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Testimony in Opposition to HB 205  
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Ohio House Primary & Secondary Education Committee  
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Good Morning Chair Manning, Vice-Chair Bird, Ranking Member Robinson, and members of the Ohio House Primary & Secondary Education Committee. My name is Tim Johnson, and I am a policy advocate for the Ohio Poverty Law Center. The Ohio Poverty Law Center's mission is to reduce poverty and increase justice by protecting and expanding the legal rights of Ohioans living, working, and raising their families in poverty. Thank you for allowing me to provide testimony on the primary and secondary education discipline provisions of House Bill 205 Collin's Law: The Ohio Anti-Bullying and Hazing Act.

Bullying is a scourge that can plague students throughout their school experience. Children who experience bullying often develop issues with their self-esteem, may become depressed, and no longer view their school as a safe learning environment. Bullying may lead to extreme behaviors such as students engaging in self-harm. HB 205 represents a good faith effort to try to address bullying and we applaud the sponsors of the bill for their diligent work on the issue. While we are supportive of the bill's overall goals and have no opinion of the hazing elements of the bill, the primary and secondary education disciplinary provisions put us in opposition to HB 205.

The Ohio Poverty Law Center, through our work with Ohio's legal aid programs, understands how harmful bullying can be. Many of our legal aid attorneys have worked with families who are affected by bullying. These families turn to legal aid when bullying has gotten out of control and the school does not seem to be effective in ending the troubling behavior. Legal aid attorneys work to file complaints, request safety plans for students, and ultimately come to a resolution for the bullying behavior. Legal aid attorneys also represent families where a student is accused of bullying, making sure the student's due process rights are being upheld. By representing individuals on both sides of the issue and seeing that exclusionary punishments do not remedy the bullying incidences, nor does it change bullying behavior, we want to raise some concerns with HB 205.

HB 205 would require that upon the completion of an investigation, if someone has been found to commit a bullying offense, they will be subject to one of the following punishments:

- A detention requiring the pupil to be present in school before or after the instructional day, or on days the school is not normally open for instruction, for up to the total number of hours equivalent to ten school days to complete supervised learning activities or a community service plan.
- An in-school or out-of-school suspension of up to ten school days.
- An alternative form of discipline aligned with guidelines in the bill.

While these may seem like reasonable punishments for bullying behavior, they are harmful because they prioritize removing a student from the classroom. Time spent in the classroom is the greatest predictor of academic success. Detention or suspension should be punishments of last resort, yet HB 205 would make them the default. No research or data that examines how to effectively address

bullying calls for the increased use of detention or suspension. In fact, the research shows the opposite: zero tolerance and exclusionary discipline are NOT effective approaches to bullying prevention. The federal Department of Education encourages states and school districts to avoid suspending students who bully because it “does not reduce bullying behavior” and the students and teachers may be “less likely to report and address bullying if suspension or expulsion is the consequence.”<sup>1</sup> The National Academies of Sciences, Engineering and Medicine did a comprehensive study and released a report on nature of bullying in schools in 2016. The report highlighted zero tolerance policies and found that they are “often the default response by school staff and administrators in bullying situations; however, these approaches do not appear effective and may actually result in increased academic and behavior problems for youth,”<sup>2</sup> The report goes on to recommend that the use of zero tolerance policy be eliminated entirely.

Students of color will be negatively affected by HB 205 as they are already disproportionately suspended for the committing the same offenses as white students, and their behavior is often seen as more threatening and disruptive compared to their white counterparts. HB 205 will only exacerbate discipline disparities and send students further down the school to prison pipeline. We also are aware that research suggests that children living in concentrated poverty demonstrate trauma symptoms and coping mechanisms that may appear disruptive in schools, such as anxiety, defiance and hypervigilance – and bullying behavior. For some children, experiencing trauma can lead to problems with inappropriate behavior in the classroom and difficulty forming relationships. Instead of suspending these students, we should be offering them support to help address the underlying trauma that may lead to these behavioral problems, and thus more effectively preventing additional bullying incidents.

