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

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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.¹ Research has shown that race-based discrepancies in discipline rates are not a product of measurable differences in behavior among students of different races.² 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.

¹ 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; 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; 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>.

² 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.³ A total of 7,000 students who declared disciplinary history did not ultimately submit their application, a group which was disproportionately Black and Latine.⁴ 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.”⁵ 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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³ 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>.

⁴ Id.

⁵ 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>.
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