

**J.H. Snider's presentation before the
Maryland Department of Education's Board of Education,
Nancy S. Grasmick State Education Building,
200 West Baltimore Street, 7th Floor Board Room, Baltimore, MD,
January 24, 2017**

My name is J.H. Snider, and I am the president of iSolon.org. I am a former school board member and have published dozens of op-eds on education politics and policy in publications including *Education Week*, *The Washington Post*, and *U.S.A. Today*.

I am here today to report on the findings from my two sets of Public Information Act requests seeking the methodology used to calculate K12 salary statistics. The first involves my local public school system in Anne Arundel County; the second the Maryland State Department of Education.

My basic findings concerning MSDE are:

- 1) MSDE does not collect disaggregate salary data from local school districts,
- 2) MSDE lacks a detailed methodology for aggregating those salary data into average salary statistics, instead leaving that methodology to the discretion of local school districts,
- 3) MSDE does not enforce what limited guidelines it does have,
- 4) MSDE does not check for consistency in the methodologies used both across and within local school districts in calculating salary statistics, even when anomalies are brought to its attention;
- 5) MSDE bases its maximum salary statistic for teachers not on actual salaries but on the salary schedule, which in my county may represent only about two-thirds of actual salary,
- 6) To explain the statistics it reports to the public, MSDE refers requesters to Maryland's 25 local districts, where requesters must submit Public Information Act requests for the information,
- 7) MSDE makes numerous controversial assumptions in the presentation of its salary statistics but fails to disclose them in its published reports.

My basic findings concerning the Anne Arundel County Public Schools are:

- 1) Starting in 2008, AACPS has consistently failed to comply with both the spirit and letter of the Public Information Act concerning public access to salary data,
- 2) In response to my Public Information Act requests, AACPS has complained to thousands of its employees and the Maryland General Assembly that this information is legally public,
- 3) AACPS techniques for avoiding compliance with the law have varied substantially over time and tend to be quite sophisticated,
- 4) AACPS has failed to provide the salary information that MSDE asserted local Maryland school districts would provide in response to my various Public Information Act requests to MSDE,
- 5) In response to the Public Information Act request I submitted to AACPS in response to MSDE's guidance that I seek this information locally, AACPS asserted that it had fulfilled my request despite almost completely ignoring my actual requests and justifying its assertion by providing me MSDE's ambiguous guidance that I already included in my Public Information Act request.

Citizens should not have to endure such hardships in seeking K12 compensation data. Employee compensation represents more than 80% of local school budgets and the public should not only have the right to access this information, but access it in a way that it is meaningfully public.

This distinction between salary data being public and meaningfully public is critical. In Maryland, at least 50% of employee compensation data is public and few politicians would dare to argue publicly that it shouldn't be. But as my Public Information Act requests with AACPS and MSDE demonstrate, it has often not been meaningfully public.

My specific recommendations to you are:

- 1) MSDE should publish all raw salary data online in a machine-readable format and with consistent methodological assumptions across all local school districts,
- 2) MSDE should explicitly disclose its methodology, including all the types of compensation data excluded from public disclosure, and
- 3) MSDE should disclose its reasons for making salary data pro-actively public, including:
 - a) the % of employee compensation in school budgets and its centrality to the budget process,
 - b) the Public Information Act's unenforceability and failure to work in this area, and
 - c) the extraordinary public difficulty, cost, and risks associated with acquiring this information without pro-active government disclosure.

On the risks, I will elaborate. When I first sought maximum salary data in 2008, the AACPS Public Information Officer complained to the Maryland General Assembly that this information was public and complained of my request for this information in an email sent to thousands of AACPS employees, including my children's teachers. That proved to be very intimidating, an experience that no citizen in pursuit of this information should ever have to endure.

None of these recommendations requires that the General Assembly pass a special law. Indeed, it is entirely within your power to implement them, assuming you could get the local school districts to provide the raw data that is legally public and they are legally obliged to provide. Such an action would require political courage. As you contemplate it, please remember that very few if any Maryland politicians would dare to say publicly that government salary related data shouldn't be public. If there is a good reason for that, there is a good reason for pro-active public disclosure.

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Primary Supporting Documents

- 1) [Public Information Act correspondence with MSDE's Public Information Officer.](#)
- 2) [Public Information Act correspondence with AACPS's Public Information Officer.](#)

Various Articles by J.H. Snider on Public School Compensation

Snider, J.H., [It's the Public's Data: Democratizing School Board Records](#), *Education Week*, June 14, 2010.

