



December 12, 2023 | Testimony in opposition to HB 8 | Senate Education Committee

Chair Brenner, Vice Chair O'Brien, Ranking Member Ingram, and members of the Senate Education Committee, thank you for the opportunity to submit testimony in opposition to HB 8. Equality Ohio is a nonpartisan statewide education and advocacy organization that works towards legal and lived equality for all LGBTQ+ Ohioans. We ask this committee to vote no on HB 8, a proposal that would endanger kids, create legal and licensing headaches, foster an intimidating and unsafe learning environment in schools, and lead to targeted censorship and book bans.

This bill has become a Don't Say Gay or Trans 2.0 Bill. Teachers will be put in impossible situations during normal class discussions, and any mention of LGBTQ+ identities could put their entire career at risk. Something as simple as a teacher's family picture on their desk, or a student's family or identity organically arising as a topic, and teachers will be put in an impossible situation. This is not hyperbole. Harsh impact has already been felt in other states where similar bills passed.

It was already the case that the original language of "sexually explicit content" had been weaponized against benign materials purely for affirming LGBTQ+ identity. I highlighted some examples in my May testimony, before the amendment language made this risk into a certainty:

"Sexually explicit content" sounds like an uncontroversial thing to target on its face, but unfortunately the vagueness of that term has already opened the door to broad censorship and witch hunts. This is not hyperbole. It's not hysterical thinking. We can pull from recent real-world examples of exactly this. Several states are already censoring LGBTQ+ identities under the guise of protecting kids from "sexually explicit content":

- In [Louisiana](#), a similar bill resulted in the Attorney General – who happens to be campaigning to be Governor – setting up an anonymous tip line to "field complaints about librarians, teachers, and school and library personnel" and in February he released a report that targeted 9 books, 7 on the basis that it had an LGBTQ+ storyline.
- A similar bill in [Florida](#) opened the censorship floodgates, has already been challenged in court because of its vagueness, and has resulted in bare school library shelves and outrage from librarians. This bill was a key contributing factor to international rebuke of Desantis –who is running for president – and his censorship efforts.
- A similar bill moving in [Iowa](#) creates a process by which books can be put on a statewide list at the request of parents, a list that would then require parental permission before students could access them, even in other school districts.
- A similar bill in [North Dakota](#) goes as far as sentencing librarians to 30 days in jail if they fail to remove books that would be banned under the broad proposal.

After an amendment changed the focus of this bill away from "sexually explicit content" to "sexuality content" including "sexuality concepts and gender ideology", **the bill explicitly conflates LGBTQ+ identities with Sexual Content.** This bill defines "sexuality content" as any oral or written instruction, presentation, image, or description of *sexual concepts or gender ideology*. The replacement of "sexually explicit content" with "sexuality content" including mere *concepts*, **the bill has moved away from even addressing sexually explicit content at all, which was the stated original intent of the bill. As a result, this bill no longer accomplishes its original intent and is much easier to weaponize against and censorship of LGBTQ+ students or educators.**



December 12, 2023 | Testimony in opposition to HB 8 | Senate Education Committee

Existing policies balance parental rights with public school independence – but this bill is asking for witch hunts. This bill raises serious concerns regarding the potential for organized campaigns against teachers or school districts, particularly given that we’ve already seen such campaigns target a handful of Ohio school districts. HB 8 requires that schools address any parental complaints on these grounds within 30 days. The “oversight” outlined in this bill could create a culture of intimidating or targeting educators. The vague criteria of what’s allowed coupled with the high stakes results in **a serious chilling effect and even impossible predicament for teachers.**

HB 8 requires teachers to provide an alternative curriculum for topics that are being subjected to a subjective standard, and their failure to interpret correctly could result in their reprimand. This could be read very broadly by a single parent who then can subject a teacher to a formal complaint process and put the teacher’s job in jeopardy. Parents have the right to guide their child’s education by choosing where they are educated, keeping track of their schoolwork outside of the school day, and having regular communication with schools and educators. Each individual parent, however, does not have a right to dictate the curriculum or activities of the entire school, and public schools could not possibly adopt the political and religious perspective of each and every parent – a task that would be literally impossible in America, a melting pot of communities that hold a wide range of political and religious perspectives.

Shared values such as kindness, generosity, and respect for others remain universal, but public schools should simply not be in the business of conforming to extremist ideology or pre-clearing every small decision made while teaching with every parent. **Schools ultimately exist to support the best interests of our students, not to bend to every demand made by a small subset of parents.**

HB8 chills speech in schools and is likely to be weaponized against LGBTQ+ and other marginalized kids. The assumptions behind this bill and the implication of its introduction suggest that teachers and counselors are systemically undermining parents’ relationships with their children, based solely on a handful of anecdotes from people with transparent political agendas. The “oversight” outlined in this bill could create a culture of intimidating or targeting educators. HB 8 would meddle in local classrooms and jeopardize families’ privacy by forcing teachers to report on their conversations with LGBTQ+ students. This prevents students from speaking freely in school, and will also make it harder for teachers to do their job by politicizing their work, driving a wedge between parents and teachers and piling on paperwork for everyone involved.

