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June 2, 2020

The Honorable Peggy Lehner  
Chair  
Education Committee  
Ohio Senate  
1 Capitol Square  
Columbus, Ohio 43215

The Honorable Andrew O. Brenner  
Vice Chair  
Education Committee  
Ohio Senate  
1 Capitol Square  
Columbus, Ohio 43215

**Re: Oppose HB 164 – This Bill Would Promote Prayer in Public Schools**

Dear Chair Lehner and Vice Chair Brenner:

On behalf of the Ohio members and supporters of Americans United for Separation of Church and State, I write to express our opposition to HB 164 because it is unnecessary and constitutionally suspect.

Public school students already have the right to pray and engage in other voluntary, student-led religious activities. This is guaranteed by the First Amendment. At the same time, schools may maintain control of both student and teacher expression in curricular activities<sup>1</sup> and are constitutionally required to prohibit certain types of religious expression.<sup>2</sup> Under the guise of protecting public school students' religious expression, however, the bill is designed to encourage students to engage in coercive prayer and proselytization in public schools. That these bills are a priority of Project Blitz, a coordinated national effort by the Religious Right to enshrine Christian nationalism in state laws, makes the religious intent even clearer. This bill, therefore, should be rejected.

**The Bill Is Constitutionally Suspect**

HB 164 causes confusion, as it would sanction student religious activities in public schools that are prohibited by the Establishment Clause of the First Amendment to the U.S. Constitution. School districts and teachers will be caught between trying to follow state law and following the Constitution.

For example, HB 164 does not differentiate between student expression that relates to personal observance of religion and student expression that constitutes "outward

<sup>1</sup> *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 271–73 (1988).

<sup>2</sup> *Walz v. Egg Harbor Twp. Bd. of Educ.*, 342 F.3d 271, 279–81 (3d Cir. 2003); see also *Busch v. Marple Newtown Sch. Dist.*, 567 F.3d 89, 99 (3d Cir. 2009); *Lassonde v. Pleasanton Unified Sch. Dist.*, 320 F.3d 979, 983–85 (9th Cir. 2003); *Cole v. Oroville Union High Sch. Dist.*, 228 F.3d 1092, 1101–04 (9th Cir. 2000).

promotion” of religion or “proselytizes a particular view.”<sup>3</sup> When prayers, evangelism, or anti-religious speech takes place within classrooms, students are a captive audience and thus are coerced to participate in religious exercise. But the bill fails to provide guidance to teachers and administrators about their obligation to curtail such religious expression. Even if a student’s work satisfies the confines of the assignment, there is a constitutionally significant difference between one student making a persuasive speech to the class about whether George Washington was the best President and another student arguing that a Jewish student is going to hell unless he accepts Jesus Christ. Yet this bill would require teachers to treat both situations the same.

As courts have noted, “[f]amilies entrust public schools with the education of their children, but condition their trust on the understanding that the classroom will not purposely be used to advance religious views that may conflict with the private beliefs of the student and his or her family.”<sup>4</sup> That is why courts are “particularly vigilant in monitoring” whether religious beliefs are taught in public schools.<sup>5</sup> This bill would open the door to students using class time to proselytize and advance their own religious view on fellow classmates who may not share the same religious beliefs.

Furthermore, these bills are a part of Project Blitz, a nationwide campaign to impose far-right evangelical Christian views on everyone, including our public school students.<sup>6</sup> This bill’s inclusion in Project Blitz makes clear that its real purpose is to endorse religion.<sup>7</sup> The Project Blitz playbook initially focuses on public school students and then escalates to promote bills that would misuse religious freedom to allow discrimination. This includes bills that allow taxpayer-funded agencies to turn away couples seeking to foster or adopt children in need of stable and loving homes because they are same-sex or the “wrong” religion.<sup>8</sup> Ultimately, Project Blitz aims to transform religious freedom from a shield that protects to a sword that harms others. I have enclosed with this letter a statement from 43 national organizations, including 24 religious and denominational organizations, that oppose the Project Blitz playbook.

### **Public Schools Are Diverse and All Students and Parents Should Be Welcome**

Families and students in Ohio practice a variety of religions and faiths, including many who are nonreligious. Freedom of religion means that students and parents—not school officials or state legislatures—get to make their own decisions about religion. Parents should be able to trust that their children will not be forced to pray, worship, or engage in other religious activities when they send them to a public school. Students should be able to attend public school without feeling bullied to participate in religious activities or feeling unwelcome because they belong to a minority faith or are nonreligious.

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<sup>3</sup> *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 278 (1988).

<sup>4</sup> *Edwards v. Aguillard*, 482 U.S. 578, 584 (1987).

<sup>5</sup> *Id.*

<sup>6</sup> Congressional Prayer Caucus Foundation, [Report and Analysis on Religious Freedom Measures Impacting Prayer and Faith in America \(2018-19 Version\)](#), 4-7, last accessed January 24, 2020.

<sup>7</sup> HB 164 includes language similar to the bill in the Project Blitz 148-page playbook. *See id.* at 123.

<sup>8</sup> *Id.* at 88.

For all of the above reasons, we urge you to reject HB 164.

Sincerely,

A handwritten signature in black ink, appearing to read "Nikolas Nartowicz". The signature is fluid and cursive, with a long horizontal stroke at the end.

Nikolas Nartowicz  
State Policy Counsel

cc: Members of the Senate Education Committee