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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 8  
135<sup>th</sup> General Assembly

## Final Analysis

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**Primary Sponsors:** Reps. Swearingen and Carruthers

**Effective date:** April 9, 2025

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## SUMMARY

### Parents' Bill of Rights

- Requires public schools to adopt a policy by July 1, 2025, that promotes parental involvement in the public school system and establishes requirements regarding sexuality content, school-provided healthcare services, and student mental, emotional, and physical health and well-being.
- Maintains that a parent has a fundamental right to make decisions concerning the upbringing, education, and care of the parent's child.
- Entitles the act's provisions regarding parental involvement, sexuality content, student health care services and student health and well-being as the "Parents' Bill of Rights."

### Released time religious instruction

- Requires school districts to adopt a policy authorizing students to be excused from school to attend a released time course in religious instruction.
- Requires school districts to collaborate with the sponsoring entity of a released time course in religious instruction to identify a time for the course to be offered during the school day.
- Permits a school district to require a sponsoring entity's instructors and volunteers undergo criminal records checks in a manner determined by the district.

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## DETAILED ANALYSIS

### Parents' Bill of Rights

#### Parents' right to make decisions concerning a child

The act states that the General Assembly maintains that a parent has a fundamental right to make decisions concerning the upbringing, education, and care of the parent's child.<sup>1</sup>

#### Policy of parental involvement

The act requires public schools (school districts, community schools, and STEM schools) to develop and adopt a policy that promotes parental involvement in the public school system by providing parental notification on student health and well-being and instructional materials that contain sexuality content. Under the act, a "parent" includes either the natural or adoptive parents of a student and a court-appointed guardian. Each school must adopt its policy by July 1, 2025. It must also make its policy publicly available and post it prominently on its publicly accessible website, if it has one.<sup>2</sup>

#### Sexuality content

The act defines "sexuality content" as "any oral or written instruction, presentation, image, or description of sexual concepts or gender ideology provided in a classroom setting." It excludes from the definition of sexuality content instruction or presentations in sexually transmitted infection education, child sexual abuse prevention, and sexual violence prevention education provided by public schools, and incidental references to sexual concepts or gender ideology occurring outside of formal instruction or presentations on such topics, including references made during class participation and in schoolwork.<sup>3</sup>

Under the policy, public schools must ensure that sexuality content is age-appropriate and developmentally appropriate for the age of the student receiving the instruction, regardless of the age or grade level of that student. Further, prior to providing instruction that includes sexuality content or permitting a third party to do so, a school must provide parents an opportunity to review any instructional material that includes sexuality content. Upon the request of a student's parent, the school must excuse that student from that type of instruction and permit the student to participate in an alternative assignment. The act prohibits a school or a third party from providing instruction with that content to students in grades kindergarten through three.<sup>4</sup>

Under the act, "age-appropriate" and "developmentally appropriate" content refers to activities or items that are generally accepted as suitable for children of the same chronological

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<sup>1</sup> R.C. 3313.473(A).

<sup>2</sup> R.C. 3313.473(B), (C), and (G). R.C. 3313.473 applies to community schools and STEM schools through references in R.C. 3314.03(A)(11)(d) and 3326.11.

<sup>3</sup> R.C. 3313.473(G)(5).

<sup>4</sup> R.C. 3313.473(B)(1) and (E).

age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group.<sup>5</sup>

## **Student healthcare and well-being**

### ***Parental notification requirements***

Under the act, each parental involvement policy generally must require schools to adopt a procedure to obtain authorization from parents prior to providing any type of health care service to the student. Under the procedure, schools must notify parents at the start of each school year of the healthcare services offered by, or facilitated in cooperation with, the school and their option to withhold consent or decline any specified service. The act clarifies that parental consent to health care services does not waive 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. Prior to providing a health care service to a student, schools must notify a parent whether the school must provide the service under state law and if other options to access the service exist. This requirement may be satisfied by an annual notice to parents at the beginning of the school year. However, these requirements do not apply to emergency situations, first aid, other unanticipated minor health care services, or health care services provided pursuant to a student's individualized education program (IEP) or 504 plan.<sup>6</sup>

Each school also must promptly notify parents about substantial changes to a student's services or monitoring related to the student's mental, emotional, or physical health or well-being, including counseling services, or the school's ability to provide a safe and supportive learning environment. The notice must reinforce the parents' right to make decisions regarding the upbringing and control of their children and note the school will not limit their access to the school's student education and health records.<sup>7</sup>

The act defines a "student's mental, emotional, or physical health or well-being" to include, at a minimum, any of the following:<sup>8</sup>

1. A student's academic performance;
2. Any significant sickness or physical injury, or any psychological trauma suffered by a student;
3. Any harassment, intimidation, or bullying by or against a student in violation of school policy;<sup>9</sup>

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<sup>5</sup> R.C. 3313.473(G)(7).

