

TESTIMONY ON 19-H 5538
AN ACT RELATING TO EDUCATION – HEALTH AND SAFETY OF PUPILS
April 3, 2019

The ACLU appreciates the opportunity to provide commentary on H 5538, which would establish threat assessment teams (TAT) in schools and require the adoption of policies regarding these teams.

The ACLU commends the legislature’s desire to create supportive and safe school environments for the students of Rhode Island, but we are concerned that, without more substantive statutory guidance, the policies adopted by each district and the actual proceedings of a threat assessment investigation may create situations in which the rights and well-being of an assessed student are adversely affected.

While we fully acknowledge the requirement for TATs to be composed of individuals who have expertise in “guidance,” “counseling,” and “mental health,” it must also be noted that this same provision calls for individuals with experience in “law enforcement” to take part in these teams. Although we understand the potential need for law enforcement under extremely specific, and rare, instances, we also are fearful that the scarcity of mental health personnel on school campuses may inevitably lead to TATs which are heavy on law enforcement, and light on experts in behavioral health.

In that regard, perhaps the most compelling example is the recent situation at Kickemuit Middle School, during which teacher after teacher remarked upon the rapidly disappearing counseling structures available to students, and their school environment’s desperate need for mental and behavioral health services. Yet the most immediate action taken was to bring law enforcement in the form of a school resource officer into the school.

By focusing on threats rather than broader support for students’ behavioral needs, we believe these teams may only heighten redefinition of behavior issues, which may be rooted in social, psychological, or academic problems, as problems of criminal justice.

It is also critical to note that disciplinary and enforcement protocol in schools disproportionately affect students of color and students with disabilities. The ACLU has released multiple studies within the past few years which show a consistent discrepancy in the rates that these students are suspended and expelled in Rhode Island. With a well-documented inherent and societal bias toward the perception of behaviors, actions, and word of certain students as more threatening or disruptive, we are concerned that the establishment of TATs could contribute to this already prevalent issue in our schools.

We also believe the legislation should address several other key issues in the context of questioning or assessing students.

* The legislation allows, but does not require, parental or guardian notification at the inception of any threat assessment. We believe such notification should be mandatory and immediate. Any bill which establishes a program designed to identify students as potential threats needs to provide clear, strict and prompt process for legal and parental involvement.



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* While we appreciate the bill's provision of privacy for TAT records, we believe there should be a legislated mechanism for permanent deletion of any information obtained to prevent damaging and unsubstantiated information from appearing in a student's educational record.

* Some limits should be specified for how investigations are conducted and what information can be gathered as the assessment proceeds. In such situations, it is important to have statewide, rather than district-by-district, standards for the protections of students, in order to ensure compliance with protections already in place, such as those for student interrogations. See R.I.G.L. 16-21.5.

In conclusion, while we are fully in favor of the usage of mental health and behavioral health personnel to provide support to students who may need it, we are also concerned that the intervention of a team, whose ultimate purpose is to determine and mitigate a threat, may, without clear and appropriate standards for protocol, actually exacerbate and complicate whatever issues a student is going through.

Thank you for your consideration of these concerns and comments.