

March 12, 2018

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
1223 Longworth House Office Building
Washington D.C. 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
233 Cannon House Office Building
Washington, D.C. 20515

Re: H.R. 4909, the STOP School Violence Act of 2018

Dear Speaker Ryan and Leader Pelosi,

The undersigned organizations write to express our concerns about H.R. 4909, the Students, Teachers, and Officers Preventing (STOP) School Violence Act of 2018, introduced on January 30, 2018.

H.R. 4909 seeks to reauthorize the 2001 Secure Our Schools program through the Department of Justice's Bureau of Justice Assistance. The bill would authorize \$50 million annually for state and local schools to fund training to prevent student violence; to develop and operate an anonymous reporting system for threats of school violence; to develop and operate school threat assessment and intervention teams; to coordinate with local law enforcement; and to invest in any additional measures to improve school security. Our organizations believe that this effort is misguided, duplicative, and may be harmful to all students.

First, while an anonymous reporting system may increase the likelihood that threats of school violence are reported and addressed,¹ we are concerned by the lack of due process protections in place for students against whom a report is made. H.R. 4909 does not require grant recipients to institute meaningful process to protect students if a false report is made, nor does it provide guidance on how to best implement such reporting systems to protect against potential abuse. In order to protect students, grant recipients should be required to implement real redress opportunities for students who are erroneously flagged for threats of violence.

Additionally, we have concerns related to the development and operation of school threat assessment and intervention teams in conjunction with law enforcement agencies. One way threat assessment systems are implemented is through requiring school personnel to use

¹ See Chris Liedle, *OSP's 'Safe Oregon' School Safety Reporting Program Records Dramatic Increase in Tips*, KATU NEWS (Mar. 6, 2018), <http://katu.com/news/local/osps-safeoregon-school-safety-reporting-program-records-dramatic-increase-in-tips> (explaining that, after the shooting in Parkland, Florida, authorities in Oregon reported that the state's school safety reporting program saw a dramatic increase in submitted tips); Sarah Messer & Catherine Thorbecke, *In the Wake of the Florida Shooting, Schools Using Apps to Prevent Gun Violence*, ABC NEWS (Feb. 22, 2018), <http://abcnews.go.com/GMA/News/wake-florida-shooting-schools-apps-prevent-gun-violence/story?id=53259277> (“‘Say Something’ [an anonymous reporting system for school threats] is currently being used in seven school districts across the country and is in the process of on-boarding at another 23 cities and districts, according to Sandy Hook Promise.”).

checklists to determine whether a student is a potential threat.² Not only does this change the way teachers may view students, but, particularly with law enforcement involved, it may increase the school-to-prison pipeline, which we know disproportionately impacts students of color and students with disabilities.³ This also impacts students of marginalized communities such as LGBTQ, low socio-economic status, and those who encounter religious discrimination.⁴

Starting in the early 2000s and stemming from high-profile school shootings like Columbine, schools began to incorporate zero-tolerance policies and increase police presence in schools.⁵ While initially intended to address gun violence in school, these zero-tolerance policies quickly lead to students being suspended or expelled for less serious offenses.⁶ Not only have schools expanded their zero-tolerance policies, but some state laws now require schools to report certain infractions to law enforcement agencies.⁷ While these laws are primarily intended to target criminal conduct, some jurisdictions have actually criminalized nonviolent and nonthreatening behavior in schools, including disrupting class and truancy.⁸ We are concerned that implementing school threat assessments may have a similar effect.

In order to ensure anonymous reporting systems and threat assessment systems do not disproportionately impact certain students, Congress should require grant recipients under the STOP School Violence Act to collect data in order to determine the number of youth of color, youth with disabilities, and LGBTQ youth who are being targeted through these systems and

² Bryan Warnick, Benjamin A. Johnson & Sam Rocha, *Why Security Measures Won't Stop School Shootings*, EDUC. WEEK (Feb. 14, 2018), <https://www.edweek.org/ew/articles/2018/02/14/why-security-measures-wont-stop-school-shootings.html>.

