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Testimony in Opposition of HB 206
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Ohio House Primary & Secondary Education Committee
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Chair Bird, Vice Chair Fowler Arthur, 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 opposition testimony of House Bill 206 which would drastically increase expulsion power in the state of Ohio.

I would first like to thank the sponsors of the bill for meeting with me and my colleagues to discuss HB 206. I believe the sponsors come from a place of sincerity and have a desire to protect students and school personnel and have introduced this bill in good faith. I would also like to highlight that the provision of HB 206 that requires continuing education for students expelled under HB 206 is fantastic. In fact, we would like to see this provision applied to all expulsions going forward as it would help mitigate the devastating academic effects being removed from a classroom setting has on students.

Despite the best attempt of the sponsors, however, HB 206 as it currently stands is flawed and opens up numerous possibilities for abuse that would put students at an insurmountable disadvantage. Currently the bill would allow for a superintendent to expel a child for causing "imminent and severe endangerment to the health and safety of other pupils and school employees". The bill provides no definition for "imminent and severe endangerment" which allows for any behavior to be subject to a possible expulsion. The bill does not provide any guardrails for a Superintendent making the decision to remove a student for up to 180 days. Students who may have been deemed problematic in the school administration's eyes but have yet to do anything that would get them expelled could be targeted for any behavior a superintendent deems worthy of expulsion. This subjective power could also result in unequal treatment for students. ODE reports that Black male students are 4.5 times more likely to have a disciplinary action leading to out-of-school suspension or expulsion than white male students. Black girls faced seven times more out of school suspensions than white female students and at a higher rate for subjective behavioral violations like dress code or insubordination. Although students with disabilities represented just 16 percent of Ohio students, these students were disproportionately suspended for more non-violent infractions compared to their peers without disabilities.

Lastly without any definition in law to hold schools to a similar standard, you could see this new form of expulsion being applied in a variety of ways with little continuity among Ohio's 600 plus school districts. A student who may be engaging in totally appropriate behavior in one school district, could find themselves in the midst of an expulsion hearing because they moved to a school district where the superintendent has deemed the same behavior as constituting "imminent and severe endangerment".

While well intended, the required mental health assessment also creates a whole host of issues that are unfairly imbalanced against students. The assessment is the only specified requirement that must be

completed in order for a student to return to school and thus represents the biggest barrier to students. HB 206 allows for the assessment to be performed by a school employee or someone the district contracts with. This brings up two immediate concerns. The first is what happens in the scenario in which the school does not have an employee or does not contract with someone to perform the mental assessment? According to the American School Counselor Association, while Ohio doing slightly better than the national average, we are still far behind the recommend 250:1 student to school counselor ratio. The second major concern about having a school employee or contractor with the school performing the assessment is whether or not that person would be a legitimate neutral actor performing the assessment. A school employee might be pressured by the administration into providing an assessment that prevents their students from returning to school. HB 206 allows for a third party to perform the assessment but that comes at a cost to the parents, creating a situation that benefits families with means but penalizes a low-income family. Families who can afford to pay the cost sharing requirements will not have to worry about the neutrality or availability of a school employee whereas a low-income family could see their student expelled indefinitely simply because they lack the same financial means.

The assessment as described in HB 206 also raises some questions around the right to privacy. We know that a mental health assessment must be done but we do not know exactly what the assessment will look for and what might be shared with the school district. A student could have had some traumatic experiences that they and their family don't feel comfortable sharing with the school district. Would this information have to be disclosed to the district once the assessment is performed? HB 206 is unclear in this regard which could lead to unintentional violations of student privacy.

The final portion of HB 206 I would like to touch upon are the list of conditions that a superintendent is required to create that may allow for a student to return to school. There are no limitations built in the bill to restrict what may be asked of a student so it possible that the superintendent could ask for something that is impossible for the student to complete or is outside of their family's ability to obtain financially. The completion of the requirements also does not guarantee a student is allowed to return to school; the sole determining factor is if the superintendent has decided that the student has been "sufficiently rehabilitated". This is another term with no definition allowing for the superintendent to make an important decision based totally on their own whim. A student could complete every condition set for them, pass their mental health assessment, and still have their expulsion extended for 90 days and be forced to complete a whole new list of conditions.

Ohio law already allows for the removal of problematic students from the classroom including suspensions, expulsions, emergency removals, and in rare cases permanent exclusion. HB 206 does not give schools a tool they don't already have, rather it creates a brand-new power that is rife for misuse and abuse. Despite the good intentions behind the bill, it is simply too broad in its scope and too unfair to students to become law. I urge you to oppose the passage of HB 206.