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TO: Joint Committee on Education

FROM: Norma Shapiro, *Member*
ACLU of MA Board of Directors

DATE: September 27, 2011

RE: Support for H177 An Act to respond to school exclusion data and reduce school dropouts; and
Support for H178 An Act relative to student access to educational services and exclusion from school

The American Civil Liberties Union of Massachusetts supports H177, legislation that would take important steps to reduce the average number of 10,000 dropouts each year from Massachusetts schools by requiring the reporting of data relating to school exclusions and the educational services provided to excluded students. It also requires that the Department of Elementary and Secondary Education analyze the data and take appropriate actions to help school districts provide students the services required by the Massachusetts Constitution.

The ACLU of Massachusetts also supports H 178 to help ensure that students are not denied the education that will permit them to grow into citizens who can participate in the economic and civic life of the Commonwealth. John Adams recognized the essential value of education when he wrote the Massachusetts Constitution:

"it shall be the duty of the Legislatures and Magistrates, in all future periods of this Commonwealth, to cherish the interests of [education ...in...] public schools and grammar schools in the towns" because "[w]isdom, and knowledge, as well as virtue, diffused generally among the body of the people, [are...] necessary for the preservation of their rights and liberties; and ... these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people." Part II, c. 5, § 2, of the Massachusetts Constitution, cited in *McDuffy v. Secretary of the Executive Office of Education*, 415 Mass. 545, 547-48 (1993).

Since the passage of section 37H-1/2 of Ch. 70, we have seen alarming increases in the numbers of students excluded from school for disciplinary reasons. Many of these exclusions take place without a fair process: insufficient notice of disciplinary charges, rights, and rules for fair hearings; frequently no attempt to make the punishment fit the student and the circumstances; and often no explanation of the reasons for the decision. We believe this is unfair to the students, and when coupled with a lack of educational services, can lead to social isolation, mental stress and depression, and put bored students at a risk of being lost to delinquent and criminal behavior. When such a student who has not been afforded a means to continue his or her education, returns to school, failure and dropping out are likely outcomes.

Especially alarming are the statistics that indicate that race and ethnicity play a role in the frequency of disciplinary referrals, and in the choice to exclude a student. This pattern of more frequently handling white students with in-school discipline and students of color with suspension or expulsion exacerbates the unfairness of the present system.

While exclusion may be an appropriate outcome in some circumstances, the overuse of this type of discipline increases the number of students caught in the school-to-prison pipeline. It is far better and a better use of scarce resources to educate students than to support them in detention, jail or prison.

The Massachusetts Constitution asks you to “cherish” the education of our youth—for their sake, and for ours. The ACLU of Massachusetts urges you to perform your Constitutional duty to educate our students by passing these bills.

Thank you.