<sup>6</sup> R.C. 3313.473(B)(4) and (G); see also R.C. 3323.01 and the "Rehabilitation Act of 1973," 29 United States Code (U.S.C.) 794.

<sup>7</sup> R.C. 3313.473(B)(2).

<sup>8</sup> R.C. 3313.473(G).

<sup>9</sup> R.C. 3313.666, not in the act.

4. Any request by a student to identify as a gender that does not align with the student's biological sex, which is defined as the biological indication of male and female, including sex chromosomes, naturally occurring sex hormones, gonads, and unambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender; and
5. The exhibition of suicidal ideation or persistent symptoms of depression, or severe anxiety, or other mental health issues.

### ***Prohibition on withholding student health information***

Under the act, a school's policy must prohibit school personnel from directly or indirectly encouraging a student to withhold from a parent information about the student's mental, emotional, or physical health or well-being or a change in services or monitoring related to the student's health. The policy further must prohibit school personnel from discouraging or prohibiting parental notification of and involvement in decisions affecting a student's mental, emotional, or physical health or well-being.

### **Submission of written concerns**

Under the act, a school's policy must permit parents to file with the school written concerns related to topics addressed in the policy, notify parents of this permission, and establish a process for a principal or assistant principal to resolve the concern within 30 days of its receipt. A parent may appeal a principal's or assistant principal's decision to the district superintendent or equivalent official for a community or STEM school ("superintendent").

If a parent appeals a principal's or assistant principal's decision, the superintendent or the superintendent's designee must conduct a hearing on the decision. Based on the findings of that hearing, the superintendent must decide whether to affirm the principal's or assistant principal's decision. If the superintendent does not affirm that decision, then the superintendent must determine a resolution to the parent's concern. A parent may appeal a superintendent's decision to the district board of education or equivalent body for a community or STEM school ("board of education"). The board of education must review the superintendent's decision, and, if it determines it necessary, hold a hearing on the decision and, based on that hearing, either affirm the superintendent's decision or determine a new resolution to the parent's concern.

The act clarifies that the written concern procedure and appeals process do not prevent a parent from contacting a member of a board of education regarding the parent's concerns with the operation of a school under the board's supervision.<sup>10</sup>

### **Retention of parental rights**

The act states that it does not prescribe all rights of parents or preempt or foreclose claims or remedies in support of parental rights that are available under the Ohio Constitution, Ohio Revised Code, or Ohio common law.<sup>11</sup>

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<sup>10</sup> R.C. 3313.473(B)(5).

<sup>11</sup> R.C. 3313.473(D).

## Exceptions

The act explicitly states that a school's policy does not require disclosure or activity that conflicts with or violates:

1. The standards for privacy of individually identifiable health information prescribed in federal rule pursuant to the federal Health Insurance Portability and Accountability Act (HIPAA);
2. State law governing the use and disclosure of protected health information by specified covered entities;
3. Confidentiality privileges established under continuing law for attorneys, physicians, psychologists, and certain other mental health professionals;
4. The federal Family Educational Rights and Privacy Act (FERPA); or
5. The rights of crime victims under the provisions of state law and the Ohio Constitution commonly known as Marsy's Law.

The act also states that it does not require disclosure or activity in violation of any court order, including a condition of bond, a protection order or consent agreement issued pursuant to continuing law, or a condition of a community control sanction, post-release control sanction, or parole.

Finally, the act states that it does not prohibit or limit career and academic mentoring and counseling between teachers and students in the regular course of the school day.<sup>12</sup>

## Policy on released time courses in religious instruction

The act *requires*, instead of *permits*, as under prior law, school district boards of education to adopt a policy authorizing students to attend a released time course in religious instruction conducted by a private entity off school district property during regular school hours.

The act additionally requires a district board to collaborate with the sponsoring entity of a religious released time course to identify a time to offer the course during the school day. It permits a district board to include a requirement for a criminal records check of any of the sponsoring entity's instructors or volunteers. The district board must determine the manner in which those checks are conducted.<sup>13</sup>

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<sup>12</sup> R.C. 3313.473 (F); see also the "Family Educational Rights and Privacy Act of 1974," 20 U.S.C. 1232g and R.C. 2151.34, 2317.02, 2903.213, 2903.214, 2919.26, 2930.07, 2930.10, 3113.31 3798.01, 4732.19, 5122.04 or Chapter 3798, none in the act.

<sup>13</sup> R.C. 3313.6022 and 3313.6030.

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## HISTORY

Action	Date
Introduced	02-15-23
Reported, H. Primary & Secondary Education	06-14-23
Passed House (65-29)	06-21-23
Reported, S. Education	12-17-24
Passed Senate (24-7)	12-18-24
House concurred in Senate amendments (57-31)	12-18-24

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