

March 30, 2026

Chair Brian J. Feldman
Vice Chair Cheryl C. Kagan
Maryland Education, Energy, and the Environment Committee
2 West Miller Senate Office Building
Annapolis, Maryland 21401

Re: In support of House Bill 649, Advancing Equal Educational Opportunities for All Students in Maryland, with amendments (Position: Favorable)

Dear Chair Brian J. Feldman, Vice Chair Cheryl C. Kagan, and the esteemed members of the Committee,

The Legal Defense Fund (LDF) strongly urges the Maryland Senate Education, Energy, and the Environment Committee (Committee) to issue a favorable report on House Bill 649 – Advancing Equal Educational Opportunities for All Students in Maryland. All students in Maryland deserve access to equal educational opportunities regardless of their race, color, national origin, ethnicity, ancestry, sex, pregnancy status, gender identity, sexual orientation, marital status, religion, age, or disability status. Discrimination in schools harms students and exacerbates inequalities that have deep roots in Maryland and nationwide. For decades, the U.S. Department of Education’s Office for Civil Rights (ED OCR) has played a role in enforcing federal civil rights laws in schools, offering students an opportunity to seek redress for discrimination that they face in both PK-12 and higher education institutions. However, since last year, ED OCR has abandoned its role in advancing educational opportunities for all, and thousands of students in Maryland over the next several years may have their claims of discrimination left uninvestigated, unaddressed, and unresolved.¹ States across the country have an obligation to step into this breach and protect their students. Adopting HB 649 would represent a bold step towards securing equal educational opportunities for Maryland’s students.

Founded in 1940, LDF is the nation’s oldest civil rights law organization. Thurgood Marshall, a Maryland native, launched LDF at a time when America’s aspirations for equality and due process of law were stifled by widespread state-sponsored racial inequality. LDF has long played an instrumental role in passing legislation, encouraging agency actions, and litigating to protect Black people from discriminatory policies and practices. For over 85 years, LDF has worked to dismantle racial segregation and ensure equal educational opportunity for all students, most prominently through the groundbreaking case, *Brown v. Board of Education*.² LDF also has represented Black students and applicants, as parties and *amici curiae*, in numerous cases regarding educational access and opportunity in education.

¹ See U.S. Gov’t Accountability Off., GAO-26-108320, Department of Education: Full Costs and Savings Estimate Needed for Reduction-in-Force and Restructuring of the Office for Civil Rights Report 4 (2026), <https://www.gao.gov/assets/gao-26-108320.pdf>.

² 347 U.S. 483 (1954).

[HB 649](#) proposes to substantially strengthen state civil rights enforcement in schools by: (1) empowering the Maryland Commission on Civil Rights, an independent agency with a 99 year history, to investigate and resolve complaints of discrimination by educational institutions; (2) extending state civil rights protections to students in institutions of higher education; (3) ensuring all students are protected against both intentional discrimination as well as policies and practices that have an unjustified discriminatory effect on students based on protected characteristics; and (4) granting students and families a private right of action to allow civil actions in state courts to enforce these protections. These much-needed additions to state civil rights laws will meaningfully advance equal educational opportunities for all students in Maryland at this critical time. Black students in Maryland continue to face discrimination in schools ranging from unaddressed racial harassment³ to discriminatory school policies.⁴ For example, in 2018, LDF’s Thurgood Marshall Institute issued a report showing how limited investment in educational opportunity and support services in the Baltimore City Public School System and overreliance on exclusionary discipline disproportionately pushed Black girls out of the classroom and into the juvenile justice system.⁵

The federal government has fecklessly abdicated its role in enforcing civil rights laws that protect students in schools. The current administration has recklessly and unlawfully taken actions to dismantle the U.S. Department of Education, including making devastating cuts to the Department of Education’s Office of Civil Rights. Prior to March 2025, the agency managed 12 regional enforcement offices around the country, employing nearly 600 employees that processed over 22,000 complaints annually.⁶ In March 2025, the current administration attempted to fire nearly half of the attorneys at ED OCR by issuing reduction in force (RIF) notices and closing 7 of the 12 regional enforcement offices. In the shuffle of these office closures and staffing shortages, real harm is being experienced by students. The agency has failed to update numerous students and families about the cases related to their complaints— including their case status, what office is handling the case, and who they should contact. Others have found that their complaints have been summarily dismissed without investigation. Recently, the Government Accountability Office (GAO) released a report highlighting the failures of the attempted dismantling of ED OCR.⁷ From March 2025 to September 2025, ED OCR received more than

