

# Ohio Alliance of Independent Schools

- Andrews Osborne Academy
- Bethany School
- Birchwood School of Hawken
- Canton Country Day School
- Central Montessori Academy
- Cincinnati Country Day School
- Cincinnati Hills  
Christian Academy
- Columbus Academy
- Columbus Jewish Day School
- Columbus School for Girls
- Columbus Torah Academy
- Gilmour Academy
- Grand River Academy
- Hathaway Brown
- Hawken School
- Hershey Montessori School
- Hudson Montessori School
- Jos. and Florence Mandel Jewish Day School
- Lake Ridge Academy
- Laurel School
- The Lawrence School
- The Lillian and Betty Ratner School
- Linden Grove School
- The Lippman School
- Mansion Day School
- Marburn Academy
- Maumee Valley Country Day School
- McGuffey Montessori School
- The Miami Valley School
- The New School
- Old Trail School
- Olney Friends School
- Ridgewood School
- Rockwern Academy
- Ruffing Montessori - Cleve. Heights
- Ruffing Montessori - Rocky River
- The Schilling School for Gifted Children
- The Seven Hills School
- Summit Country Day School
- University School
- Urban Community School
- Wellington School
- Welsh Hills School
- Western Reserve Academy

December 2, 2024

## House Primary and Secondary Education Committee

House Bill 407

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Ohio Alliance of Independent Schools

Thank you for the opportunity to provide thoughts regarding the proposed changes to House Bill 407. On behalf of our members, I appreciate the willingness of the joint sponsors and the members of the committee for their willingness to consider our feedback.

We are supportive of the changes made to the language regarding scholarship granting organizations and the changes regarding the mandate of schools to report separately information the Department of Education and Workforce (DEW) already has or information that DEW could retrieve by other means.

As it stands, OAIS continues to have concerns with the following sections of the bill:

**Report Card Provisions** (lines 105-114): Nationally, state report cards are relatively rare for private schools participating in a state scholarship or tax credit program. For a state to require it of all schools regardless of participation in a voucher program is rarer still, putting Ohio in a category with only a few other states.

Establishing such a report card in Ohio for all private schools similar to public schools regardless of voucher participation is problematic for several reasons:

- First, private schools serving students in grades 3-8 are not required under current law to administer the state assessments to students, nor are they required to have any assessment they do offer to students approved by the state of Ohio, making the use of any testing data or the establishment of a crosswalk for that data very difficult, if not impossible. To his credit, Rep. Seitz has commented publicly about the importance of private schools not having to administer the same assessments as public schools because of the effect on a school's curricular freedom. A report card for all nonpublic schools is a way of indirectly threatening a school's curricular freedom.
- Second, to the extent a private school administers assessments, current law does not require the school to report any results to the state. The bill as drafted does not impose a requirement on private schools to report any assessment data to the state, so it is unclear as to how DEW is going to craft a report card with said data if DEW does not have it, a school does not have

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an obligation to report it, and there is not a legal obligation for the data to even exist in grades 3-8.

- Third, as a member of the State Advisory Committee on Nonpublic Education, I would submit the language requiring “consultation” with DEW is too ambiguous to be meaningful. Consultation could simply mean presenting whatever DEW staff comes up with, listening to feedback, and then promptly ignoring whatever feedback is received and going on with whatever DEW had planned to do in the first place.

**Disciplinary Records** (lines 221-242): The language in the bill under newly created ORC 3313.6612 references the applicability of disciplinary records to current ORC 3319.321 and the Family Educational Rights and Privacy Act (commonly known as FERPA). The proposed language appears to extend all of the provisions of ORC 3319.321 to chartered nonpublic schools “in the same manner as a school record is held by a public school.”

An issue with this provision is the new language does not specify what provisions of ORC 3319.321 are now meant to apply to chartered nonpublic schools and the disciplinary records created by them for students, as the current statute does not differentiate between disciplinary records and other student records (with the possible exception of directory information). Imposing FERPA-like requirements onto schools not covered by FERPA only creates more exposure for private schools to liability even if other sections try to limit that liability.

Speaking of liability, while we appreciate the intent in tightening exposure to liability for the contents of records, we believe the language limiting a school’s liability for the contents of records also needs to be tightened. A school in Ohio would still have a legal obligation to release disciplinary records regardless of the location of the recipient. In the event records were sent to a school outside of Ohio, the subject of the records would have standing to sue in the state where the allegedly defamatory records were sent and read by someone else. We would request the language be amended to limit the responsibility of the school to send the records to another location within the state of Ohio.

Again, speaking on behalf of OAIS member schools, I appreciate the commitment of the sponsors and the committee members to improving the provisions of the bill and I value the committee’s hard work on the legislation.