



Massachusetts
APPLESEED | Center for
Law & Justice

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January 4, 2021

Representative Alice Hanlon Peisch, House Chair
Senator Jason Lewis, Senate Chair
Joint Committee on Education
Massachusetts State House
Room 511-B
Boston, MA 02133

RE: Testimony in Support of H.4138, *An Act Requiring Accountability for Inequities in Suspension and Expulsion*

Dear Chairwoman Peisch, Chairman Lewis, and Honorable Members of the Committee:

The Massachusetts Appleseed Center for Law & Justice (“Massachusetts Appleseed”) respectfully submits the following testimony in support of H.4138, *An Act Requiring Accountability for Inequities in Suspension and Expulsion* (the RAISE Act) and strongly urges the Joint Committee on Education to report the bill favorably.

The mission of Massachusetts Appleseed is to promote equal rights and opportunities for Massachusetts residents by developing and advocating for systemic solutions to social justice issues. Appleseed centers across the country work both collectively and independently to build a society in which opportunities are genuine, access to the law is universal and equal, and government advances the public interest. Central to this mission is ensuring that Massachusetts schools are supportive, inclusive places for children of all circumstances and backgrounds, and in particular for students of color.

Unfortunately, students of color and students with disabilities are continually impacted by the uneven administration of exclusionary discipline across the Commonwealth. H.4138 seeks to address these disparities in three key ways: 1) Requiring the use of alternatives before school exclusion can be attempted, 2) Requiring cross-tabulation of school discipline data, and 3) Narrowing the definitions of “assault” and “deadly weapon” in the school context.

1. Requiring alternatives to exclusion

Massachusetts Appleseed and other advocates have firmly established that in the Commonwealth, students of color and students with disabilities are more likely to be disciplined than their white and nondisabled peers. For example, students with disabilities are disciplined at a rate (7.6%) nearly double the statewide average (4%), and Black students lose over 3 times the number of instructional

days to discipline than white students.¹ Black and brown students and students with disabilities are frequently punished and deprived of their education for either disability-related or developmentally typical behavior and are more likely to experience punitive exclusionary discipline such as in-school suspensions, out-of-school suspensions, expulsions, and school-related arrests. These disproportionate disciplinary actions lead to an increase in student removal from school and an elevated potential for contact with the criminal justice system, thereby perpetuating the school-to-prison pipeline for our most vulnerable students.²

Rather than pushing these vulnerable students outside of the classroom, schools should nurture these children and address their behavioral challenges with effective, alternative approaches like restorative practices, mediation, and other forms of conflict resolution. H.4138 requires that these types of alternatives be attempted and documented before using school exclusion except where there is documentable concern about a student's infliction of serious bodily injury. In all other cases where a student is not putting themselves or someone else at risk, the implementation of proven disciplinary alternatives would positively impact the futures of so many students that may otherwise be set up on a path of school dropout and justice system involvement.

2. Requiring cross-tabulation of school discipline data

The disciplinary disparities impacting students of color and students with disabilities detailed above worsen when we dive deeper into the multiple identities inhabited by students experiencing disproportionate pushout from the classroom. Race, disability status, gender, familial income level, and English proficiency all tend to increase the risk of a student being disciplined or entering the school-to-prison pipeline.

For example, we found in our *Protecting Girls of Color From the School-to-Prison Pipeline* report that Black girls in Massachusetts are 5 times more likely to face out-of-school suspensions or expulsions than white girls. They are also 1.2 times and 4 times more likely to be referred to law enforcement officials and be arrested in school, respectively. Moreover, approximately 73% of Black girls who received disciplinary actions come from economically disadvantaged households, highlighting how various identities intersecting deepens the disparate impacts of school disciplinary policies.³

Yet we only know so much about how these intersecting identities impact school discipline in Massachusetts. Massachusetts Appleseed was able to highlight the statistics above through records requests that the Department of Elementary and Secondary voluntarily complied with. Currently, although DESE does collect this data, it isn't available publicly – and not everyone can make data or records requests of the Department, nor should it be necessary that they do so. H.4138 would require the cross-tabulation of disciplinary data across existing categories of collection such as race/ethnicity, gender, English-Language Learner status, socioeconomic status, and disability status, and would add new categories including students in DCF custody or care, and students experiencing homelessness.

¹ Joanna Taylor & Matt Cregor, Lawyers' Comm. for Civil Rights and Econ. Justice, *Unfinished Business: Assessing Our Progress On School Discipline Under Massachusetts Chapter 222*, (Sept. 2018).

² Massachusetts Appleseed Ctr. For Law and Justice, *Keep Kids in Class: New Approaches to School Discipline*, http://massappleseed.org/wp-content/uploads/2017/12/kkic_newapproaches.pdf.

³ Massachusetts Appleseed Ctr. For Law and Justice, Appleseed Network: *Protecting Girls of Color from the School-to-Prison Pipeline* (September 2020), <https://massappleseed.org/wp-content/uploads/2020/07/Appleseed-Multistate-Pamphlet.pdf>

If these disciplinary disparities are ever to be eliminated, intersectional identities must be understood. This will allow our most vulnerable students to get the tailored support they need.

3. Narrowing the definitions of “assault” and “deadly weapon”

In addition to mandating the availability of cross-tabulated data, this bill would also narrow the currently overbroad definitions of “assault” and “deadly weapon” in Chapter 71 § 37H, which regulate exclusionary discipline for what should be serious offenses. Such amendments are necessary as the current broad usage of these terms often results in students deemed to have engaged in dangerous activity that warrants exclusionary discipline, when they are in fact engaging in developmentally typical behavior. For example, a student who possessed a paperclip was charged with “weapon” possession and expelled, and a kindergartener who made contact with a teacher during a tantrum was charged with an “assault” and expelled. Our students are currently being excluded from school for minor, non-violent behavior which results in significant loss of education, allowed for given the wide-ranging ways in which “assault” and “deadly weapon” are defined and interpreted within school settings.

To address this harmful lack of clarity, H.4138 explicitly defines dangerous weapon as “a device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury” – unlike a paperclip – and specifies that “assault” must be “willful, with intent and means to harm” and cannot be the result of unintentional behavioral outbursts like a tantrum.

Too many students are punished for simply acting their own age. This bill would prevent students from losing instructional days for that type of non-dangerous behavior.

The RAISE Act is a meaningful and comprehensive piece of legislation that would enhance educational outcomes in the Commonwealth by embracing alternatives to exclusionary discipline, allowing for essential cross-tabulation of disciplinary data, and ensuring that non-dangerous student behavior is not punished excessively. **For all of these reasons, Massachusetts Appleseed strongly urges you to issue a favorable report for H.4138, *An Act Requiring Accountability for Inequities in Suspension and Expulsion.***

Respectfully submitted,



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Massachusetts Appleseed Center for Law & Justice