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# MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

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## HOUSE WAYS AND MEANS COMMITTEE HOUSE BILL 753: Education - Student-Organized Peaceful Demonstrations - Student Discipline and Policy

FEBRUARY 12, 2021

### POSITION: SUPPORT WITH AMENDMENTS

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. 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. **CRSD supports with amendments House Bill 753**, which would prohibit a public school from prohibiting a student from organizing or participating in a student-organized peaceful demonstration or imposing certain limits on a student’s right to free speech during a demonstration. This bill is important to protect students from unnecessary disciplinary matters when engaging in First Amendment speech.

The First Amendment prohibits schools from punishing or threatening to punish student conduct more harshly solely because that conduct is politically motivated. Public school students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969). When school officials threaten to impose discipline for particular speech, they are, in effect, prohibiting it. School officials may not lawfully prohibit student speech except when they reasonably forecast that the student expression “will substantially interfere with the work of the school or impinge upon the rights of other students.” *Id.* at 508. It is not enough that school officials have an “undifferentiated fear or apprehension” of a disturbance. *Id.* Rather, there must be “substantial facts which reasonably support a forecast of likely disruption.” *Quarterman v. Byrd*, 453 F.2d 54, 58 (4th Cir. 1971).

Maryland law categorically prohibits schools from punishing students with out-of-school suspensions or expulsions for unexcused absences. Md. Code Ann., Educ. § 7-305(b) (West). It is improper to threaten students with more severe consequences or charging additional offenses based on a demonstration. The school system cannot hand out harsher punishment for students who engage in conduct associated with political speech than a student who walks out for a reason unknown to the administration. See *Pinard v. Clatskanie Sch. Dist.* 6J, 467 F.3d 755, 770 (9th

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Cir. 2006) (explaining that a school official is liable for First Amendment retaliation if students would not have been similarly punished if they had not engaged in the protected speech).

For the foregoing reasons, the Maryland Coalition to Reform School Discipline supports HB 753 with the following amendments

7-312 (c) (II)

(II) IMPOSE LIMITS THAT [SUBSTANTIALLY] INHIBIT A STUDENT’S RIGHT TO FREE SPEECH WHILE PARTICIPATING IN A STUDENT–ORGANIZED PEACEFUL DEMONSTRATION.

7-312 (d) (1)

[(1) THE SCHOOL ADMINISTRATION IS NOTIFIED OF A STUDENT’S INTENT TO ENGAGE IN A STUDENT–ORGANIZED PEACEFUL DEMONSTRATION AT LEAST 48 HOURS IN ADVANCE OF THE DEMONSTRATION; AND]

[2. MANNER OF EXPRESSION BY A STUDENT PARTICIPATING IN A STUDENT–ORGANIZED PEACEFUL DEMONSTRATION;]

7-312 (f) (II)(2)

2. REASONABLE GUIDELINES FOR THE TIME, PLACE, [AND MANNER OF EXPRESSION] BY A STUDENT ENGAGING IN A STUDENT–ORGANIZED PEACEFUL DEMONSTRATION;

## **CRSD Members**

### *Organizations*

ACLU of Maryland  
The Arc, Maryland  
Attendance Works  
BMore Awesome, Inc.  
The Choice Program at UMBC  
Community Law in Action  
Disability Rights Maryland  
Family League of Baltimore

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## MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

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NARAL-Pro-Choice Maryland  
Maryland Office of the Public Defender  
Open Society Institute – Baltimore,  
Project HEAL at Kennedy Krieger Institute  
Public Justice Center  
Restorative Counseling Services  
Schools Not Jails  
Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law

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