Snider, J.H., [Maryland's Fake Open Government](#), *Washington Post*, April 18, 2010.

Snider, J.H., [Democratize School Budget Data](#), *Education Week*, May 20, 2009.

Snider, J.H., [Public School Systems Should Post Compensation Data Online](#), *Washington Examiner*, March 18, 2009.

Snider, J.H., [Need Teachers? Show Them the Money](#), *Washington Post*, February 8, 2009.

Snider, J.H., [America's Million-Dollar Superintendents](#), *Education Week*, December 11, 2006.

Testimony to the Maryland State Board of Education:

January 24, 2017

Ann M. Bain, Ed.D.

I come here today as a member of Right To Read-Maryland.

I have become involved with this organization because I'm passionately concerned that the children of Maryland are not receiving the best possible education in learning to read. Testing scores provided by the National Assessment of Educational Progress tell the story. At all levels, an alarming number of the children in Maryland are not proficient in reading. Once behind, remediation is expensive and the majority of children do not catch up.

To help solve this problem, I became a member of the MSDE Work Group that is charged with revising the four mandated reading courses. A dozen or more professionals are working diligently and I believe the courses will embody the most recent research on scientifically-based practices. But there is a problem.

Teachers are asked to take the courses but there is no fail-safe to show that they have learned this information about the teaching of reading. If we step back a moment and look at other professionals, they are all required to pass an examination to certify competency. So it should be with elementary classroom teachers, reading teachers, and reading specialists. Look at the training of speech pathologists, occupational therapists, lawyers, doctors, CPAs just to name a few. To assure the fidelity of teacher education, a test of competency is necessary.

Over the course of my career, I have taught at Johns Hopkins University, Loyola University, and Goucher College for a total of more than twenty

years. I have been shocked at what our teachers do not know at the graduate level: kinds of syllables, syllable division rules, the origins of the English language, and very basic diagnostic skills to ascertain exactly why a student is struggling with reading. Perhaps the example of this issue that has become a leitmotif of why it is so difficult to require a foundations of reading test happened in my graduate school experience. When I was asked to supervise student teachers as part of my fellowship at Harvard University. When I questioned a professor about why the students lacked a fundamental knowledge of the teaching of reading, it was explained that these student teachers were bright enough to pick up the teaching skills when needed. I have thought about this statement in terms of other professions. Ladies and gentlemen, we will skip the unit on setting broken bones. We will skip the unit on concussions, . . .

Maryland is behind a dozen other states that require a foundations of reading test for all pre-service elementary teachers. MSDE has approved of a foundations of reading test designed by ETS as an alternative to the four courses. Instead of using it as an alternative, it should be required of all elementary teachers. In fact, every teacher at the elementary level is a teacher of reading if we want to create a literate workforce capable of competing internationally.

Ann M. Bain



Ann M. Bain, Ed.D. has been in the field of learning disabilities for over 30 years. She has taught in both public and private school settings as well as at The Johns Hopkins University. She has been adjunct faculty at both Loyola University and Goucher College. She provides diagnostic/prescriptive evaluations and tutors children and adults with Specific Language Disabilities. She is also an instructor at the Dyslexia Tutoring Program where she trains volunteer tutors and gives workshops on tutoring the dyslexic student. Dr. Bain was the first recipient of the R.M.N. Crosby lifetime achievement award as well as the Distinguished Alumna Award presented by Albertus Magnus College. Dr. Bain is a Fellow in the Academy of Orton Gillingham Practitioners and Educators. She has written several articles and workbooks and co-authored *Written Language Disorders: Theory Into Practice*.



Right to Read-Maryland

Literacy: A Civil Right



Right to Read-Maryland is a coalition of educators and organizations who have the common goal of improving teacher preparation as it specifically relates to reading skills acquisition for all. Recent research indicates that deficits in reading can be remediated using an explicit, systematic, and forensic approach to mastering the English language. The goal of Right to Read-Maryland is to ensure that all future Elementary Education instructors receive an undergraduate education that includes the essential components of phonemic awareness, phonics, reading comprehension strategies, and basic spelling rules, and that current Elementary Education teachers receive professional development that includes the same.



www.righttoreadmd.org

MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

January 20, 2017

Maryland State Board of Education
Maryland State Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

Re: January 24, 2017 Board Meeting – Presentation on MSDE Methodology for Identifying Disproportionate Impact

Dear Members of the Board,

The Maryland Coalition to Reform School Discipline (CRSD) is a group of organizations and individuals committed to making school discipline practices in Maryland schools fair, appropriate, and designed to keep youth in school through graduation. As part of its mission, CRSD advocated for the 2014 discipline regulations, which in part require school systems to identify and correct schools whose discipline practices have a disproportionate impact on minority and special education students.¹ It is our understanding that the Maryland State Department of Education (MSDE) intends to present its methodology for identifying disproportionate impact at the January 24th Board meeting.

