

HOUSE WAYS AND MEANS COMMITTEE

House Bill 627 – Education – Prohibited Behavior on School Grounds and Property -
Application

February 12, 2025

POSITION: SUPPORT

Disability Rights Maryland (DRM), a non-profit legal advocacy organization, is the federally-mandated Protection and Advocacy agency for the State of Maryland, charged with defending and advancing the rights of persons with disabilities. We have been serving children, youth, and adults with disabilities in our state for over 40 years. DRM is a leader in Maryland’s educational advocacy community, working on issues such as school discipline, special education, and restraint and seclusion. DRM has significant experience representing students with disabilities statewide who have been suspended or expelled from school or are involved in the juvenile justice system.

DRM fully supports House Bill 627, a common-sense bill that removes an outlier provision in the Education Article that allows students to be criminally liable for “disturbing school activities or personnel.” This provision of the Education Article is not necessary because students can be held responsible for criminal behaviors under the Criminal Law article, which remains completely intact under this bill. Moreover, the Education Article provision that currently allows students to be charged with “disturbing school activities or personnel” is too vague, casts too wide a net, and is disproportionately meted out to students with disabilities and Black students. The disproportionate impact is shockingly high and is worse than the disparities seen in school discipline. Students with disabilities are 3.3x more likely to be charged with “disturbing school activities” than their non-disabled peers (although students with disabilities comprise only 12% of the student population, they account for 33% of students charged with this offense) and Black children are 5.5x more likely to be charged than other students.

Further, for students with disabilities, the law can be used to charge them for non-violent but atypical disability-related behavior that is very often identified on their special

education Individualized Education Programs (IEPs), Section 504 Plans or Behavior Intervention Plans. We cannot stand by an outdated provision of the law that results in the criminalization of disability-related behaviors that students are actively working on improving and addressing in school pursuant to documented special education plans. This is especially the case when schools have the full Criminal Law Article at their disposal to address behavior that is actually criminal and the school discipline code to address behavior not acceptable in a school building. The provision of law at issue is simply not needed and is causing significant harm to certain students.

Disability Rights Maryland was confronted with the injustice of this law and the deep harm it can cause students and families when we represented an 11-year-old, sixth grade student who was charged and arrested with disturbing school activities for refusing to sit in her assigned seat. A teacher's request to sit in an assigned seat may seem like a simple request, but our client suffered with anxiety for years and the school had a documented Section 504 Plan indicating that if she is called out in front of others, that she tends to shut down. When called to and directed to move to her assigned seat, our client said nothing but simply froze and did not change seats. The teacher called the assistant principal for assistance and the assistant principal called 911. When the police arrived, our client had complied and was walking to the front office as she'd been directed. When the police asked her why she wasn't listening, she simply shrugged her shoulders and said "I don't know." At this point, 3 male police officers handcuffed her, arrested her, and took her to the police station. She sat in a holding cell until her mother could get to her which was almost 3 hours later since her mother was working in Virginia that day. This incident, which DJS resolved without any further action, was needless and completely preventable, and was traumatizing for our client and her whole family. Our client will live with this trauma for the rest of her life because the school wrongly decided that involving the police was their best option and the police were then able to use the charge of "Disturbing School Activities" to criminalize an eleven-year-old child's disability-related behavior. This is a clear example of why supporting HB 627 is necessary.

For the foregoing reasons, DRM supports HB 627.

Thank you for the opportunity to present this information to you today. For more information, please contact Megan Berger, Esq. at 443-692-2504 or Megan.Berger@disabilityrightsmd.org.