Finally, the required exclusionary disciplines outlined in HB 205 are misguided because they represent a “one size fits all” approach. While all bullying incidents are harmful to an individual who is being bullied, each bullying incident is not the same. Rather than allowing for a targeted approach that looks at each incident and allows for teachers and administrators to determine the most appropriate course of action, HB 205 will require them to paint with a broad brush. Looking at the specific circumstances of individuals who has bullied can lead to better outcomes. Please consider the following example:

A few years ago, legal aid program represented a 5<sup>th</sup> grade student in Meigs. The student was suspended for 10 days and had been recommended for expulsion due to threatening and bullying. It turns out that the student had grown up in extreme poverty and experienced a significant amount of trauma in his childhood. His family informed the legal aid attorney that the student had never attended a school longer than six months due to behavioral issues and had been expelled and transferred to alternative placements his entire school career. Legal aid successfully defended the student from expulsion and requested his school evaluate him for an Individualized Education Program (IEP). The student qualified for an IEP and through a variety of innovative methods, the school began working to remediate the student’s behavior. The following school year the child showed significant improvement in their behavior.

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<sup>1</sup> <https://www.stopbullying.gov/prevention/support-kids-involved>

<sup>2</sup> National Academies of Sciences, Engineering, and Medicine 2016. *Preventing Bullying Through Science, Policy, and Practice*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/23482>.

HB 205 does allow for what it calls an “alternative form of discipline”, but this provision is flawed for several reasons. The adoption of guidelines for an alternative form of punishment is optional, and if a school board chooses not to adopt guidelines then the only choices left are detention, in-school or out-of-school suspension. Even if guidelines are adopted, HB 205 outlines requirements that will be difficult to meet. For example, the alternative form of punishment must have a “high chance of successfully reintegrating a pupil into the school” but how that is determined is not defined. Students must also have “an extenuating circumstance” but there is no definition of extenuating circumstance and students themselves must have a “high chance of successful reintegration into the school” but it is unclear how that will be determined. The requirements for alternative punishment seem tailor-made to be as exclusive as possible; available to administrators only in very specific circumstances, which will push them toward using the exclusionary forms of punishments required by HB 205.

HB 205 also has practical issues with the requirement that a suspended student may only return to school if they have completed or made sufficient progress toward completing their schoolwork. When students are suspended for short periods of time, such as half-day or one-day suspensions, teachers often do not have time to send a student their schoolwork during their suspension. The bill does not address what will happen to a student who cannot complete, or make sufficient progress toward completing, schoolwork that was never given to them. Furthermore, the requirement itself makes little sense. Students often engage in disruptive behavior (including bullying) to remove themselves from the classroom setting. Conditioning their return on completing schoolwork will only ensure that those who do not wish to return to school can just refuse to complete their assignments.

It is encouraging that Representatives Ghanbari, Sheehy, and members of the Ohio General Assembly are interested in addressing bullying in schools, however, HB 205 will not eliminate bullying because it does not address any of the underlying reasons as to why kids participate in bullying behavior. Instead of requiring exclusionary policy, the committee should look at requiring all schools to come up with a safety plan after an incidence of bullying has occurred and assigning a specific school official to make sure that safety plan is carried out. Schools should also have to determine whether a functional behavior assessment needs to be performed on an individual who has bullied, and if so, creating a behavior improvement plan for the student. The committee should also look at making the counseling options offered in the bill mandatory instead of optional. Lastly, we recommend members of the committee look at how you can further support the integration of the Positive Behavior Intervention and Supports framework in schools. We have a responsibility to all of Ohio’s children, both the bullied and the children who engage in bullying behavior, to make sure we are making school a safe and welcoming environment that promotes and encourages learning.

Thank you for listening to my testimony, I would be happy to answer any questions you have at this time.