

Opponent Testimony, HB 8 Senate Education Committee

Chair Brenner, Vice-Chair O'Brien, Ranking Member Ingram, and members of the Senate Education Committee, thank you for your time and for providing the opportunity to hear our testimony.

My name is Liam Strausbaugh (he/they) and I am a staff member at the National Association of Social Workers – Ohio Chapter (NASW-OH). I am testifying today to express NASW-OH's opposition to HB 8 which would have a profound impact on Ohio's students as a whole, but particularly youth of gender and sexual minorities, as well as Ohio's education workforce.

HB 8 would mandate that any "sexuality content" be provided to parents prior to instruction to students, leading to the potential that students would be unable to learn about important topics such as gender identity and sexual orientation, or diverse family systems, should a student's parent disagree with the content. This is not only ostracizing to students who are openly queer, gender-diverse, or come from family systems outside of the cisgender/heterosexual standard, but it does not allow for students who may be questioning their gender or sexuality to see themselves represented in classroom materials or discussions unless their classmates' parents find it acceptable.

Ohio already has laws in place that make the majority of HB 8 redundant and unnecessary. I have attached a document to my written testimony that outlines all of the redundant sections of HB 8 with existing law.

HB 8 would also mandate that parents are to be notified of any changes to a student's services related to mental, emotional, or physical health or well-being, or if a student identifies as a gender that does not align with their sex assigned at birth. The Code of Ethics followed by social workers highlights the need for client confidentiality in services as well as respecting client autonomy and self-determination and the therapeutic relationship. Additionally, social workers and other mental health professionals are already required to report if a client is a serious risk to themselves or others.

Requiring school social workers to share any changes to a student's mental and emotional well-being, negates much of the value of the safe confidential space that mental health services are intended to create for clients of all ages, to process emotions and received non-judgmental support. These new regulations would risk disrupting the therapeutic process and interrupting clinical progress by circumventing our client's right and desires to privacy. Especially if the student is sharing sensitive information such as exploration of, or changes in, gender identity or sexuality, it can be a great danger to a student if we become mandated by law to share that information with a parent when the student is not ready.

Mandating that school support staff report a child's innermost thoughts and feelings to parents immediately can be incredibly damaging to a child's therapeutic process and would discourage youth from sharing anything at all with support staff; whether that be feelings of gender-diversity or feelings of depression and suicide. Why are we working to take away the one safe space that youth in schools should be guaranteed to have?

Schools in Ohio are already short-staffed, particularly in regard to school social workers. The recommended ratio of school social workers to students is 1:250, but as of a 2021 study by MHA, Ohio is currently averaging 1 social worker to 4,854 students¹. These numbers are already unacceptable and requiring more tasks as well as ethical boundary violations for school social workers will only further diminish this already insufficient workforce.

HB 8 is also seeking to codify harassment that is in violation of new Title IX regulations. By requiring forced outings of students, Ohio schools will be implementing hostile environment harassment as well as sex-based harassment, both of which are prohibited by federal Title IX regulations. Should HB 8 be passed, all Ohio school districts can be subject to multiple lawsuits as they violate federal law.

While NASW Ohio will continue to show opposition to any legislation that targets ethical practice and ostracization of queer youth, the legislature has shown a blatant disregard for student safety by removing the sections of this bill that would have allowed for exceptions to reporting in cases of suspected abuse or neglect. As written, HB 8 also provides no clarity as to what exactly is included in "sexuality content" regarding "gender ideology", how and how quickly parents need to be notified of any and all student updates, or what must be included in "mental health issues".

We urge you to vote no on this legislation and allow current laws to remain sufficient for parental content review and to allow school support staff to remain a safe environment for youth to share their thoughts and feelings.

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¹ <https://hopefulfutures.us/action-ohio/>

HB 8: The Parents’ Bill of Rights

To amend sections 3314.03 (*Community Schools - Specifications of contract between sponsor and governing authorities - specifications of comprehensive plan*) and 3326.11 (*STEAM Schools - Statutory compliance requirements*) and to enact section 3313.473 of the Revised Code to enact the “Parents’ Bill of Rights” to require public schools to adopt a policy on parent notification on student health and well-being and instructional materials with sexuality content.

HB 8 Language	Issue
<p>Sec. 1 (B) The board of education of each city, local, exempted village, and joint vocational school district shall develop and adopt a policy to promote parental involvement in the public school system.</p>	<p>Already in law: ORC 3313.472 (A) The board of education of each city, exempted village, local, and joint vocational school district shall adopt a policy on parental involvement in the schools of the district. The policy shall be designed to build consistent and effective communication between the parents and foster caregivers of students enrolled in the district and the teachers and administrators assigned to the schools their children or foster children attend. The policy shall provide the opportunity for parents and foster caregivers to be actively involved in their children's or foster children's education.</p>
<p>Sec 1. (B)(1)(a) Ensure that any sexuality content is age-appropriate and developmentally appropriate.</p> <p>(b) Prior to providing instruction that includes sexuality content, disclose to parents any instructional material that includes sexuality content. Upon request of the student’s parent, a student shall be excused from instruction that includes sexuality content and be permitted to take an alternative class.</p>	<p>Already in law: ORC 3313.212 states that each board of education shall provide an opportunity for parents to review instructional materials</p> <p>Already in law: ORC 3313.60 allows parents to opt their children out of venereal disease education, child sexual abuse education, persona safety and assault prevention, dating and sexual violence prevention, suicide awareness of prevention, social inclusion, and first aid/CPR education</p>
<p>Sec. 1 (B)(2) Notify a student’s parent of any change in the student’s services, including counseling services, or monitoring related to the student’s mental, emotional or physical health or</p>	<p>Notifying parents of ANY change is simply not feasible. We all know that schools are all already understaffed and overworked, and there would simply be no time in the day to teach if school staff are needing to call every parent for every little thing.</p>

well-being or the school's ability to provide a safe and supportive learning environment for the student.

