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Interested Party Testimony on House Bill 310  
Senate Secondary Education Committee  
December 16, 2020

Chair Lehner, Vice Chair Brenner, Ranking Member Fedor, and members of the Ohio Senate Education Committee, thank you for the opportunity to provide interested party testimony regarding House Bill 310 (HB 310) the Anti-Bullying and Hazing Act. Disability Rights Ohio (DRO) is designated by the Governor, and federally authorized, as the protection and advocacy system with the mission to advocate for the human, civil, and legal rights of people with disabilities in Ohio.

For over 40 years, our office has actively advocated for improvements in Ohio's educational system on behalf of children with disabilities and their families who, more than most, have encountered barriers to an appropriate education. DRO has firsthand experience advocating for students with disabilities through individualized education programs (IEPs), integration of students in general education, and a reduction in the use of suspensions and expulsions as a tool for discipline. Because of our work with these students, we bring a unique perspective to HB 310.

Disability Rights Ohio appreciates Representative Greenspan for addressing the issue of school bullying. Through the work with our clients, we have seen the impacts on both those who bully and the victims of bullying. We know that creating a positive school climate that provides the necessary wrap-around supports, including high quality Positive Behavior Intervention and Supports (PBIS), is good for all children and reduces bullying. HB 310, while aimed at addressing a real problem, is unnecessary, and can exacerbate negative student outcomes for those with disabilities or trauma-related behavior. This testimony will address two issues:

- 1) How implementing effective PBIS systems in schools addresses school bullying; and**
- 2) The negative impacts of using discipline and removing students with disabilities from school.**

## **I. Implementing Positive Behavior Intervention and Supports**

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As you know, PBIS is already required to be implemented by schools districts under the Ohio Revised Code and State Board of Education rules.<sup>1</sup> Schools are also required to report to the Department of Education (ODE) or the General Assembly (GA) regarding their implementation of these standards. However, through this reporting we know that very few school districts have

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<sup>1</sup> ORC § 3319.46, and OAC § 3301-35-15 Policy and rules regarding positive behavior intervention supports and the use of physical restraint or seclusion on students.

implemented these policies effectively as rates of suspension and expulsion on students with disabilities have not significantly decreased and in certain circumstances even increased.<sup>2</sup> Suspension and expulsion can result in students with disabilities being removed from the educational services and supports that are necessary to address disability-related needs. Subjecting them to forms of discipline that result in school removal or removal from IEP services deprives children of services they need to learn and only makes it more likely that these students will not achieve.

In stark contrast, PBIS is a trauma-informed framework for schools that has been proven to work. According to the National Education Association, PBIS is “the most effective tool teachers have to handle problem behavior to prevent it from occurring in the first place [...]; [these] strategies are critical to providing all young people with the best learning environment.”<sup>3</sup> PBIS addresses three levels of the school environment, including providing support to school-wide systems, the classroom, and individual students. This means every student within a school system is impacted by the effective implementation of this model ensuring an overall change in the school culture and climate, including a culture that discourages bullying

Further, research supports that zero-tolerance policies within schools are not effective on reducing or eliminating bullying.<sup>4</sup> Typically, there is an opposite impact. The more time students are kept out of school and subjected to the use of suspension and expulsion, especially students with trauma-related behavior or unstable home environments, the more likely they are to end up in the juvenile justice system. A more effective approach would be to provide students a positive school climate that focuses on positive social-emotional development and targeted interventions for those at high risk of bullying.

If implemented effectively and with sufficient resources for schools to fully implement PBIS, the system would produce positive outcomes. As noted in one report that surveyed 37 elementary schools, there was an overall change in the school organizational health after implementation of PBIS.<sup>5</sup> The issue is not whether PBIS as a framework is effective in changing school climate but instead a lack of implementation and funding. In Ohio, funding and support for the adoption of PBIS never materialized after the law was adopted by HB 178 in the 130<sup>th</sup> GA.

The closest the legislature has come to ensuring the program meets its potential was HB 318 in the 132<sup>nd</sup> GA after including language from SB 246 the Supporting Alternatives for Education Act

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<sup>2</sup> Ohio Department of Education Discipline Occurrences per district for students with disabilities: 2014-15 school year 188,071 out-of-school suspensions and 3201 expulsions; 2015-16 school year 202,784 out-of-school suspensions and 3267 expulsions; 2016-17 school year 187,816 suspensions and 2836 expulsions.

<sup>3</sup> National Education Association. Positive Behavioral Interventions and Supports: A Multi-tiered Framework that Works for Every Student. [https://www.nea.org/assets/docs/PB41A-Positive\\_Behavioral\\_Interventions-Final.pdf](https://www.nea.org/assets/docs/PB41A-Positive_Behavioral_Interventions-Final.pdf)

<sup>4</sup> National Academies of Sciences, Engineering, and Medicine. 2016. Preventing Bullying Through Science, Policy, and Practice. Washington, DC: The National Academies Press. <https://doi.org/10.17226/23482>.

