

Testimony Concerning House Bill 649
Advancing Equal Educational Opportunities for All Students in Maryland
Position: Favorable with Amendments

To: Delegate Melissa Wells, Chair
Delegate Kenneth Kerr, Vice-Chair
Members of the Government, Labor, & Elections Committee

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On behalf of the Gibson-Banks Center for Race and the Law (“Gibson-Banks Center” or Center) at the University of Maryland Francis King Carey School of Law (Maryland Carey Law),¹ we appreciate the opportunity to submit testimony in support of House Bill 649 (HB 649), which expands the authority of the Maryland Commission on Civil Rights (the Commission) to include the investigation and resolution of education discrimination complaints. HB 649 would, among other things: prohibit discrimination and retaliation based on race, color, national origin, ethnicity, ancestry, religion, sex, pregnancy, sexual orientation, gender identity, disability, age, or marital status by educational institutions; expand the covered protected characteristics to explicitly include ancestry and pregnancy; extend the protections against discrimination beyond PreK to grade 12 students to students in institutions of higher education; ensure that students are protected from intentional discrimination as well as from policies and practices that have an unjustified discriminatory effect; and allow students or their parents or guardians to file education discrimination complaints as civil actions in state court.

We urge the Committee to issue a favorable with amendments report because the bill would: 1) help address persistent racial and other discrimination in education; 2) offer more protections from education discrimination to more students thereby ensuring that all Maryland students have equal access to educational opportunities without regard to race and other protected characteristics; and 3) expand these protections at a time when the federal government

¹ This written testimony is submitted on behalf of the Gibson-Banks Center and not on behalf of the University of Maryland Francis King Carey School of Law, the University of Maryland, Baltimore, or the University System of Maryland.

is limiting avenues to both address and redress discrimination in educational settings. We respectfully ask that the Committee amend HB 649 to allow students or their parents or guardians to file a civil action in state court once the law becomes effective, instead of 30 days after the Commission issues regulations, to ensure that aggrieved parties have the option of seeking redress under HB 649 as soon as possible.

The Gibson-Banks Center works collaboratively to re-imagine and transform institutions and systems of racial inequality, marginalization, and oppression. Through education and engagement, advocacy, and research, the Center examines and addresses racial inequality, including the intersection of race with sex, gender, or disability, and advances racial justice in a variety of issue areas, including education.

HB 649 offers additional venues where students and their parents or guardians may file complaints to address persistent racial discrimination in Maryland’s educational institutions.

Today, education is perhaps the most important function of state and local governments...Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

Brown v. Board of Education (1954)

Before the *Brown* decision in 1954, Maryland had maintained a system of racially segregated schools for decades. For example, although Maryland Carey Law admitted a few Black men shortly after the Civil War, the school exclusively enrolled white men until 1920, when it admitted several white women.² Maryland Carey Law remained closed to Black students from the 1890s through 1936, when the school enrolled Donald Gaines Murray, who successfully filed a lawsuit challenging Maryland’s practice of racial segregation in higher education.³

After Maryland school systems resisted *Brown*’s mandate to desegregate schools,⁴ Congress stepped in by passing federal legislation that bans discrimination and retaliation based on race, color, national origin, sex, age, and disability by programs or activities that receive federal financial assistance.⁵ The U.S. Department of Education’s (ED) Office for Civil Rights

² See Maryland Carey Law Magazine, *Celebrating 200 Years of Bold Leadership*, 16-17 (Winter 2023), <https://law.umaryland.edu/news--events/magazine/archives/> (explaining that two Black men, Harry Sythe Cummings and Charles W. Johnson, graduated from the law school in 1889).

³ See *id.* (discussing the landmark case of *Pearson et al v. Murray*, 169 Md. 478 (1936)).

⁴ Over a decade after *Brown*, racial segregation in educational institutions and programming continued in Maryland, leaving Black children with inadequate access to resources. See 99 Op. Att’y Gen. 88 93, 97-98 (2014), <https://oag.maryland.gov/resources-info/Documents/pdfs/Opinions/2014/99OAG88.pdf>; Comm. of Md.; Superintendents Report to The State Board of Education and The Attorney General of Maryland 6 (1954), <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000116/000000/000008/unrestricted/report.pdf> (proposing a "gradual adjustment" to slowly integrate public schools in Maryland after the *Brown* decision).

⁵ Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d-2000d-7 (race, color, or national origin); Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688 (sex); Age Discrimination Act of 1975, 42 U.S.C. § 6102 (age); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (disability). OCR also enforces Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131–12134, which prohibits disability discrimination whether or not the state or local government receives federal financial assistance.

