

Written-Only Opponent Testimony, HB 8
Senate Education Committee Hearing on April 23, 2024
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Chair Brenner, Vice Chair O'Brien, Ranking Member Ingram, and members of the Senate Education Committee, thank you for the opportunity to provide written testimony. My name is Stephanie Ash (she/her) and I serve as the Region 3 (Cleveland area) Director on the National Association of Social Workers (NASW) Ohio Chapter Board and am a member of the Social Work Criminalization Task Force. I hold dual licensure in Ohio as both a social worker and attorney and write using my unique expertise in both professions to voice my strong opposition to HB 8.

The same day this hearing was announced (Friday, April 19, 2024), the United States Department of Education released new Title IX regulations which provides vital protections to trans and gender diverse youth [1]. The U.S. Department of Education Title IX regulations now “state explicitly that sex-based harassment is a form of sex discrimination” [2] and includes “hostile environment harassment” as a type of prohibited harassment [3]. **HB 8 attempts to codify sex-based harassment in our schools which is now clearly against Title IX.** By requiring school district personnel to “out” trans and gender diverse students to their parents, HB 8 imposes a hostile environment where trans and gender diverse youth are threatened and treated differently than their cisgender peers because of their gender identity. Passing HB 8 will result in multiple lawsuits for every school district in Ohio as it compels actions which are now against federal law. Ohio students deserve better.

Besides violating Title IX protections, HB 8 also suffers from other incurable defects and devastating consequences to our workforce. The provisions in HB 8 lack sufficient definiteness or specificity about what will be required for school district personnel to comply with the proposed law. For example, school district personnel must “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 well-being” [4]. What does this mean? Will school district personnel have to contact parents if a student mentions they have a headache? What about if they are feeling stressed about an upcoming test? What if a student is sad because they would rather be at recess? What if a student gets a papercut?

Since HB 8 is so vague, school district personnel will be forced to document and notify parents of **everything** and **every interaction** with a student out of an abundance of caution to avoid liability and/or losing their jobs. School district personnel do not have the time or resources to engage in this exhaustive and unnecessary process for every student they interact with each day. Compliance with HB 8 is not only infeasible, but it will also negatively impact the ability to provide the education our students need and deserve.

Besides mandating a cumbersome process for compliance, HB 8 also requires school social workers to act against our professional Code of Ethics and potentially cause harm to the same youth the proposed bill claims to protect. The NASW Code of Ethics requires social workers to uphold a client's right to privacy and confidentiality and encourages social workers working with families to seek agreement on what confidential information may be shared with family members [5]. Typically, social workers will discuss the sharing of mental health therapy notes with a parent before engaging with a child. It is considered best practice to encourage parents *not* to request these notes due to the potential negative impact on the therapeutic relationship. HB 8 would prohibit social workers from even having these conversations with parents and acting in line with our ethical obligations.

We aim to help clients feel safe exploring their thoughts and feelings with us. If there is a risk of disclosure to others looming over every conversation, it is unlikely a child will feel comfortable sharing truthfully, thus negatively impacting the therapeutic relationship and a social worker's ability to help the child effectively. To be very clear, **social workers want to collaborate with parents in their child's care**. However, it is important to give children the space they need to process difficult feelings and work *with* a social worker to develop coping strategies, the language, and communication skills to share these thoughts and feelings with others at their own pace. If social workers are unable to provide the privacy and confidentiality required by our Code of Ethics, the State will force us to engage in unethical practice and risk loss of our licensure. This is unacceptable and unsustainable.

The workforce implications of placing additional burdens on overworked school district personnel and codifying unethical social work practices are dire. There is already a shortage of mental health professionals in 68 of Ohio's 88 counties (77%), meaning that the majority of Ohio's counties are unable to meet the needs of their residents [6]. Further, of the professionals providing essential mental health services, "social workers make up the largest portion of licensed professionals at 31%" [7]. If the State of Ohio requires social workers to engage in unethical practices and burdensome processes or risk losing their licensure, **we will quit**. The largest portion of professionals providing mental health services will stop working with youth in schools, resulting in even more barriers for youth trying to access the mental health care they need, when they need it.

Given the legal, practical, ethical, and workforce ramifications, I urge you to stop HB 8 from becoming law in its entirety, or at the very least, make notification requirements less demanding and more specific, and allow school social workers to practice ethically and in line with best practices. Instead of placing more barriers on short-staffed and overworked school district personnel, I urge you to provide more funding for mental health services, create enticements to keep and draw more behavioral health professionals to our State, and pass laws which protect ethical social work practice.

References

- [1] United States Department of Education. (2024, April 19). *U.S. Department of Education releases final Title IX regulations, providing vital protections against sex discrimination*. <https://www.ed.gov/news/press-releases/us-department-education-releases-final-title-ix-regulations-providing-vital-protections-against-sex-discrimination>
- [2] United States Department of Education. (2024, April 19). *Unofficial final rule summary*. <https://www2.ed.gov/about/offices/list/ocr/docs/t9-unofficial-final-rule-2024.pdf>
- [3] *Id.*
- [4] Enact the Parents' Bill of Rights, Am. H. B. No. 8, The Ohio Legislature, 135th General Assembly (2023, Sec. 3313.473 (B)(2)). https://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_135/bills/hb8/PH/02/hb8_02_PH?format=pdf
- [5] National Association of Social Workers. (2022). *Code of ethics: Standard 1.07 privacy and confidentiality*. <https://www.socialworkers.org/About/Ethics/Code-of-Ethics/Code-of-Ethics-English/Social-Workers-Ethical-Responsibilities-to-Clients>
- [6] Ohio Department of Health. (2022, November). *Ohio mental health, health professional shortage areas (HPSAs)*. <https://odh.ohio.gov/wps/wcm/connect/gov/4e6d331f-5fd6-43b1-b355-accd0a07f56d/MH+HPSA+Map+2021.pdf?MOD=AJPERES>
- [7] DataOhio. (2021, April 27). *Workforce supply and demand within Ohio's behavioral health system*. <https://data.ohio.gov/wps/portal/gov/data/projects/03-mhas-workforce>