



July 13, 2023

Representative Denise Garlick, House Chair and  
Senator Jason M. Lewis, Senate Chair  
Joint Committee on Education  
State House, Room 473G  
Boston, MA 02133

**RE: Testimony in Support of H.454/S.249 *An Act to ensure equal access to education, including special education services, for all students in Massachusetts***

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

Massachusetts Appleseed Center for Law & Justice (“Massachusetts Appleseed”) respectfully submits the following testimony in support of H.454/S.249, *An Act to ensure equal access to education, including special education services, for all students in Massachusetts* and strongly urges the Joint Committee on Education to give the bill a favorable report.

Massachusetts Appleseed’s mission is to promote equal rights and opportunities for Massachusetts residents by developing and advocating for systemic solutions to social justice issues. We have been at the forefront of understanding the intersection of school discipline practices, zero tolerance, and youth entering the juvenile justice system; most notably, through our *Keep Kids in Class* project and various reports we have published on the subject, including our *Protecting Girls of Color from the School-to-Prison Pipeline and “I Just Want to Learn”*: Girls of Color and the School to Prison Pipeline in Massachusetts reports. Through these efforts, we research and identify best practices to keep all students at a high-risk of entering the juvenile justice system in class where they are safe, supported, and able to learn.

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 non-disabled 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.<sup>1</sup> 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.<sup>2</sup>

These statistics worsen when different aspects of a student’s background combine to further disadvantage them. Race, as well as factors such as gender, income level, and English proficiency, may all increase the risk of a student being disciplined and/or entering the school-to-prison pipeline. In fact, as we found in our *Protecting Girls of Color* report, 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

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<sup>1</sup> 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).

<sup>2</sup> 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](http://massappleseed.org/wp-content/uploads/2017/12/kkic_newapproaches.pdf), (last visited 7/10/2019).

to be referred to law enforcement officials and be arrested in school, respectively.<sup>3</sup> 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.

The Department of Elementary and Secondary Education's (DESE) own data reinforces these higher vulnerabilities for certain students. As we recommended in our *Protecting Girls of Color* report, this data should be **cross-tabulated**, a method of analyzing the relationship between two or more variables that exposes patterns that cannot be realized when looking at the results in aggregate. For example, the discipline rates for Black students and for male students may be available publicly, but the discipline rates for male Black students are not. The intersection between race, gender, English-language proficiency, poverty, as well as disability status and discipline rates are generally understood on a broader scale, particularly due to Kimberlé Crenshaw's earlier research on intersectionality.<sup>4</sup> Yet the scale of these impacts on discipline rates for specific subgroups of students in Massachusetts cannot be fully measured without data that can be cross-tabulated. These identities are inextricably linked; therefore, looking at how race or gender may singly impact Black girls fails to account for how race and gender together form a unique set of circumstances.

Massachusetts general law, specifically Section 37H of chapter 71 of the General Laws, requires that school districts gather critical student data, including data on school discipline and special education, and submit it to DESE.<sup>5</sup> While data is gathered by race, ethnicity, sex, English Learner status, socio-economic status and disability, DESE does not publish this data in a way that can be cross-tabulated. This practice limits the ability of educators, advocates and policymakers to identify disparities in school discipline by specific subpopulations of students. Without access to such data, advocates do not have enough targeted information to fully identify the scale of disparate discipline rates in school districts across Massachusetts.

This restriction on data currently held by DESE hinders the public's ability to determine which schools or school systems are engaging in discriminatory practices or failing to provide quality education to their most vulnerable students. As a member of the Chapter 222 Coalition, Massachusetts Appleseed and our partner organizations have repeatedly requested that DESE release cross-tabulated data, and, while such data has recently been provided voluntarily, DESE is not required to make such data public unless someone requests it via a public records request.<sup>6</sup> Passing H.454/S249 would legally obligate DESE to publish comprehensive data for specific subgroups of students in a format that would help private citizens, the press, advocacy organizations and other independent groups determine whether our schools are discriminating against groups of students in their practices or policies. This bill would therefore allow for greater independent monitoring and accountability of discipline practices across all school districts in the Commonwealth.

**Massachusetts Appleseed strongly urges you to issue a favorable report for H.454/S249.** Thank you for considering this testimony and please do not hesitate to contact me if you should have any questions or require additional information.

Respectfully submitted,



Deborah Silva, Director of 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>

<sup>4</sup> Kimberlé Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *University of Chicago Legal Forum*: Vol. 1989: Iss. 1, Article 8. Available at: <http://chicagounbound.uchicago.edu/uclf/vol1989/iss1/8>

<sup>5</sup> Mass. Gen. Laws ch.71, §37H (e, f, g) 2012.

<sup>6</sup> Mass. G.L. c. 66, § 10

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