Members of CRSD participated in MSDE-led stakeholder meetings in June 2016 to discuss a potential methodology. At that time, CRSD members became concerned by some of the proposed ideas, which we expressed in a letter to Superintendent Salmon in September 2016 (attached). While MSDE acknowledged our letter, it has not shared any further information regarding its final disproportionality methodology. Therefore, we write to ensure that you are aware of our recommendations for this policy. The attached letter explains in depth our position; however, in short, we believe a fair and effective policy would include:

- Setting a threshold value that reasonably identifies disproportionality (e.g., two or lower);
- Assigning an N-size of 5-10 that ensures schools with smaller minority populations are included in data collection;
- Requiring all educational schools and programs, including alternative schools/programs, public separate day schools, and JSE schools, be held accountable for disproportionate disciplinary practices; and,
- Making available for the public all data related to the disproportionate disciplinary practices of individual schools and school systems in an accessible format.

CRSD members will be present at the January 24th Board meeting to share in person our concerns and recommendations. We look forward to hearing from MSDE on its plan to address this important issue and to discuss the measures with the Board. If you have any further

¹ COMAR 13A.08.01.21

questions about our concerns, please contact Amanda White at Disability Rights Maryland (AmandaW@DisabilityRightsMD.org or 443-692-2508). We thank you in advance for your careful attention and consideration of this policy which will have a tremendous impact on the success of Maryland's minority and special education students.

Sincerely,

Amanda R. White

Amanda R. White, Attorney
Disability Rights Maryland on behalf of
Maryland Coalition to Reform School Discipline

MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

September 8, 2016

Dr. Karen Salmon, State Superintendent
Maryland State Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

Re: COMAR 13A.08.01.21 – Methodology for Identifying Disproportionate Impact

Dear Dr. Salmon,

The Maryland Coalition to Reform School Discipline (CRSD) is a group of organizations and individuals committed to making school discipline practices in Maryland schools fair, appropriate, and designed to keep youth in school and on track to graduate. Many of our member organizations, including Advocates for Children and Youth, ACLU of Maryland, and Disability Rights Maryland (formerly the Maryland Disability Law Center), have been engaged in advocating for the creation and implementation of the new discipline regulations. These regulations require school systems to identify schools whose discipline process has a disproportionate impact on minority and special education students and have a plan to “reduce the impact within 1 year and eliminate it within 3 years.”¹

We were pleased to be included in the stakeholder meetings convened by the Maryland State Department of Education this June² to discuss the specific methodologies under consideration for implementation of the new disproportionate impact regulations. As you may be aware, at those meetings many variations of the proposed methods were discussed by MSDE staff, school system representatives, and advocates; however, since the final meeting no information has been provided as to what final methodology will be proposed to the State Board of Education. CRSD is eager to learn about next steps as CRSD members were troubled by some of the options proposed at the stakeholder meetings; and we anticipate further conversation if the implementation of the methodology proposed by MSDE is not consistent with the spirit of the regulations. The discrimination that occurs through the disproportionate use of discipline on minority and special education students is unacceptable and requires a robust response. Therefore, we would like to share with you our concerns regarding the proposed methodology.

Proposed Methodology

From the stakeholder meetings, CRSD understands that MSDE is proposing the use of two formulas for identifying disproportionate impact – the Risk Ratio and State Comparison methods. The Risk Ratio method would compare the suspension rate of a particular subpopulation (e.g., special education students) at a school to the suspension rate of all other

¹ COMAR 13A.08.01.21

² Meetings were held June 3rd, 7th, and 22nd. Representatives from Advocates for Children and Youth, ACLU of Maryland, and Disability Rights Maryland attended each meeting.

students within the school.³ The State Comparison method compares the suspension rate of a particular subpopulation of a school to a MSDE-calculated state suspension rate average, also known as the 3-Year Cumulative State Suspension Percentage.⁴

In order to identify a school as disproportionate, the calculated Risk Ratio and State Comparison values must exceed a threshold level set by MSDE (e.g., one, two, etc.). For example, if MSDE sets the threshold at two, then any Risk Ratio or State Comparison value which is equal to or greater than two will be flagged as disproportionate. Data will only be collected for schools with subpopulations which meet an MSDE set minimum size, also known as the N-size. Therefore, if the N-size is set at 5, then only schools with at least 5 students in a subpopulation (e.g., 5 African-American students) will have data calculated to determine disproportionality.