³ See e.g., Adam Thompson, Janay Rece, and Andrew Adeolu, “Racist text messages sent to Black students in Maryland, other states condemned by AG as ‘horrific, unacceptable,’” CBS NEWS, (Nov. 8, 2024), <https://www.cbsnews.com/baltimore/news/maryland-ag-condemns-unacceptable-racist-text-messages-sent-to-black-residents/>.

⁴ See MD. ADVISORY COMM. TO THE U.S. COMM’N ON CIV. RTS., *Disparities in School Discipline in Maryland* 17 (2019), <https://www.usccr.gov/files/pubs/2020/01-14-MD-SAC-School-Discipline-Report.pdf>.

⁵ LEGAL DEFENSE FUND, THURGOOD MARSHALL INSTIT., *Our Girls, Our Future: Investing in Opportunity and Reducing Reliance on the Criminal Justice System in Baltimore* (June 2018), https://www.naacpldf.org/wp-content/uploads/Baltimore_Girls_Report_FINAL_6_26_18.pdf.

⁶ Catherine E. Lhamon, *2024 Fiscal Year Annual Report*, U.S. DEP’T OF EDUC., <https://www.ed.gov/media/document/ocr-report-president-and-secretary-of-education-2024-109012.pdf> (last visited June 26, 2025).

⁷ See U.S. GOV’T ACCOUNTABILITY OFF., GAO-26-108320, *Department of Education: Full Costs and Savings Estimate Needed for Reduction-in-Force and Restructuring of the Office for Civil Rights Report* (2026), <https://www.gao.gov/assets/gao-26-108320.pdf>.

9,000 complaints of alleged discrimination.⁸ ED OCR resolved 7,072 of these cases, but of those resolutions, 90% were resolved through dismissals prior to investigation.⁹ That means 6,353 complaints went uninvestigated by ED OCR with no hope of administrative relief.¹⁰

As of January 14, 2025, when ED OCR stopped updating its public list of pending cases, there were 271 ongoing investigations of discrimination in Maryland PK-12 schools and institutions of higher education.¹¹ Of those 271 pending investigations, 74 raised allegations of discrimination on the basis of race, color, or national origin.¹² Since the beginning of this current administration, ED OCR has only entered into resolution agreements for 2 cases of discrimination in Maryland schools.¹³ This lack of action from ED OCR sharply contrasts with even the previous Trump Administration which entered into 18 resolution agreements with schools in Maryland in its first year.¹⁴ As ED OCR continues to abandon students, states must fill that gap.

Passage of HB 649 would provide a clear path for Maryland to meet its obligations to its students. While all of the provisions of HB 649 provide meaningful protections for students, the Committee should consider the particular importance of two specific provisions:

1. HB 649 provides students and families in Maryland with a crucial additional avenue to address claims of discrimination by creating a right to bring civil suits in state court.

Proposed Section 20-1013.1(B) conforms these civil rights protections with federal law and other state statutes¹⁵ by providing individuals with the right to bring civil action in court. Federal anti-discrimination laws and the U.S. Constitution have long included private rights of action that allow individuals or groups to sue schools to vindicate their civil rights in court.¹⁶ For example, in 1935, LDF's founder, Thurgood Marshall, litigated a civil action in state court on behalf of Donald Gaines Murray, a student who was denied admission to the University of Maryland School of Law because he was Black. In 1936, the Maryland Court of Appeals issued its opinion which found that the University of Maryland violated the Fourteenth Amendment of the U.S.

⁸ See *id.*

⁹ See *id.*

¹⁰ See *id.*

¹¹ See U.S. DEP'T OF EDUC., *Pending Cases currently Under Investigation at Elementary-Secondary and Post-Secondary Schools*, https://ocrcas.ed.gov/open-investigations?field_ois_state=659&field_ois_discrimination_statute=All&field_ois_type_of_discrimination=All&items_per_page=1000&field_ois_institution=&field_ois_institution_type=All&field_open_investigation_date_1=&field_open_investigation_date_2=&field_open_investigation_date=&field_open_investigation_date_3=&order=field_ois_type_of_discrimination&sort=asc (Last updated Jan. 14, 2025).