<sup>5</sup> Bradshaw, C.P., Koth, C.W., Thornton, L.A. et al. Altering School Climate through School-Wide Positive Behavioral Interventions and Supports: Findings from a Group-Randomized Effectiveness Trial. *Prev Sci* 10, 100 (2009). <https://doi.org/10.1007/s11121-008-0114-9>

or SAFE Act. This bill appropriated \$2M for competitive grants to schools to implement the PBIS framework. However, this bill was limited to grades K through 3 in the 608 school districts. This means \$2M in state appropriations would be spent on serving more than 490,000 students.<sup>6</sup> Additionally, the legislation prohibited the use of out-of-school suspensions for this student population and required in-school suspensions to be served in a supervised learning environment. If this were to be expanded to include all grade levels and additional funding were to be provided, students would remain in school receiving necessary services, and outcomes and school climate would begin to change.

## **II. Students with Disabilities**

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HB 310 will have a negative impact on students with disabilities, who already face many achievement gaps. Ohio already has bullying laws that, if implemented, would help to address the problem. Further, federal and state special education law requires a positive framework for addressing school-based behaviors (including bullying) that is evidence-based and seeks to keep students in school where they can learn. Suspending or expelling a student could put the individual in a home environment that is non-supportive and abusive and increases the chances that the student who is removed will have poorer life outcomes. Using discipline as a behavior modification for these students can worsen behaviors the discipline is attempting to resolve. This is reiterated by the Centers for Disease Control and Prevention. Implementing strategies like PBIS can be used “to strengthen academic performance, improve graduation rates, and create a positive school climate.”<sup>7</sup>

In Ohio, the Department of Education has identified roughly 265,000 students with disabilities.<sup>8</sup> These students are far more likely to not meet the graduation or achievement standards than their peers. For all students, proficiency in Math and English Arts is 61% and 64.6%, respectively. For students with disabilities, their proficiency rate is 28.2% and 28.9%, respectively.<sup>9</sup> Further, the graduation rate for all students (constituted by a 4-year graduation longitudinal study) is over 85.3% while students with disabilities’ (meeting standard requirements) graduation rate is 35%.<sup>10</sup> These kinds of performance measures are exacerbated by factors like race, geography, and access to services. A student with a disability in one of Ohio’s large urban school districts is far more likely not to meet performance standards and graduate than a student without disabilities living in a suburban school district.

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<sup>6</sup> Ohio Department of Education FY-2019 Enrollment Data. <http://education.ohio.gov/Topics/Data/Frequently-Requested-Data/Enrollment-Data>

<sup>7</sup> Centers for Disease Control and Prevention. 2016. A Comprehensive Technical Package for the Prevention of Youth Violence and Associated Risk Behaviors. <https://www.cdc.gov/violenceprevention/pdf/yv-technicalpackage.pdf>

<sup>8</sup> Ohio Department of Education. 2019 Enrollment Data. <http://education.ohio.gov/Topics/Data/Frequently-Requested-Data/Enrollment-Data>

<sup>9</sup> Ohio Department of Education. 2016-2017 Statewide Report Card. <https://reportcardstorage.education.ohio.gov/archives-2017/2017-state.pdf>

<sup>10</sup> Ohio Department of Education. 2017. ESSA Presentation for the State School Board.

Congress understood these issues when they passed the Individuals with Disabilities Education Act (IDEA) and required each child's IEP to include PBIS to address behavior with positive approaches.<sup>11</sup> To help schools meet these requirements and close the achievement gap, more support for the establishment of effective PBIS systems within school districts is necessary. Increasing the use of discipline to address behavior is an approach that means that more children will be disciplined out of school, leading to poor outcomes for students.

### **III. Conclusion**

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Both anecdotally and empirically, positive behavior interventions and supports have a lasting positive impact not only on students with disabilities and trauma but on the entire student population. Creating positive school climates that support the social and emotional needs of students, while providing interventions when necessary, can help Ohio close the achievement gap between students with disabilities and their peers and increase the graduation rates across the board. Building upon the framework established in House Bill 166 through the student success and wellness and the K-12 Prevention Education funding, can help build better school environments. Additionally, expanding the implementation of PBIS is necessary to ensure schools meet the standards and requirements of the IDEA.

Again, we appreciate Representative Greenspan for addressing the issue of school bullying through HB 310. We look forward to working with the representative and the committee to ensure this bill has a positive impact on students with disabilities. If you have any questions, or wish to discuss the issue further, please contact me or Jordan Ballinger, Policy Director (614-466-7264 x 135 or [jballinger@disabilityrightsohio.org](mailto:jballinger@disabilityrightsohio.org)).

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<sup>11</sup> 20 U.S. C §1414 (d)(3)(B)