At the stakeholder meetings, MSDE proposed instituting a tiered system of identification and intervention based on the two formulas. By the conclusion of the third stakeholder meeting, it was not clear how MSDE intends to define these tiers; however, there did appear to be some consensus among stakeholders that identification, intervention and corrective action may be included in differing tiers.

Threshold Value

CRSD is seriously concerned about the determination of the threshold value which will be used to identify disproportionality. At the stakeholder meetings, MSDE discussed the possibility of setting the threshold value as high as 5. **We believe that choosing a threshold value of anything greater than two significantly undermines the spirit of the disproportionate impact regulations, and would formalize discriminatory practices in state education policy. In fact, anything over one is technically disproportionate and should require consideration.**

The disproportionate impact regulations were developed in response to the growing awareness of the negative effects of suspension and expulsion on students, and the significantly disproportionate responses to African-American students and students with disabilities when they display similar problematic behaviors to white students and students without disabilities. The regulations are intended to ensure that all students are treated equitably and to keep children in school. Thus, CRSD was alarmed to hear at the stakeholder meetings that MSDE is even considering a methodology that would not flag schools as disproportionate until the suspension rate for minority and special education students is three or more times as high as the comparison suspension rate. A threshold value of three or higher would mean that schools would not even be identified as disproportionate until the rate of suspension for minority or special education students is three times higher than the comparison value. For example, using data provided by MSDE under the State Comparison method, middle schools and high schools would not be identified as disproportionate unless the suspension rate for minority students was 21.57% (the Cumulative State Suspension Percentage of 7.19% multiplied by the threshold value of three) or

³ Risk Ratio = (Suspension rate of subpopulation) ÷ (Suspension rate of all other students in the school)

⁴ State Comparison = (Suspension rate of subpopulation) ÷ (3-Year Cumulative State Suspension Percentage)

higher.⁵ It is our position that this would be a wholly unacceptable and discriminatory state policy.

In order to root out and correct discriminatory practices within our school systems, school officials must first be willing to openly and candidly name the problems we face. It would be disingenuous and unjust for MSDE to only recognize disproportionate disciplinary practices that meet a threshold of three or more. Such a policy would affirm that it is acceptable for minority and special education students to be suspended at rates up to 2.9 times the suspension rate of other students. On its face, this is discriminatory and fails to protect vulnerable students.

At the stakeholder meetings, MSDE stated that its concern in choosing a lower threshold is that it could not provide resources to support the number of schools that would be identified as disproportionate at such a level. While we understand that training school staff and implementing alternative approaches to handling challenging student behaviors can be resource intensive, we do not agree that MSDE is responsible for providing support to every individual school identified under the formulas, nor should students be forced to wait for such available resources. It may be that MSDE provides intensive resources only to schools that have a higher disproportionality rate, but identifies for internal correction districts and schools with lower rates of disproportionality. As in other areas of the education field, school systems must marshal current resources and work together to identify practices of high-achieving schools that can be replicated elsewhere, some of which with little financial cost. The protection of students' civil rights cannot be conditional upon availability of funding and other resources for correction.

While the stakeholder meetings did not lead to a written consensus document, our organizational representatives noted that school system representatives took the issue of disproportionality seriously and acknowledged their responsibility to address it at the school and district level. Further, it was not only our advocacy organizations which urged the threshold be set at a level of one or two; many school system representatives in the room also recognized that even a level of two represented a serious issue that needed to be addressed by schools. CRSD urges MSDE to choose a threshold value that more accurately and fairly identifies disproportionate disciplinary practices, providing much needed protection for students who are at greater risk for school push out.

N-Size

CRSD maintains that an N-size⁶ larger than 10 would undermine the intent of the regulations by failing to protect students subject to disproportionate disciplinary actions in schools with small minority or special education populations.

⁵ The State Comparison Method requires MSDE to calculate a 3-Year Cumulative State Suspension Percentage, which is then multiplied by the threshold value to determine the rate of suspension for identifying disproportionality. In the June 7th stakeholder meeting presentation slides, MSDE calculated the 3-Year Cumulative State Suspension Percentage for minority middle/high school students at 7.19%. Therefore, using a threshold of 3, schools would not be identified unless the suspension rate was 21.57% (or 7.19% multiplied by 3).

⁶ N-size refers to the size of student population at the school level (e.g., the number of African-American students or the number of students with disabilities enrolled in an individual school.)

