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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

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

## Bill Analysis

[Click here for H.B. 8's Fiscal Note](#)

**Version:** As Reported by House Primary and Secondary Education

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

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### SUMMARY

- Requires public schools to:
  - Ensure that any sexuality content is age-appropriate and developmentally appropriate;
  - Provide parents with a notice about instructional materials that include sexuality content and an opportunity to request alternative instruction;
  - Notify parents about school-provided healthcare services and the option to withhold consent or decline any specified service;
  - Notify parents about changes to the health services or monitoring provided to their children by their school related to the student's mental, emotional, or physical health or well-being, or the school's ability to provide a safe learning environment;
  - Prohibit school personnel from encouraging a student to withhold from a parent information concerning the student's health or well-being, unless that disclosure would result in abuse, abandonment, or neglect; and
  - Establish a process under which the district or school must resolve written concerns submitted by parents about topics addressed in the bill.
- Maintains that a parent has a fundamental right to make decisions concerning the upbringing, education, and care of the parent's child.
- Entitles the bill the "Parents' Bill of Rights."

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\* This analysis was prepared before the report of the House Primary and Secondary Education Committee appeared in the House Journal. Note that the legislative history may be incomplete.

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June 14, 2023

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## DETAILED ANALYSIS

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

The bill 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 bill 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.<sup>2</sup> Under the bill, a "parent" includes either the natural or adoptive parents of a student and a court-appointed guardian.

### Sexuality content

The bill defines "sexuality content" as "any oral or written instruction, presentation, image, or description of sexual concepts or gender ideology." The bill excludes from the definition of sexuality content instruction or presentations in venereal disease education, child sexual abuse prevention, and sexual violence prevention education provided under R.C. 3313.60 and instruction or presentations in venereal disease education emphasizing abstinence provided under R.C. 3313.6011.<sup>3</sup>

Under the policy, public schools must ensure that any sexuality content is age-appropriate and developmentally appropriate.<sup>4</sup> Further, a school's policy must require schools to disclose to parents any instructional material that includes sexuality content prior to providing the instruction. Upon the request of a student's parent, the school must excuse that student from instruction that includes sexuality content and permitted to take an alternative class.<sup>5</sup>

### Student healthcare and well-being

#### Parental notification requirements

Under the bill, each parental involvement policy must require schools to notify parents at the start of each school year of the healthcare services offered by the public school and their option to withhold consent or decline any specified service.<sup>6</sup> The bill clarifies that parental

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

<sup>2</sup> R.C. 3313.473. The provision 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(D)(3).

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

<sup>5</sup> R.C. 3313.473(B)(1)(b).

<sup>6</sup> R.C. 3313.473(B)(4).

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.<sup>7</sup>

Each policy must require schools to notify parents about 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 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>8</sup>

The bill defines a "student's mental, emotional, or physical health or well-being" to include all of the following:<sup>9</sup>

1. A student's academic performance;
2. Any sickness, physical injury, or trauma suffered by a student;
3. Any pattern of bullying or harassment by or against a student in violation of school district policy;
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;<sup>10</sup> and
5. The exhibition of suicidal ideation or persistent symptoms of depression, severe anxiety, or other mental health issues.

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

Under the bill, 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 services related to the student's health. The policy further must prohibit school personnel from discouraging or prohibiting parental notification of and involvement in critical decisions affecting a student's mental, emotional, or physical health or well-being.

The bill explicitly states that nothing in this section should be construed to prohibit teachers from reporting unlawful abuse or neglect.<sup>11</sup>

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<sup>7</sup> R.C. 3313.473(B)(4).

<sup>8</sup> R.C. 3313.473(B)(2).

<sup>9</sup> R.C. 3313.473(D)(4).

<sup>10</sup> R.C. 3313.473(D)(1).

<sup>11</sup> R.C. 3313.473(B)(3).

## Submission of written concerns

Under the bill, a school's policy must permit parents to file with the school written concerns related to topics addressed in the bill, notify parents of this permission, establish a process to resolve the concern within 30 days of its receipt, and allow for parents to appeal a district's decision to the board of education of that district.

If a school district does not resolve a parent's written concern within 30 days, a parent may request a hearing before the board of education of the school district. The board must hold a hearing for any request received from a parent and make a determination regarding the parent's concern.<sup>12</sup> The bill states that this section 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>13</sup>

## Background

Current law affords parents the right to receive notice, review, and opt their student out of instruction on certain subject areas. School districts that offer instruction in venereal disease that goes beyond certain prescribed criteria, for example, are required to notify all parents of that instruction, including notification of the names of the instructor, vendor, or curriculum used. Upon the request of a student's parent, school districts are required to provide the parent any materials associated with the instruction of venereal disease or other sexual education in that student's school.<sup>14</sup> Additionally, school districts must establish a parental advisory committee or some other strategy to enable parental review of instructional materials and academic curricula.<sup>15</sup> Current law also requires a school district to excuse a student from instruction in venereal disease education, personal safety and assault prevention, and other subjects upon the parent's request.<sup>16</sup>

Finally, the law requires public schools to establish policies on parental involvement in schools that allow parents to be actively involved in their children's education and maintain "consistent and effective" communication between parents and their children's schools.<sup>17</sup>

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<sup>12</sup> R.C. 3313.473(B)(5).

<sup>13</sup> R.C. 3313.473(C).

<sup>14</sup> R.C. 3313.6011(C), not in the bill.

<sup>15</sup> R.C. 3313.212, not in the bill.

<sup>16</sup> R.C. 3313.60(A)(5), not in the bill.

<sup>17</sup> R.C. 3313.472(A), not in the bill.

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## HISTORY

Action	Date
Introduced	02-15-23
Reported, H. Primary & Secondary Education	--

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