¹² See *id.*

¹³ See U.S. DEP'T OF EDUC., *Office for Civil Rights Recent Resolution Search*, https://ocrcas.ed.gov/ocr-search?keywords=&recipient_name=&f%5B0%5D=state_fullname%3A659 (Last visited Mar. 29, 2026).

¹⁴ See *id.*

¹⁵ See e.g., VA Code § 2.2-3908.

¹⁶ See, e.g., *Barnes v. Gorman*, 536 U.S. 181, 185 (2002) (noting that private individuals may sue to enforce Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and Title VI of the Civil Rights Act of 1964.).

Constitution, leading to the historic integration of that law school.¹⁷ Civil actions are necessary in these precedent setting cases where the legal status quo that binds administrative agencies inadequately recognizes the scope of a right.

Section 20-1012.1(B)'s adoption of a private right of action in state court to enforce civil rights in education will provide students and families greater opportunities to ensure that they receive equal access to education in Maryland. This provision creates an additional pathway for students and families to seek relief but would not create undue burden upon schools in the state. Schools already face the threat of civil actions under federal civil rights laws, and HB 649's congruous treatment of that right to sue would not open the floodgates as litigation remains too costly and time intensive for many plaintiffs.

2. HB 649 provides broad protection against all forms of discrimination, including disparate impact discrimination.

Proposed Section 20-7A-04(B)(1) recognizes that unlawful discrimination takes many forms and may occur under the guise of facially-neutral policies that obscure discriminatory intent but have discriminatory effects on the basis of a protected characteristic. This disparate impact theory of discrimination has been an important facet of federal civil rights laws for decades. In 1971, LDF argued the seminal U.S. Supreme Court case *Griggs v. Duke Power Company*, which recognized that Title VII of the Civil Rights Act of 1964 prohibited disparate impact discrimination.¹⁸ While the Supreme Court and subsequent civil rights statutes have explicitly recognized both the validity and importance of disparate impact theories for the full enforcement of anti-discrimination promises, the current administration has unlawfully abandoned this doctrine.¹⁹ If the federal government refuses to bring disparate impact cases, some discrimination in schools will go completely unaddressed.²⁰ For example, school discipline policies can create discriminatory effects even when they are facially race-neutral when policies disproportionately harm Black students without justification.²¹ States must take a role in addressing these important discrimination cases, especially when the federal government refuses to act. Section 20-7A-04(B)(1) mirrors existing federal law and provides Maryland with the opportunity to enforce similar laws in situations where the federal government has abandoned its duty to protect students from discrimination.

¹⁷ See *Pearson et al v. Murray*, 169 Md. 478 (1936).

¹⁸ 401 U.S. 424 (1971).

¹⁹ See, e.g., *Elimination of Disparate Impact Theory Under Title VI of the 1964 Civil Rights Act*, Unified Agenda of Regulatory and Deregulatory Actions, U.S. Dep't of Educ., RIN 1870-AA20 (2025), <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=1870-AA20> (last visited Mar. 29, 2026).

²⁰ In *Alexander v. Sandoval*, the U.S. Supreme Court declined to extend a private right of action for disparate impact under Title VI but left agencies' discriminatory effects regulations untouched. 532 U.S. 275, 281 (2001).

²¹ See, e.g. LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS, *Discrimination in All Its Forms: Different Treatment and Disparate Impact*, <https://civilrights.org/edfund/wp-content/uploads/sites/2/2025/05/Disparate-Impact-Fact-Sheet.pdf>.

Students in Maryland need a dedicated and well-resourced civil rights infrastructure in the state to ensure educational opportunities are available to all. At this moment, the federal government has neglected the rights of too many students and families. Maryland must correct these and other historic wrongs by investing in the full-scale enforcement of anti-discrimination laws in Maryland schools. LDF urges the Committee to issue a favorable report on HB 649 to take this important step in meeting the state's responsibilities to all students in Maryland.

Please contact Ray Li, Policy Counsel (rli@naacpldf.org) with any questions or for further discussion.

Respectfully Submitted,

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