March 12, 2018

Dear Speaker Ryan and Leader Pelosi:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF), we write to express our concerns with H.R. 4909, the Student, Teachers, and Officers Preventing School Violence Act of 2018 (the STOP School Violence Act or Act). This bill will fail to achieve its goal of improving school safety and will instead create more dangerous conditions for students, especially students of color.

Founded in 1940 by Thurgood Marshall, LDF is the nation’s oldest civil rights law organization. For almost 80 years, LDF has relied on the Constitution and federal and state civil rights laws to pursue equality and justice for African Americans and other people of color. Since the historic U.S. Supreme Court decision in Brown v. Board of Education, which LDF litigated and won, we have continued to represent students of color to ensure they receive quality and equitable educational opportunities.  

Unfortunately, we all have too much experience dealing with the aftermath of school shootings. After the incidents in Columbine, CO and Sandy Hook, CT, families, school districts, and lawmakers took a variety of actions intended to prevent future tragedies. In studying these actions and their consequences, we can see which efforts work, and which do not. The STOP School Violence Act does not do enough to ensure that effective methods that protect all students are used by our nation’s schools and risks furthering racial disparities in education.

The U.S. Department of Education and the U.S. Secret Service have published a guide (the ED/SS Guide) to maintaining safe schools, recommending the following steps:

1. Systematically surveying students, teachers, and other stakeholders about the emotional climate of a school to be able to continuously assess and improve school climate;
2. Encouraging students and teachers to respectfully listen to each other;
3. Ensuring that students feel comfortable speaking with adults in the school community;
4. Preventing and addressing bullying through promotion of pro-social behaviors;
5. Involving students and staff in the maintenance of a culture of safety and respect;
6. Ensuring all students have a trusting relationship with at least one adult at school; and
7. Creating mechanisms for developing and maintaining safe school climates.  

The ED/SS guide emphasizes that safe and secure school environments are created only through focusing on maintaining a respectful and supportive school environment where students’ emotional and academic needs are met, with things like effective threat assessment only a small part. These recommendations are supported by other experts.  

To effectively make schools safer, the STOP Schools Act should provide grants to states and districts to help cultivate these positive environments. To do this, the Act should focus on expanding resources, such as school counselors, mental health services, social workers, and proven programs, such as Positive Behavioral Interventions and Supports (PBIS) and restorative practices, and prohibit assigning law enforcement to schools. Instead, the Act provides grants to states and school districts to improve school security by providing training to prevent student violence, including for law enforcement officers, school personnel, and students; developing and operating anonymous reporting systems for threats of school violence; developing and operating school threat assessment and intervention teams that may include coordination with law enforcement agencies and school personnel, and specialized training for school officials in responding to mental health crises; coordinating with law enforcement; using metal detectors, locks, lighting, and other deterrent measures; implementing security assessments and training; installing technology for expedited notification of law enforcement during an emergency; and taking “any other measures that . . . may provide a significant improvement in security.” These provisions are only a small part of the strategy that experts recommend for maintaining safe school environments, and as written, the provisions have a high risk of exacerbating race-based disparities in how students are treated by school police and staff.

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The Act’s language regarding coordination with law enforcement and allowing any measures that “may” provide more security will allow school districts to use the grant funding to increase law enforcement presence rather than on evidence-based interventions. Research has shown that having more police in schools does not make schools safer, but results in an increasing number of students being led from schools to the justice system. Although Black and Latinx students do not misbehave more than White students, students of color make up over 58% of school-based arrests, but only 40% of public school enrollment. Black students are more than twice as likely as their White peers to be referred to law enforcement or arrested at school. Additionally, research shows that police officers perceive Black youth as older and more culpable than they do similarly-situated White youth, and this bias leads to the over-criminalization of Black students. Furthermore, the presence of police in schools makes Black students and students who have been victims feel less safe, which would negatively affect school climate.

To address these disparities, a clause should be added to the Act requiring that data be collected on any activities undertaken with grant funding to determine whether they are disproportionally affecting students of color or other at-risk groups. Any districts that are discriminating against students should not receive federal funding.

Moreover, the Act’s anonymous reporting system does not have prescribed due process or civil rights protections and could lead to more racial disparities in how students are treated at school. As the ED/SS Guide cautions, anonymous systems could lead to individuals reporting false and malicious information. It will be an easy vehicle for students or staff who hold implicit or explicit biases against students of color to report those students as being a danger to themselves or others based on discriminatory reasons. In order to protect students, the tip system should be implemented as recommended in the guide: it should be

12 Supra note 3, at 46.
housed within a wider system of trust amongst students and staff so that all feel comfortable filing reports and providing any required additional information in assessing threats. In addition, the communications should be tracked and data disaggregated and assessed for racial disparities in threat reporting.

Finally, the STOP Violence Act does not restrict its funding to public schools and does not state that all recipients of funds must comply with existing civil rights laws. The Act should include a statement that any school receiving funds under this Act complies with all federal law, including civil rights laws protecting students on the bases of race, color, national origin; sex; disability; and age.

All students deserve to attend safe and welcoming schools, and we encourage you to provide states and districts with additional resources to achieve this goal. Unfortunately, the STOP School Violence Act as currently written will not improve school safety and will risk further harm to students who are already disserved by the system. Thank you for considering this letter. If you have any questions, please contact us at 202-682-1300.

Respectfully submitted,

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