic status, and reducing barriers to learning for ALL students. CRSD appreciates that Senate Bill 829 requires county school boards to ensure that students have access to devices, WI-FI, wraparound services, and continued access to implementation of their individualized education programs (IEPs) during periods of virtual instruction. We file this letter of information to share our member organizations' experiences with virtual education for students and to bring several issues to the attention of Committee members.

First, not all students are able to benefit from virtual education, as we learned from the poor educational outcomes and learning loss resulting from virtual learning during the COVID-19 pandemic. During the pandemic-related school building closures, CRSD members represented or worked with numerous children and youth whose disabilities or other circumstances prevented them from accessing or benefiting from virtual education. Some of these children could not log in or participate because they needed one-to-one support to physically access the education program and be guided to focus on what was happening on screen, and their parents/guardians were unavailable or unable to serve as their child's instructional assistant because of their jobs, their other child care responsibilities or the inability of the child to work with the parent/guardian in the assistant role. Other children could not tolerate virtual instruction and had severe behavioral episodes, trying to destroy their devices or engaging in self-injurious or aggressive behavior. Other students could not successfully benefit from virtual learning because they did not have quiet spaces to work from in their homes, or reliable and consistent technology and WI-FI. Although some students will be able to pivot to virtual learning if it becomes necessary, others will not, and Senate Bill 829 does not offer an alternative that would allow children who need in-person services or in-person support to access virtual education to receive those services or support.

Additionally, some school systems and nonpublic schools have increasingly begun to use virtual education illegally as a placement option for students with disabilities who have been suspended or expelled, as well as for regular education students. This type of virtual education occurs in a myriad of unregulated ways, as there is no required data collection on how schools are using virtual education for students on disciplinary removal.¹ In some instances, students are only provided with continued "access"

¹ Nearly all school systems in Maryland operate alternative schools or programs for children with behavior challenges and children who have been suspended or expelled. However, the Maryland State Department of Education (MSDE) does not collect or report centralized data or information on alternative schools, such as their educational programming, staffing, student assignment procedures, student demographics, and academic outcomes.

to their classes through the virtual platform, however they are not provided with any live instruction in their classes, making education progress all but impossible. In other instances, students are enrolled in a virtual alternative school they access from home or are otherwise enrolled in some type of online learning accessed from the home. Students' access to this type of virtual education is hindered by internet issues and other technological barriers, particularly when parents or guardians do not have the experience to assist their child to ensure access to the virtual platforms. And more likely than not, students placed in virtual programs for disciplinary reasons may not be able to access the virtual platform or handle the inherent unstructured nature of virtual programs. Yet, we have no data that reports on academic outcomes for students placed in virtual programs. We have seen far too many students placed on virtual education during disciplinary removal who do not attend instruction and are ultimately deemed truant.

Specifically for students with disabilities, the issue of virtual programs accessed from the home is even more complicated as under current law it is in fact an illegal placement if made as a result of a disciplinary removal. Pursuant to COMAR 13.A.05.01.10(C)(6), the instructional setting for the provision of educational services to a student who has been disciplinarily removed from school may not be a student's home because placement in the home is the most restrictive environment as it does not permit instruction to take place with other students. Students with disabilities, by law, are not permitted to be forced to receive their education at home after being subjected to disciplinary action. Another problem is that unilateral removal to virtual education during disciplinary removal does not take into consideration whether the student is able to successfully access or benefit from virtual education. Some school systems appear to use removal to virtual education as a convenient, if unlawful, alternative for students who are removed from school for disciplinary reasons, which is contrary to the letter and spirit of Maryland's discipline laws and regulations which aim to keep students connected to their school communities and on track with classroom work and IEP goals. Senate Bill 829 contains no "guardrail" provisions regarding circumstances when virtual education would be inappropriate, such as in response to the suspension of a student with disabilities.

We hope this information is helpful as the Committee considers the need to ensure that all students have access to education at times when school buildings are closed and, more generally, as virtual schools and programs become a more permanent component of Maryland's education system.

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CRSD Members

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With the proliferation of virtual education and virtual learning following the school closures due to the COVID pandemic, it is even more critical that this data is collected.

The Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law