

Disability Rights Network of Pennsylvania

A merger of PP&A and the
Disabilities Law Project

Advancing the rights of people with disabilities

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Re: SB 56 (printer's no. 753)

Dear Senator:

Our organizations write to provide comment on SB 56 (printer's no. 753), which is currently before the Senate Appropriations Committee. We are particularly concerned about that portion of the bill that requires schools to notify *police*¹ in every instance when children commit certain enumerated offenses on school grounds, without regard to the intention or understanding of the child involved. This provision will disproportionately increase the number of referrals of children with developmental disabilities and mental health disorders, as well as young children, to the juvenile justice system.

We understand that this bill allows school administrators discretion with respect to some offenses. However, that does not solve the problem for many children. For example, in March an 11-year-old child at a school for children with severe developmental disabilities was charged with aggravated assault when she kicked a teaching assistant in the leg. Last year a deaf child with autism was hauled off in handcuffs because he reacted defensively to a teacher's physical handling of him. And more recently, a child with mental retardation was charged with terroristic threats because upon getting up after being shoved to the ground for the third time by a teenager, in desperation shouted "I'm gonna kill you". None of these children should have been reported to the police, but under this bill such reporting would be required.² See also the attached articles about similar incidents in other states.

We believe that the best approach would be to focus on improved reporting to the Office of Safe Schools, and allow school administrators their current degree of discretion when it comes to calling the police. It has been argued that the police have the option of not responding to calls if they deem it inappropriate. However, that is not the case in every police district – in fact, it has been reported that in some jurisdictions police officers are required to file charges when an incident of misconduct has been reported to them. Nor are police trained in child development or in how to appropriately respond to children with disabilities, as school personnel must be. Supporters of this bill have also argued that the bill requires reporting to the police because that is the only way to verify the data that is being reported to the Office of Safe Schools. However, it is neither necessary nor wise to sacrifice children for the sake of consistent cross-agency data. The bill could require that the reports to the Office of Safe Schools include *at least* all the offenses that the school administrator deemed serious enough to warrant police notification, and can require verification of that reporting. (That would correct the problem raised by the

¹ Please note that we commend efforts to make our schools safer for all children and to hold school districts accountable to report the extent of violent activities in their schools so the violence can be addressed and prevented. We support bill provisions that direct schools to report such activities to the Pennsylvania Department of Education.

² To avoid more such incidents, at a minimum, the following offenses should be moved to section (b)4.2, the discretionary section of the bill: simple assault; some aggravated assaults (those that would be simple assaults but for the professional identity of the victim); indecent assault (touching); indecent exposure; and terroristic threats. See our proposed amendments.

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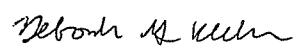
Steelton-Highspire School District report --a main impetus for this bill, which showed that the school district had only reported to the Office of Safe Schools a small fraction of the offenses it had reported to the police in the 2002-2003 school year.)

Furthermore, this bill will duplicate reporting requirements already in place for any offenses that involve student abuse. Under our Child Protective Services Law (CPSL), school personnel must report to ChildLine if they suspect that a student has been abused by any individual, including another student. 23 Pa.C.S. § 6303(b)(1), § 6311(a). School personnel who fail to report child abuse are already subject to misdemeanor charges. 23 Pa.C.S. § 6319. In addition, the School Code currently mandates the school superintendent or chief administrator to report the discovery of any weapon to local law enforcement officials. 24 P.S. § 13-1317.2.

It is our belief that the Bill, in its current form, does too little to support and promote research-based prevention efforts that markedly reduce school disciplinary infractions, improve school climate, and increase student achievement. School-Wide Positive Behavior Support (SWPBS) is such an approach. Nationally-acclaimed and implemented in over 40 states, SWPBS is a systems approach for establishing the social culture and individualized behavioral supports needed for schools to achieve both social and academic success while preventing problem behavior. Individual and whole school needs are met through three levels of prevention: Primary (addresses entire school and classroom levels); Secondary (targeted groups) and Tertiary (individually planned and implemented). SWPBS offers a research-based and positive preventative –as well as a preferred, cost-effective alternative to increased security guards and metal detectors. We have included language regarding SWPBS in our proposed amendments.

Mandatory reporting to the police will make it impossible to protect our children with disabilities (and even very young children without disabilities) from the emotional harm that comes from being arrested for crimes they never intended or don't understand. We ask that reporting of offenses to the police be left to the discretion of school administrators who have the benefit of knowledge of the child and individual circumstances to assist their determination of appropriate response. Our enclosed proposed amendments accomplish this, while still enabling the Office of Safe Schools to ensure that it is informed of every incident that is reported to the police. If the bill cannot be amended to accomplish this result, we urge you to oppose it.


Thank you for your consideration.


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Sincerely,

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