



SB 2260
Testimony of Amy De Kok
House Human Services Committee
March 22, 2023

Chairman Weisz and members of the committee, my name is Amy De Kok. I am General Counsel for the North Dakota School Boards Association. NDSBA represents all North Dakota public school districts and their boards. NDSBA stands in opposition to SB 2260.

Before I relay our specific concerns, we would first note that we are in favor of transparency in our schools. Obviously, there are times when transparency may not be appropriate (e.g., certain personnel matters, student discipline matters, and other matters enumerated in NDCC chapter 44-04, etc.), but as a general principle, transparency in our schools fosters trust and is something every school should strive to meet. While NDSBA and our members understand the desire to protect the rights of parents, this legislation goes too far. It would allow parents to have immediate access to curriculum and instructional materials, which could be harmful to students. Parents should not have the right to interfere with the education of other children. This legislation would also make it more difficult for teachers to do their jobs. They would have to spend more time dealing with individual parents and less time teaching.

Initially, my testimony will focus on Section 2 of the bill, which requires the board of a school district to develop and adopt a policy to promote the involvement of parents. Let me first say that SB 2260 correctly affirms a parent or guardian's right to take the most active role in their children's education. We support those rights, and our members have policies in place that form the foundation of the productive interaction between parents, teachers, administrators, and elected board members. Public school districts in North Dakota have long supported and encouraged parental involvement and engagement in their student's education. Indeed, school districts are already required to adopt a parental and family engagement policy under the federal Every Student Succeeds Act (ESSA). This policy is very detailed to achieve parent and family engagement on a district-wide level, as well as in each school within the district. It requires, among other things, joint development between the district, parents and families of a district-wide plan detailing the actions the district will take to ensure involvement of parents and families in school programs. The policy requires annual evaluation of the district plan to ensure effectiveness and addresses how to build the capacity of parents and families with training and resources. These are just a few things

the policy covers. In addition to the parent and family engagement policy, school boards also adopt policies addressing:

- Curriculum design and adoption, including a complaint procedure available to parents and patrons to challenge curriculum adopted by the board and instructional materials used by teachers in the school system.
- Access to student records and information and the limits of disclosure of such information absent parental consent.

SB 2260, however, places an undo, unnecessary burden on public school teachers and administrators to immediately respond to parent requests for information regardless of the breadth or timing of the request. The bill requires administrators and teachers to provide parental access to each and every instructional material or resource to be used in the classroom at least 7 days prior to the start of the class. The bill requires teachers regardless of grade level or subject area to create a syllabus that must include all topics and subjects to be taught, a list of all curriculum and materials to be used, and all educational activities that are part of the class. As a result, teachers will be required to plan out the entire semester and/or school year, which would limit their ability to incorporate real-world events as they are happening. The bill also requires teachers to permit a parent to review, copy AND record all class materials at least 3 days before use in the class. It is unclear from the bill exactly what "record" means. Parents already have access to curriculum, as well as instructional and resource materials used by teachers under existing law and board policies. Under this bill, parents will be allowed to disrupt the school operations by submitting burdensome requests to the school which must be responded to within a very short amount of time. On top of all of this, school districts would be required to adopt procedures to inform parents of all of these rights relative to their own child. Educators are trained to do what they do. And that seems to be incredibly disregarded in this bill and by some in this Legislature on top of all of the other challenges that educators are faced on a day-to-day basis.

SB 2260 provides parents with the right to sue the school district if a teacher or administrator fails to comply with these burdensome requirements and parents would be able to recover their costs and attorney's fees. This will encourage increased litigation against school districts which will need to be defended by taxpayer dollars and will negatively impact public school budgets and the provision of quality education in North Dakota.

Section 1 of the bill also presents several concerns. First, Section 1 lists several rights of a parent that may not be obstructed or interfered with by the state or any political subdivision, which includes school districts. The language of some of the provisions in Section 1 present practical problems in the school environment. For example, subdivision 3, subpart (i) provides that a parent has the right to consent in writing before any governmental entity makes a video or voice recording of a child. Schools already send out an annual FERPA notice, which among other things, informs the parent of student information that is designated as directory information

that may be disclosed without parental consent *unless* the parent opt out. Directory information often includes photographs and videos of the student. Again, this notice is sent out each school year and provides an opportunity to opt out. The language in the bill is unclear whether this annual notice will suffice or if a parent must consent in advance to each and every time a video or recording is made of their child, even if the child is not the focus of the video or recording. Would this prevent a school district from allowing the media to record or film a basketball game unless consent is given for each student on both teams before each game? Will this apply to any video or recording where the child appears, even if the child is just a bystander?

Another concern involves subdivision 3, subpart (j), which provides that a parent has the right to be notified promptly of suspected child abuse or neglect. What happens if the parent is the suspected abuser? North Dakota law designates school administrators, teachers and school counselors as mandatory reporters of suspected child abuse and neglect and includes restrictions regarding disclosure of information to third-parties, including a person responsible for the child's welfare. Indeed, there is a bill proposed currently that requires regular training on mandatory reporting requirements. This part of the bill may interfere with those obligations or at least presents confusion as to how it will all work together.

For these reasons, NDSBA strongly urges a Do Not Pass recommendation on SB 2260, and I am happy to stand for any questions. Thank you for your time.