The N-size was discussed at the stakeholder meetings and there was general consensus that the N-size should be low, in order to identify problem areas. An N-size of 10 was acceptable to most, but an N-size as low as 5 was also met with approval by both advocates and many school system representatives. We believe that an N-size larger than 10 would fail to capture schools with small minority populations, especially in fairly homogenous schools and districts. Furthermore, an N-size of 10 or less would be consistent with other similar education policies, including the March 2016 notice of proposed rule-making clarifying that States must address significant disproportionality in the suspension and expulsion of children with disabilities under the IDEA.⁷

Alternative Schools/Programs, Separate Public Day Schools, and JSE Schools

CRSD strongly recommends that MSDE include alternative schools/programs, separate public day schools, and Juvenile Education Services (JSE) schools in the initial implementation of the regulations.

MSDE and some other stakeholders expressed the opinion that, because of the nature of the aforementioned schools and programs, a different methodology than prescribed for traditional school programs should be used. It was further proposed that a different methodology would require additional time to develop, and therefore, these schools would be addressed in the next phase of implementation. CRSD does not agree that a different methodology is necessary for these programs. Given that these schools are designed to serve particularly vulnerable students, who are already at a higher risk for push-out, it would be a disservice and discriminatory in its own right to hold administrators accountable to a different framework that would allow greater leeway for pushing students out of school. These schools, more than any, should be embracing and implementing alternatives to suspension and expulsion. It is unjust to wait to extend the same protections to this vulnerable population. CRSD believes that all students are entitled to protection under the regulations, regardless of their school placement.

Data Transparency

CRSD urges the Department to make all disproportionality data, including individual school data, available to the public in an accessible, easily understood format.

The full release of information to the public ensures that all community members may be involved in this pressing issue, and that individual schools and schools systems are held accountable for their actions. The discrimination that occurs through disproportionate use of discipline on minority and special education students should not be hidden from public view. CRSD recommends that the public be made aware of all schools that are identified as disproportionate. If MSDE chooses to impose a tiered system of identification and response to disproportionality, those tiers should be made clear to the public as well. This would not only allow the public to see problems, but also to observe and applaud progress as well.

⁷ 81 FR 10967, 10969: "...the proposed regulations would require States to use ... a minimum cell size of not more than 10 as the standard methodology to determine whether there is significant disproportionality based on race or ethnicity in the State and its LEAs."

Recommendations

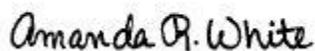
The passage of the disproportionate impact regulations marked significant progress in the struggle to eradicate discrimination against minority and special education students. Maryland should be proud to be a leader in this area; however, if MSDE fails to ensure the rules implementing these important regulations are fair and equitable then the intent of the regulations remains unfulfilled. Maryland students, regardless of race or disability, deserve educational policies which protect their civil rights and that encourage their success in school. Such policies include:

- setting a threshold value that appropriately identifies disproportionality (e.g., two or lower);
- assigning an N-size of 5-10 that ensures schools with smaller minority populations are included in data collection;
- requiring all educational schools and programs, including alternative schools/programs, public separate day schools, and JSE schools, be held accountable for disproportionate disciplinary practices; and,
- making available for the public all data related to the disproportionate disciplinary practices of individual schools and school systems in an accessible format.

This is the time for MSDE to develop policies which make clear that all students are welcome in school and that discriminatory discipline practices will not be accepted. CRSD is dedicated to ensuring that all students have access to quality education and are not pushed out of the school system. We welcome the opportunity to discuss any of the concerns raised in this letter with the Department and with the State Board, and we hope that you will continue to engage with advocates and the broader community as MSDE moves forward in this important process.

If you have any further questions about our concerns, please contact Amanda White at Disability Rights Maryland (AmandaW@DisabilityRightsMD.org or 443-692-2508). We thank you for your time and consideration.

Sincerely,



Amanda R. White, Attorney
Disability Rights Maryland on behalf of

Maryland Coalition to Reform School Discipline

ACLU of Maryland
Advocates for Children and Youth
Disability Rights Maryland
NAACP-Montgomery County MD Branch
NARAL-Pro Choice Maryland
Project HEAL at Kennedy Krieger Institute
University of Baltimore School of Law, Sayra and Neil Meyerhoff Center for Families,
Children and the Courts

cc: Kristina Kyles-Smith, Assistant State Superintendent, Student, Family & School Support
Marcella Franczkowski, Assistant State Superintendent, Special Education & Early
Intervention Services
Elizabeth Kameen, Principal Counsel