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VIA ELECTRONIC MAIL

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Re: Opposition to House Bill 2460

Dear Chairwoman Pingerelli and Members of the House Education Committee:

On behalf of the Arizona Center for Disability Law (ACDL) and Raising Special Kids (RSK), we write to register opposition to House Bill 2460. This proposed legislation would roll back important protections from harmful exclusionary school discipline practices for Arizona's youngest students.

As the protection and advocacy agency for the state of Arizona, ACDL provides a variety of legal services to people with mental, physical, psychiatric, and sensory disabilities. ACDL provides substantial advocacy in the area of special education. Over the course of nearly twenty-five years of work in this area, ACDL has observed trends in state and district special education practices and has developed policy positions that reflect our mission of assisting Arizonans with disabilities to promote and protect their legal rights to independence, justice, and equality. ACDL has witnessed the devastating impact of exclusionary school discipline on students with disabilities in our state.

Raising Special Kids operates Arizona's Parent Training and Information Center funded under Part D of the Individuals with Disabilities Education Act. On behalf of Arizona families raising

students with disabilities we support the advocacy efforts put forward by Arizona Center for Disability Law on this important topic and feel that the proposed legislation would negatively impact students with disabilities and their families.

Students who have been suspended or expelled are 10 times more likely to drop out of high school than those who have not, impacting lifetime earnings and employment opportunities. Furthermore, research shows that exclusionary discipline practices are ineffective – schools with higher suspension rates tend to have lower academic quality, worse school climate, and receive lower ratings on school governance measures.

Students with disabilities are disproportionately impacted by exclusionary school discipline across the nation and in Arizona. According to the most recent data from the U.S. Department of Education, students with disabilities make up about 12% of the student population in Arizona, but make up over 20% of those experiencing out-of-school suspensions and expulsions.

At ACDL and RSK, we have seen an increase in exclusionary school discipline of students with disabilities since the school closures associated with the COVID-19 pandemic. More and more often, students with disabilities are being suspended or expelled for behaviors that are caused by or substantially related to their disabilities. This occurs when students have not been appropriately identified by their schools as having a disability, or when schools are not providing a student with the accommodations and services necessitated by their disability. When these students misbehave, it is the responsibility of the public school system to investigate how to better meet these students' needs, rather than push them out of school. Especially for young students, misconduct should trigger schools to engage in early interventions and multi-tiered systems of support to set the child on a path toward educational success. Suspending and expelling 5 to 9-year-olds does nothing to improve school climate or individual outcomes, and instead puts Arizona's youngest students on the path to the school-to-prison pipeline.

ACDL understands that lawmakers may have concerns about educators feeling hamstrung by statutes that limit their ability to discipline students. However, the reality is that current Arizona law provides broad discretion for teachers and schools when it comes to school discipline.

One of Arizona's existing suspension/expulsion statutes, A.R.S. § 15-841, describes circumstances under which a student may be removed from school temporarily (suspension) or permanently (expulsion). The statute already gives broad discretion to schools and teachers to remove students from classrooms. A.R.S. § 15-841(A), for instance, empowers a teacher to remove a student from the classroom if the student has disrupted learning in the classroom. A.R.S. § 15-841(E) and (I) allow a school to reassign a student to an alternative education program or an alternative to suspension program in an isolated part of school or off school premises. A.R.S. § 15-841(J) states that a pupil who has been removed from a teacher's classroom will not be allowed to return to that classroom without the teacher's consent, unless a school committee reviews the case and determines "that the return of the pupil to that classroom is the best or only practicable alternative." The statute even includes conditions when expulsion is mandatory: A.R.S. § 15-841(G) states that "[a] school district or charter school shall expel from school for a period of not less than one year a pupil who is determined to have brought a firearm to a school." Finally, Arizona law provides schools with one of the

most devastating exclusionary discipline powers – under A.R.S. § 15-841(C), any school district¹ can refuse to admit a student who has been previously expelled from or is in the process of being expelled from another educational institution.

The powers above give Arizona educators ample ability to discipline and remove students from the school environment. In order to protect our state’s youngest students from the harsh long-term impacts of exclusionary discipline, the Arizona Legislature passed HB 2123 during the 2021 legislative session. That bill revised A.R.S. § 15-843 to put into place some modest limitations on the use of exclusionary discipline for young students. As a result of HB 2123, schools are not able to suspend or expel students under seven years of age. For any student in the fourth grade or lower, a school may only suspend or expel the student if they commit a serious or dangerous offense or otherwise fall within a series of exceptions listed in the law at A.R.S. § 15-843(K). Notably, the long list of exceptions means schools can still suspend or expel a K-4 student who commits an offense that involves a dangerous weapon, drugs, or endangering the health or safety of others. Furthermore, schools can suspend or expel a K-4 student who is engaging in persistent behavior that prevents other students from learning or prevents the teacher from controlling the classroom environment when that behavior is not responsive to targeted interventions and the student’s parent has been notified about the behavior. In other words, the law, currently as written, already allows K-4 students to be suspended or expelled for behavior involving weapons, drugs, endangering health and safety, and even being persistently disruptive. It only limits exclusionary discipline for offenses that do not fall under one of these exceptions.

The proposed legislation before this Committee now, HB 2460, would partially reverse this protection for young students, allowing schools to suspend K-4 students for up to two days without first meeting the criteria laid out in A.R.S. § 15-843(K). HB 2460 seeks to allow schools and teachers to remove students ages 5 to 9 from their classrooms for up to two days for nonviolent, nondangerous, and nondisruptive offenses. This type of exclusionary discipline is unnecessary and counterproductive, and will disproportionately harm students with disabilities. We urge you to vote in opposition to this bill.

Thank you for your consideration. If ACDL or RSK can be of further assistance or support, please do not hesitate to reach out.

Sincerely,



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¹ A corollary exists for public charter schools at A.R.S. § 15-184(I).