(OCR) enforces these laws.⁶ In 2022, the Maryland General Assembly passed an education anti-discrimination law that offered protections similar to those provided under federal law and gave the Maryland State Department of Education enforcement power.⁷

Despite legal protections at both the federal and state levels, racial inequalities in Maryland schools have persisted. For example, a 2019 report by the Maryland Advisory Committee to the U.S. Commission on Civil Rights revealed that Maryland’s Black students experience “disproportionate rates of exclusionary discipline” and “are likely to be suspended for longer periods than their white counterparts even in what is arguably the exact same disciplinary situation.”⁸ School discipline practices especially impact Black girls, as they are “four times more likely than white girls to be suspended, twice as likely to be expelled, and more likely to be suspended for longer terms.”⁹

HB 649 is needed now more than ever at a time when ED has taken actions that limit students’ ability to seek resolution of education discrimination complaints with OCR. Since March 2025, ED officials, in an effort to close the agency and purportedly return education authority to state and local governments,¹⁰ have placed more than half of OCR’s staff on administrative leave and prohibited them from working from March 2025 to January 2026, when ED, in response to a lawsuit, reinstated some OCR staff.¹¹ ED officials also closed seven of its 12 offices, and reassigned the caseloads to the five remaining OCR offices. Consequently, OCR’s 271 open investigations of discrimination complaints against Maryland schools, as of January 2025,¹² have likely stalled and the OCR staff that remain are unlikely to have the capacity to investigate new complaints. By authorizing the Maryland Commission on Civil Rights to investigate education discrimination complaints, HB 649 will fill the void created by the substantial reduction in workforce at OCR.

Additionally, the bill allows students and their parents or guardians to file a civil action in state court alleging violations of HB 649, similar to federal anti-discrimination laws that allow

⁶ U.S. DEP’T OF EDUC., OFF. FOR CIV. RTS., *About OCR*, <https://www.ed.gov/about/ed-offices/ocr/about-ocr> (last updated Apr. 11, 2025).

⁷ See MD. CODE ANN., EDUC. §§ 26-701-705 (2022) (prohibiting discrimination and retaliation based on race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability by public and nonpublic pre-K to grade schools that receive state funds).

⁸ 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>.

⁹ *Id.* at 18.

¹⁰ Exec. Off. of the Pres., *Improving Education Outcomes by Empowering Parents, States, and Communities*, Executive Order 14242, 90 Fed. Reg. 13679 (Mar. 20, 2025), <https://www.federalregister.gov/documents/2025/03/25/2025-05213/improving-education-outcomes-by-empowering-parents-states-and-communities>.

¹¹ U.S. GOV’T ACCOUNTABILITY OFF., DEP’T OF EDUC.: FULL COSTS AND SAVINGS ESTIMATE NEEDED FOR REDUCTION-IN-FORCE AND RESTRUCTURING OF THE OFF. FOR CIV. RTS. 4 (Jan. 29, 2026), <https://www.gao.gov/products/gao-26-108320>.

¹² U.S. DEP’T OF EDUC., OFF. FOR CIV. RTS., *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&it_ems_per_page=20&field_ois_institution=&field_ois_institution_type=All&field_open_investigation_date_1=&field_open_investigation_date_2=&field_open_investigation_date_3= (last visited Feb. 20, 2026).

complainants to file a civil action in federal court.¹³ As introduced, however, HB 649 would require students or their parents or guardians to wait until 30 days after the Commission issues initial regulations to file a civil action in state courts. We respectfully ask the Committee to amend the bill to allow students or their parents or guardians to file a civil complaint alleging violations of HB 649 once the law becomes effective. Aggrieved parties should not wait to enforce an effective law. Several states have private right of action provisions in their education anti-discrimination laws that do not contain this type of limitation.¹⁴ HB 649 should do the same.

HB 649 provides more students with more protections against education discrimination than is currently available under state law.

Maryland's current education anti-discrimination law protects only students from PreK through grade 12 who attend public and nonpublic schools.¹⁵ HB 649's prohibition against education discrimination would extend to students enrolled in institutions of higher education, similar to federal laws. Additionally, by prohibiting education discrimination based on ancestry and pregnancy, HB 649 explicitly protects more characteristics than current state law.¹⁶

HB 649 would also protect students from policies and practices that both treat students differently based on a protected characteristic, i.e., intentional discrimination, and those that have an unjustified discriminatory effect on students based on protected characteristics. These are protections that students have enjoyed under federal anti-discrimination laws for decades, yet the current federal administration is taking steps to roll them back.¹⁷ Maryland officials must ensure that students and their families are protected from discrimination in all its forms.

By passing a comprehensive state civil rights law that prohibits discrimination by all educational institutions, Maryland officials will stand ready to protect all students from discrimination in PreK through graduate schools when the federal government will not. For the above reasons, we ask for a favorable with amendments report on HB 649.

¹³ 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.).

¹⁴ See, e.g., ALASKA STAT. ANN. § 14.18.100 (2025); N.H. REV. STAT. ANN. § 354-A:28 (2019).

¹⁵ MD. CODE ANN., EDUC., § 26-704(a) (2022).

¹⁶ The Commission has indicated that it would request a sponsor amendment to add military status as a protected characteristic. The Gibson-Banks Center supports this amendment as military status is already protected under current state anti-discrimination laws. See, e.g., MD. CODE ANN., STATE GOV'T, § 20-705 (2024).

¹⁷ 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 Feb. 19, 2026).