HB 8 opens the door to broad censorship, and was amended to be much, much worse. This ban will open the door to censorship, and allow parents to force removal of diverse, inclusive content and material.

The “oversight” outlined in this bill would create a culture of intimidating or targeting educators, perhaps even forcing them back into the closet. As a result of the vague standard, the bill could force students or educators back into the closet or risk punishment for mentioning their LGBTQ+ identities.

Indeed, this bill is part of a nationwide effort at the state, local, and federal level, to ostracize and even criminalize LGBTQ+ identities. It would be naive wishful thinking to conclude that Ohio is not on exactly the same track as the states I just listed. Proponents of this bill specifically conflated the acknowledgment of LGBTQ+ identities with “sexually explicit content” and argued that LGBTQ+ people’s mere existence is part of the justification for this legislation. “Sexually explicit content” to someone who is offended by LGBTQ+ people’s mere existence, means mentioning



December 12, 2023 | Testimony in opposition to HB 8 | Senate Education Committee

anyone is gay or trans. It has become a legally vague term that serves as a politicized dog whistle that targets diverse family dynamics, identities, and LGBTQ+ relationships.

HB 8 undermines teachers' and counselors' ability to keep kids safe. Teachers should be able to take the needs of students *and* parents into account to make decisions that center students' wellbeing, without political interference. Instead, this bill pits parents against educators at the expense of students. This bill would force school administrators, teachers, and even counselors to “out” students, even if it makes their home less safe. And a safe home is not something we can assume. Every day, kids get kicked out of their homes, and forcing schools to “out” kids to their parents regardless of their home situation will lead to unconscionable cruelty and likely increased homelessness among LGBTQ+ youth.

It's clear that a small subset of parents' wishes – and no one else's – remain the central priority of this bill, even if it leads to physical or psychological harm to students, and even if other parents in these same school districts lose access to safe schools to send their kids to. Every young person and every family is different, and Ohio teachers understand that.

HB 8 conflicts with existing law and professional licensure standards and requirements, and distracts from where the main priority should be focused: on learning. The guidance in this bill directly conflicts with the advice local districts are likely to receive from their district's legal counsel. Districts have the ability to make their own policies, but those policies must follow federal law. Additionally, teachers and social workers will be quick to explain, if asked, that their training instructs them to prioritize the safety of kids and do everything they can to help children preserve a strong relationship and open communication with their parents. But by removing this discretion and providing conflicting obligations, this bill instructs professionals working in school districts to violate ethics and confidentiality standards outlined by their own licensing bodies and puts them in an ethical and legal conundrum if they have legitimate concerns about a child's safety. Teachers have the training and experience to recognize kids' unique needs and work with parents to help kids reach their full potential in the classroom and beyond.

Parents and teachers should be a team, and politicians shouldn't try to pit them against each other for the sake of their personal political agendas. It's clear that this has more to do with politics than protecting kids, because there's little evidence to suggest that LGBTQ+ topics are being taught in schools at all, let alone given priority. As a [National School Climate Survey](#) found in 2021, out of the 29 states that require some form of sexual education in schools, only six (and DC) required that sexual education be LGBTQ-inclusive. And [only five states](#) required unbiased (either affirmative or discriminatory) sex education on sexual orientation and gender identity.

Ohio already regulates and has established policies that govern parental notice, review, and opting out of instruction, and requires that parents be allowed to be actively involved in their child's education and maintain “consistent and effective” communication between parents and schools. It's also why school districts have independent curriculum review committees that include parents.

Definition of Sex: The Campaign to Undermine LGBTQ+ Legal Protections. This bill adds a definition of “sex”, which they define as sex assigned at birth in order to directly undermine the *Bostock* SCOTUS decision, which was authored by conservative Justice Gorsuch and declared that discrimination on the basis of sex includes sexual orientation and gender identity. Similar language has shown up in several other recent anti-LGBTQ+ bills.

Inserting this language into the Ohio Revised Code is part of a nationwide campaign playbook to undermine the rights of gay and transgender Americans by eroding existing protections for



December 12, 2023 | Testimony in opposition to HB 8 | Senate Education Committee

LGBTQ+ people in schools, at work, at home, and in public accommodations. The specific goal of adding this language is to make a point by denying the existence of transgender people and to further the trope that being transgender is a mental illness.

Even if someone has changed their birth certificate, had gender affirming surgery, and has lived their life as one gender for decades, under this language in the eyes of the Ohio government, they would be recognized only as their sex assigned at birth.

*...And none of this has anything to do with parental rights. **There is no reason to have a definition of sex in a bill about parents rights.*** This has nothing to do with parental rights and adding this language turns an education issue into a political lightning rod, and could undermine existing rights of LGBTQ+ people in schools.

This bill does a lot of things, but protecting freedom is not one of them. It's up to parents and kids, with guidance from trusted teachers or professionals, to decide if, when and how to discuss meaningful topics and challenging ideas. Public schools are essential to creating a safe and inclusive community that respects everyone's identities, and raising a well-rounded future workforce. It's policy proposals just like this one that are making young people flee this state in droves, and preventing talented workers from considering coming to work and raise families in this state.

I ask this committee to vote no on HB 8 and I am happy to answer any questions.

Maria Bruno, JD
Public Policy Director
Equality Ohio