³ See LOCKED OUT OF THE CLASSROOM: HOW IMPLICIT BIAS CONTRIBUTES TO DISPARITIES IN SCHOOL DISCIPLINE, NAACP LEGAL DEFENSE FUND 4 (2017), available at http://www.naacpldf.org/files/about-us/Bias_Reportv2017_30_11_FINAL.pdf [hereinafter LOCKED OUT OF THE CLASSROOM]; Russell J. Skiba, *et al.*, *The Color of Discipline: Sources of Racial and Gender Disproportionately in School Punishment*, 34 URBAN REV. 4 (Dec. 2002), available at <http://www.indiana.edu/~equity/docs/ColorofDiscipline2002.pdf> (Research has shown time and again that youth of color are no more likely to misbehave than white youth.); *The School-to-Prison Pipeline: Infographic*, ADVANCEMENT PROJECT (Sept. 3, 2013), <https://advancementproject.org/resources/school-prison-pipeline-infographic/> (showing that over 70 percent of students involved in school related arrests or referred to law enforcement are African-American or Hispanic.); Katherine Reynolds Lewis, *Why Schools Over-Discipline Children With Disabilities*, THE ATLANTIC (Jul. 24, 2015), <https://www.theatlantic.com/education/archive/2015/07/school-discipline-children-disabilities/399563/> (explaining that zero-tolerance policies have an even greater effect on students with disabilities, particularly those students with depression, autism, and behavioral disorders.).

⁴ See *Dropout, Push-Out, and the School-to-Prison Pipeline*, GLSEN, <https://www.glsen.org/article/dropout-push-out-and-school-prison-pipeline> (last visited Mar. 7, 2018) (“A growing body of research also has found that the school-to-prison pipeline is affecting lesbian, gay, bisexual, and transgender (LGBT) youth. Compounding the problem for LGBT youth, GLSEN research has consistently found that LGBT youth experience higher rates of victimization in schools, which may expose them to greater contact with school discipline systems.”); Jonathan Stith, *To #StandWithAhmed, Stop Funding the School to Prison Pipeline*, THE HILL (Sept. 24, 2015, 11:30 AM), <http://thehill.com/blogs/congress-blog/education/254733-to-standwithahmed-stop-funding-the-school-to-prison-pipeline>.

⁵ LOCKED OUT OF THE CLASSROOM, *supra* note 3.

⁶ *Id.*

⁷ *Policing Students*, 28 HARV. L. REV. 1747, 1754-55 (Apr. 10, 2015), available at <https://harvardlawreview.org/2015/04/policing-students/>.

⁸ *Id.* at 1755 (...for example, in Toledo, Ohio, it is illegal to disrupt a class, and in Texas it is a crime for a child age twelve or older to miss three days of school within a four week period.”).

how many youth are being funneled to the justice system after anonymous reports are made. Further, grant recipients should be required to address any disproportionate contact in these systems as a contingency to receiving funding.

We also note that the bill opens the grant availability to all schools, rather than just public schools. Including private schools and charter schools in this legislation is especially dangerous. Due process requirements mandated by the U.S. Constitution to protect students who are being suspended or expelled do not apply to private schools.⁹ While charter schools, as public schools, are also required to meet such constitutional requirements in theory, experience suggests they are less likely to do so in practice.¹⁰ The outcome can be damaging for students. Data in Chicago, for example, has shown that for every 10,000 students, 61 students are expelled from charter schools as compared to 5 from schools run by the local school district. Such expulsions disproportionately are targeted at youth of color and are all too often for minor behavioral infractions. While we understand the need to keep our students safe, we urge you to avoid establishing programs that could increase the unnecessary and unjust expulsion of students of color and other marginalized communities and deny them due process rights to challenge the assertions that are being made against them.

It is also concerning that, while H.R. 4909 does amend the grant program to remove an explicit reference to metal detectors, it does state that grant funds may be used for “[a]ny other measure that...may provide a significant improvement in security,”¹¹ which leaves the door open for schools to use grant money to purchase metal detectors and similar equipment. Though investing in such measures might seem like an obvious step in protecting students and teachers, a report from the National Association of School Psychologists found that “[t]here is no clear evidence that the use of metal detectors, security cameras, or guards in schools is effective in prevention school violence.”¹² The report also noted that the presence of security guards and surveillance equipment can have a negative impact on students’ perception of safety, and, in some cases, can increase the level of fear in students.¹³

Finally, we note that H.R. 4909 states that it will give preference to applicants who use evidenced-based strategies such as those identified by the Comprehensive School Safety Initiative (CSSI), a research-focused initiative created in response to school violence.¹⁴ In the past, funding has been used to assess collaborative, comprehensive approaches to improving

⁹ *Rendell-Baker v Kohn*, 457 U.S. 830 (1982).

