

Date: August 1, 2022

To: Dr. Barbara M. Jenkins, Superintendent
Dr. Maria Vazquez, Deputy Superintendent

From: John C. Palmerini, Deputy General Counsel
Office of Legal Services

Recipients: Cabinet, Area Superintendents, Associate Superintendents, Executive Area Directors-on-Assignment, Principals and Assistant Principals

Subject: **House Bill 1557 Guidance**

Principals: Please distribute to teachers during pre-planning.

We understand the stress recent legislation has placed on teachers and principals. The following is our best interpretation to date of House Bill 1557, the “Parental Rights in Education” statute. This interpretation is being shared for your understanding and guidance. We will provide further guidance as it is received from the State. The Bill made the following changes:

The School Board is required to “adopt procedures for notifying a student’s parent if there is a change in the student’s services or monitoring related to the student’s mental, emotional, or physical health or well-being and the school’s ability to provide a safe and supportive learning environment for the student. The procedures must reinforce the fundamental right of parents to make decisions regarding the upbringing and control of their children by requiring school district personnel to encourage a student to discuss issues relating to his or her well-being with his or her parent or to facilitate discussion of the issue with the parent. The procedures may not prohibit parents from accessing any of their student’s education and health records created, maintained, or used by the school district...”

- A change in student services or monitoring related to the student’s mental, emotional or physical health or well-being (as opposed to a single conversation with the student on his or her mental, emotional or physical health or well-being) includes:
 - New scheduled mental health counseling
 - Scheduled behavior intervention
- A change in monitoring includes:
 - School counselor follow up services
 - Follow up by the teacher or other school personnel after the student discloses personal information to the teacher or other school personnel.
- If a student discloses personal information, teachers must encourage the child to discuss such information with their parents.
- The District “may not adopt procedures or student support forms that prohibit school district personnel from notifying a parent about his or her student’s mental, emotional, or physical health

or well-being, or a change in related services or monitoring, or that encourage or have the effect of encouraging a student to withhold from a parent such information. School district personnel may not discourage or prohibit parental notification of and involvement in critical decisions affecting a student's mental, emotional, or physical health or well-being.”

- If a student makes a disclosure to a teacher about the student’s mental, emotional or physical health or well-being, and if the parent asks the teacher if the student has disclosed such information, then the teacher must disclose such information to the parent.
 - A teacher should inform the student that if the teacher is asked about the conversation by the student’s parents, the teacher will have to disclose the information.
 - The School District is allowed to adopt procedures that permit school personnel to withhold information from a parent “if a reasonably prudent person would believe that the disclosure would result in abuse, abandonment or neglect...” Those terms are defined in Management Directive A-4, a link to which is found [here](#).
- The Bill states “Classroom instruction by school personnel or third parties on sexual orientation or gender identity may not occur in kindergarten through grade 3 or in a manner that is not appropriate or developmentally appropriate for students in accordance with state standards.”
 - Based upon a memorandum dated June 6, 2022, from DOE “This provision takes effect on July 1, 2022, only for kindergarten through grade 3. For other grades, it takes effect only after the Florida Department of Education (Department) develops rules or guidance on age-appropriate and developmentally appropriate instruction.”
 - The State has further refined the guidance in its Motion to Dismiss filed in a lawsuit seeking to invalidate H.B. 1557. The guidance from the Motion to Dismiss is quoted below:
 - The Bill equally prohibits instruction on heterosexuality and all other types of sexuality: “The statute limits classroom instruction on ‘sexual orientation or gender identity.’ Nothing in that language ‘aims at sexual orientations and gender identities that differ from heterosexual and cisgender identities.’ To the contrary, instruction on ‘the normalcy of opposite-sex attraction’ would equally be ‘instruction on sexual orientation.’ The statute is neutral on the proscribed subjects.” A “cisgender” identity is when a person’s gender identity corresponds with the person’s birth sex.
 - “There is no merit, for example, to the suggestion that the statute restricts gay and transgender teachers from ‘put[ting] a family photo on their desk’ or ‘refer[ring] to themselves and their spouse (and their own children).’ Those

actions are not ‘instruction,’ which is ‘the action, practice, or profession of teaching.’”

- The Bill “does not prohibit intervention against LGBTQ bullying, participation in extracurricular activities (such as Gay-Straight Alliances or book fairs) and even after-hours tutoring, among many other examples.”
 - The Bill restricts “instruction” on sexual orientation and gender identity, not mere discussion of those subjects. In fact, an earlier version of the Bill prohibited classroom “discussion” about sexual orientation and gender identity, but the prohibition of classroom “discussion” rather than “instruction” on sexual orientation and gender identity did not make it into the final Bill.
 - Teachers are “free to ‘respond if their students discuss ... their identities or family life,’ ‘provide grades and feedback if a student chooses ‘LGBTQ identity’ as an essay topic and answer ‘questions about their families.’”
 - The State said “no one should think that H.B. 1557 prohibits incidental references in literature to a gay or transgender person or to a same-sex couple. Such references, without more, are not ‘instruction on’ those topics. Nor are ‘references’ to a student’s ‘mom’ and ‘dad’ ‘instruction’ on cisgender identity or heterosexual orientation. Such references could be to a person of any sexual orientation or gender identity.”
 - The State said “typical class participation and schoolwork are not ‘instruction,’ even if a student chooses to address sexual orientation or gender identity.”
- Based upon this guidance, the mere wearing of an “Ally” lanyard or rainbow symbols on clothing or in classrooms, or the display of “safe space” stickers in the classroom are not “classroom instruction” as defined by the State in its Motion to Dismiss the lawsuit seeking to invalidate House Bill 1557.
 - Employees should note School Board Policy GBI, which states that no employee shall “use the authority of his/her position to secure support or opposition for any candidate, party or issue in an election.” Employees are also prohibited from “engaging in passive political expressions, including but not limited to wearing a lapel pin, campaign button, hat, or political advertising on items of clothing.”
 - Under the Bill, if a parent notifies a principal of concerns that the provisions of this Bill have been violated, the Principal must attempt to resolve those concerns within seven (7) calendar days after notification by the parent. If a parent invokes this procedure, principals shall contact their area superintendent/chief/associate superintendent, who will involve the Office of Legal Services to provide guidance on resolution of the concerns. If the parent is not satisfied with the principal’s determination and escalates the concerns to the appropriate area superintendent/chief/associate superintendent, the concern must be resolved to the parent’s



satisfaction within 30 days after notification, or the appropriate area superintendent/chief/associate superintendent must provide a statement of the reason(s) for not resolving the concerns.

- The District will provide further guidance as such guidance is received from the State. In the interim, should you have any questions, please feel free to call the Office of Legal Services at (407) 317-3411.