The policy shall specify that notice to parents shall reinforce the fundamental right of parents to make decisions regarding the upbringing and control of their children, and that the school district shall not inhibit parental access to the student's education and health records maintained by the school.

Parents already have a legal right to access their child's records. Under Federal Law, the Family Educational Rights and Privacy Act of 1974 (FERPA) states that all school districts receiving federal funds are subject to FERPA and that it regulates the use and access to student education records, provides procedures for correcting faulty information, and assures parent and student access.

Already under federal law: 20 U.S. Code § 1232g - Family educational and privacy rights: (1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children.....Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

Already in law: ORC 3701.74 states that a patient, a patient's personal representative, or an authorized person who wishes to examine or obtain a copy of part or all of a medical record shall submit to the health care provider a written request signed by the patient, personal representative, or authorized person dated not more than one year before the date on which it is submitted. The request shall indicate whether the copy is to be sent to the requestor, physician or chiropractor, or held for the requestor at the office of the health care provider. Within a reasonable time after receiving a request that meets the requirements of this division and includes sufficient information to identify the record requested, a health care provider that has the patient's medical records shall permit the patient to examine the record during regular business hours without charge or, on request, shall provide a copy of the record in accordance with section 3701.741 of the Revised Code, except that if a physician, psychologist, licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, marriage and family therapist, or chiropractor who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient, the health care provider shall provide the record to a physician, psychologist, licensed professional clinical counselor, licensed professional counselor, independent social

	<p>worker, social worker, independent marriage and family therapist, marriage and family therapist, or chiropractor designated by the patient. The health care provider shall take reasonable steps to establish the identity of the person making the request to examine or obtain a copy of the patient's record. If a health care provider fails to furnish a medical record as required by division (B) of this section, the patient, personal representative, or authorized person who requested the record may bring a civil action to enforce the patient's right of access to the record.</p>
<p>Sec. 1 (B)(4) ...Parental consent to health care services does not waive the parent's right to access the parent's right to access the parent's student's educational or health records or to be notified about a change in the student's services or monitoring as provided in this section.</p>	<p>This is already true; even if a parent were to sign a consent form for behavioral health therapy that says they won't request records, they still have legal access to request those records, using the laws above.</p>
<p>Sec. 1 (B)(5) Permit a parent to file with the school district a written concern regarding a topic addressed in this section. The policy shall establish a process to resolve such concerns within thirty days after their receipt. Under the policy, school districts shall notify parents of their right to file a written concern. A parent may appeal a district's decision to the board of education of that district.</p>	<p>There is already a complaint process established with the Ohio Department of Education and workforce that asks complaints first be brought to the school building, then the area superintendent, then the school board if still not resolved. https://education.ohio.gov/Parents/Having-a-problem-with-your-school-or-district</p>
<p>Sec. 1 (D)(3) "Sexuality content" means any oral or written instruction, presentation, image, or description of sexual concepts or gender ideology</p>	<p>Gender is not sexual.</p> <p>Does this include things such as reading a book with two same-sex parents, a transgender child, etc?</p>
<p>Sec. 1 (D)(4) "Student's mental, emotional, pr physical health or well-being" includes any of the following:</p> <ul style="list-style-type: none"> a) A student's academic performance b) Any sickness, physical injury, or psychological trauma suffered by a student c) Any pattern of bullying or harassment by or against a 	<ul style="list-style-type: none"> a) Tests are already available to parents for review under ORC 3313.60. ORC 3313.6411 also requires provision of report cards. b) Reporting of major mental health symptoms, physical injuries, and major sickness is already something that occurs. Mental health professionals are trained to report any reports of harm or potential harm to self or others, as well as incorporate parents and family into a child's care as needed. Physical injuries and illnesses that require a student to need to leave school are already reported

<p>student in violation of school district policy</p> <p>d) Any request by a student to identify as a gender that does not align with the student's biological sex</p> <p>e) Exhibition of suicidal ideation or persistent symptoms of depression, severe anxiety, or other mental health issues</p>	<p>c) Existing ORC 3313.666 states that schools must have a policy for bullying and harassment that includes procedures for reporting these incidents</p> <p>d) This is obviously the main crux of the bill that legislators want, as this seems to be the main piece that does not already exist in law and the one thing that does not seem to have room for negotiation. This could be made <i>better</i> if it were to again incorporate exemptions for potential abuse and/or neglect</p> <p>e) Same with (b), this already happens</p>
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