



SB 2260
Testimony of Amy De Kok
Senate Judiciary Committee
January 24, 2023

Chair Larson 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.

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. Public school districts in North Dakota have long supported and encouraged parental involvement and engagement in their student's education, and school boards have adopted school policies reinforcing this idea. Indeed, school districts are already required to adopt a parental and family engagement policy under federal law, namely the 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.

The policy requirements listed in Section 2 of the bill are duplicative of these existing policies and will likely present an undue burden on the daily operations of school districts. It would require each teacher to prepare a detailed syllabus for each class (regardless of the grade level of the student), a procedure to allow parents to review all curriculum and teacher training materials, the right to "review, copy and record" all curriculum and teacher training materials for each class, and an opportunity to meet with the teacher, the principal or other representative to discuss these materials. The timeframes listed in the bill could be burdensome on individual teachers and administrators and could interrupt school operations. The open records laws in North Dakota already

provide a means and method to request this information from public school districts. This includes school board policies, regulations, procedures, and instructional materials. Under the open records laws, anyone from anywhere may, in pretty much any manner, request records from a public school district, including electronically stored records. These records must be provided within a reasonable amount of time. Reasonableness will depend on the circumstances, including the breadth of the request and the type of records requested; however, what is reasonable is usually measured in a few days, not weeks. The well-established procedures provide a school district flexibility necessary to respond to requests for information.

Section 2 also includes a provision, starting on page 5, line 15, which allows a parent to make a written request for information referenced in Section 2 of the bill from the school superintendent. The superintendent must then respond with the requested information within 10 days. This is regardless of the breadth of the request, or the volume of information requested. If this bill is passed in its current form and a superintendent, for example, receives a request for copies of all instruction materials used by 3rd grade teachers, the superintendent would be required to drop everything and devote all of their time and attention to fulfill the request within the 10-day period. This doesn't even factor in other school staff who may need to assist in responding to the request. We believe this 10-day response period could prove problematic in many circumstances. Again, NDSBA believes the open records laws already provide a means of requesting information from a public entity and is better suited to cover these types of requests. Also, it is unclear how this provision works with the timeframes outlined in the policy requirements listed in Section 2 of the bill.

Finally, I wanted to address a few other concerns with the bill. 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 before each game? Will this apply to any video or recording where the child appears, even if the child is just a bystander? What about school surveillance cameras? If a parent does not provide consent, would schools be able to operate cameras in hallways, parking lots and elsewhere on school

property? Schools rely on these cameras to monitor and ensure the safety of the students and staff. 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. 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 urges a Do Not Pass recommendation on SB 2260, and I am happy to stand for any questions. Thank you for your time.