¹⁰ NPE TOOLKIT: SCHOOL PRIVATIZATION EXPLAINED, NETWORK FOR PUBLIC EDUC., available at <https://networkforpubliceducation.org/wp-content/uploads/2017/04/Are-charter-schools-truly-public-schools%C6%92.pdf> (last visited Mar. 8, 2018); Rosa K. Hirji, *Are Charter Schools Upholding Student Rights?*, American Bar Ass’n (Jan. 14, 2014), <https://apps.americanbar.org/litigation/committees/childrights/content/articles/winter2014-0114-charter-schools-upholding-student-rights.html>.

¹¹ Students, Teachers, and Officers Preventing (STOP) School Violence Act of 2018, H.R. 4909, 115th Cong. § b(5).

¹² NAT’L ASS’N OF SCHOOL PSYCHOLOGISTS, RESEARCH ON SCHOOL SECURITY: THE IMPACT OF SECURITY MEASURES ON STUDENTS (2013), available at <http://www.audioenhancement.com/wp-content/uploads/2014/06/school-security-by-NASP.pdf>.

¹³ *Id.* See also, Warnick, *et al.*, *supra* note 2 (“Filling schools with metal detectors, surveillance cameras, police officers, and gun-wielding teachers tells students that schools are scary, dangerous, and violent places—places where violence is expected to occur.”).

¹⁴ H.R. 4909 § c.

school safety; examining the causes and consequences of school violence; and the negative impacts of zero tolerance policies.¹⁵ Rather than reauthorizing the Secure Our Schools program, Congress could instead expand CSSI to include training and funds to implement the best practices identified by the CSSI research programs.

For the reasons outlined above, **we urge you to vote no on H.R. 4909 unless these concerns are addressed.** We all want to ensure that students remain safe in school, so they can complete their education, be ready for work and adulthood, and become contributing members of society. We believe this can be done in a way that does not compromise students' due process rights and does not contribute to the school-to-prison pipeline.

Sincerely,

Alliance for Educational Justice
American Friends Service Committee
American-Arab Anti-Discrimination Committee
Autistic Self Advocacy Network
Campaign for Youth Justice
Center for Children's Law and Policy
Child Welfare League of America
Children's Defense Fund
Children's Defense Fund - New York
Children's Law Center, Inc.
Children's Rights Clinic, Southwestern Law School
Citizens for Juvenile Justice
Coalition for Juvenile Justice
Defending Rights & Dissent
Equality Ohio
Girls Inc.
Independence: A Family of Services
Justice Policy Institute
Juvenile Justice Coalition (Ohio)
Lawyers' Committee for Civil Rights Under Law (National)
The Leadership Conference on Civil and Human Rights
Le'Ann Duran Consulting
Louisiana Center for Children's Rights
MLK Coalition of Greater Los Angeles
Muslim Justice League
NAACP
NAACP Legal Defense and Educational Fund, Inc.
National Association of Councils on Developmental Disabilities
National Association of Social Workers
National Center for Transgender Equality
National Congress of American Indians

¹⁵ NAT'L INST. OF JUSTICE, THE COMPREHENSIVE SCHOOL SAFETY INITIATIVE: AWARDS MADE IN FISCAL YEAR 2016 (Jan. 2017), available at <https://nij.gov/Documents/NIJ-CSSI-FY-2016-Awards.pdf>.

The National Council for Incarcerated and Formerly Incarcerated Women and Girls
National Council of Churches
National Council of Jewish Women
National Crittenton
National Disability Rights Network
National Juvenile Justice Network
National LGBTQ Task Force Action Fund
National Urban League
National Youth Employment Coalition
Pacific Juvenile Defender Center
Sargent Shriver National Center on Poverty Law
School Social Work Association of America
SPAN Parent Advocacy Network
Strategies for Youth, Inc.
The Sentencing Project
United Methodist Women
University of Illinois-Chicago
Veterans For Peace Los Angeles
W. Haywood Burns Institute
YWCA USA

Cc: Members of the U.S. House of Representatives