

March 4, 2021

House Finance Committee
Primary and Secondary Education Subcommittee
Ohio Association of Independent Schools
Dan Dodd – Executive Director

- Andrews Osborne Academy
- 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
- 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
- Ruffing Montessori School -
Cleveland 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

Chairwoman Richardson, Ranking Member Troy and members of the committee, thank you for the opportunity to testify regarding House Bill 110. My name is Dan Dodd and I am the Executive Director of the Ohio Association of Independent Schools (OAIS), an association of independent private schools throughout the state of Ohio, 38 of which are accredited by the Independent Schools Association of the Central States (ISACS).

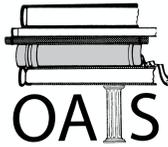
In my close to ten years with OAIS, I cannot recall another executive budget that contained as many specific policy changes as this one. We applaud some of those changes, such as the strengthening of transportation protections for families at chartered nonpublic schools and bringing the distribution of auxiliary services funding in line with recent U.S. Supreme Court case law. Other proposals, such as the release of all school personnel files to another school, upon request, are incredibly problematic and not well thought out, while the requirement for all students to complete a FAFSA application before being eligible to receive a school diploma is a case of social engineering that is in no way related to a student's education at a school chartered by the state of Ohio.

Below is our recommended list of items to consider or reconsider in the budget. Oral testimony will summarize these arguments.

1. Pupil Transportation

Ohio's school districts have been required to provide transportation, when practical, to students at nonpublic schools since the 1960s. In recent years, especially with the pandemic, districts seem to feel emboldened to ignore provisions in the Revised and Administrative codes pertaining to their responsibilities, probably because they are aware that there is little practical recourse for families.

Fortunately, Governor DeWine's budget strengthens the protections for families seeking to receive transportation. The proposed budget requires more notice from districts to parents of scheduled dropoff and pickup times, more cooperation between districts and nonpublic schools on scheduling, and consequences if districts do not comply with the law. The only concern we have with the proposed language is giving districts the ability to dropoff or pick up students within 30 minutes of the opening and closing bells at the schools. Giving districts the ability to do this will create hardships for schools who are not equipped to provide additional staffing for monitoring students for longer periods of time.



Additionally, we would urge the House to reexamine the amounts designated for families when an impracticality declaration is made and payment-in-lieu of transportation is offered. The current statute states that families denied transportation are to be paid somewhere between \$250 and the average cost of transporting a student, as determined by ODE. Unsurprisingly, most districts opt to pay the \$250 minimum. We believe a better approach would be to designate the amount as a percentage of the cost quoted by the school district in their impracticality declaration. It is not uncommon to find districts using quotes that do not appear to be realistic. Tying the payment-in-lieu amount to 20% of the cost estimate given by the district will have two effects: It will incentivize districts to use more accurate cost assessments when determining the cost of transporting a student, and by bringing down those cost assessments, hearing officers and the State Board of Education will have better information when making a decision as to whether or not to uphold an impracticality declaration. Districts will still be saving money by their own calculations, and families will have more resources to provide transportation for their students.

2. Direct Funding of Auxiliary Services

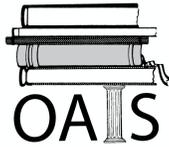
In 2017, the Ohio General Assembly agreed that more money spent in the classroom was better than money spent on bureaucracy and subsequently approved for secular private schools to receive auxiliary services funding from the state rather than use school districts as pass-through entities. The schools affected by this law change report significant savings on the services and materials they purchase, and there are no known issues regarding the auditing of records by the Ohio Department of Education (ODE).

Since the 2017 law change, however, there has been a change in U.S. Supreme Court jurisprudence regarding religious schools participating in state programs. In the case of Espinoza v. Montana Department of Revenue, the Supreme Court held that a Montana no-aid provision “does not zero in on any essentially religious course of instruction, but rather bars aid to a religious school ‘simply because of what it is’ – a religious school.” Similarly, current Ohio law treats religious schools in a disparate manner from secular schools simply because of what they are – religious schools. With requirements in Ohio law that materials and services be secular and not ideological in nature, Ohio needs to change its law to ensure that it is in compliance with the Espinoza decision.

3. Release of Personnel Files

Without a doubt, those who work in schools of all kinds want our children to be safe from predators. It is important, though, that the measures we put in place to protect children be effective and not lead to unintended consequences. Unfortunately, the potential for unintended consequences is great in one of Gov. DeWine’s proposals.

The proposal I’m referring to is part of the former Senate Bill 34 from last session and Senate Bill 325 from two sessions ago. This language would require all schools, including private schools, to turn over a copy of its personnel file to any school where a former employee has applied for work within 21 days. Unlike personnel files at public school districts, which are considered public records, the personnel records at private schools were never intended to be public records. However, the minute that file is sent to a public district after a request by the district, that file will likely become a public record. The contents of those files, if they are in dispute by the former employee, can become the basis for a defamation lawsuit because private school employees would not have the same government-related immunity protections that are in place for public school employees. Additionally, due to this increased exposure to potential claims and litigation, the cost of a school’s directors and officers insurance is almost certainly likely to increase significantly. We would encourage the House to remove this language from the budget bill until it can be more fully considered.



4. FAFSA Requirement

Ohio law currently spells out, in Revised Code section 3313.612, the requirements that a student must meet at a chartered nonpublic school in order for the student to receive a diploma from the school. This is worth pointing out because it is the school that issues the school's diploma; a diploma is not certified or in any other way issued by the state of Ohio. This means that at all schools, but especially at private schools, the administration and staff at those schools ought to have the flexibility and authority to determine who receives a diploma.

There is also precedent under Ohio law that relates the granting of a diploma to a student's academic achievement and the completion of required curriculum and content requirements. What there is no precedent for is mandating that a student complete paperwork that is wholly unrelated to the student's academic work. It is quite frankly astounding that anyone would recommend placing a student's ability to graduate from a high school at risk in order to achieve some kind of higher education goal of getting more prospective students to fill out FAFSA forms. We would urge the House to remove all of the proposed FAFSA-related content from the bill.

5. College Credit Plus Mandate

Prior to the establishment of College Credit Plus (CCP), private schools had the option of choosing whether or not to participate in the state's Post-Secondary Enrollment Option (PSEO) program. While many private schools participated, some did not because of concerns about the content and rigor of classes taken by students at some college campuses. When CCP was established by the Kasich Administration, the new law somehow allowed private schools to not participate, but if a student chose to participate and take a CCP class, then the school would be forced to participate in the program. During the budget process in 2015, then-Subcommittee Chairman Cupp and other members of the House and Senate recognized how this takes away from the curricular and operational freedom of private schools, and he authored an amendment to make our participation in the program truly optional. Governor Kasich, never missing an opportunity to demonstrate to others that he knew better than they did about what was best, vetoed the provision. We would ask the House to once again make this provision part of the biennial budget and it is our hope that Gov. DeWine respects the autonomy of our schools more than his predecessor appeared to do.

Thank you for the opportunity to present our thoughts to the subcommittee, and for your service to our great state. I'd be happy to answer any questions you may have.