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February 10, 2022

Chairman Thiesfeldt and members of the Assembly Committee on Education,

Thank you for the opportunity to testify today on Assembly Bill 963, the parent bill of rights legislation introduced by Rep. Gundrum and Sen. Darling. My name is Libby Sobic and I am an attorney and Director of Education Policy at the Wisconsin Institute Law & Liberty. WILL is a non-profit law and policy organization. Over the last several years, we have represented public school parents as they navigated their public-school administrations while fighting for the best interests of their children.

AB 963 addresses specific obstacles that public-school parents navigate daily. In response to these challenges, this bill creates a statutory and legal right for parents and guardians to make the best decisions for their individual child and their education.

In support of this legislation, my testimony today will be broken into two sections. The first will address specific provisions of the bill with examples of issues from when WILL has either represented a public-school parent or issues that have been publicized by the media. The second half of my testimony will discuss the impact of this legislation; specifically, how it empowers parents and taxpayers.

1) **AB 963 is a response to Wisconsin parents' experiences with the public-school system.**

Unfortunately, local public schools have established policies and procedures that undermine Wisconsin's parental rights to make decisions about their child's education, healthcare and overall welfare. AB 963 is a response to specific concerns raised by Wisconsin parents, including:

The right to determine the names and pronouns used for the child while at school

WILL has two active lawsuits representing public-school parents against the Madison Metropolitan School District and Kettle Moraine School District regarding the districts' policies regarding gender pronouns and student nicknames. Both districts, as well as others across the state, have a policy that requires teachers and school administrators to treat children as though they are the opposite sex while they are at school by using any name and pronouns they want, without parental notice or consent, and even if the parents disagree. In addition to our clients, we've been contacted by at least three more parents from around the state with children who have secretly transitioned at school without their knowledge or consent.



Included in my testimony today is a letter from our client, a mom whose daughter attended Kettle Moraine School District and was subjected to this harmful policy.¹

These policies are harmful to our clients' children and all public-school children. Many experts in this area believe that transitioning to a different name and pronouns during childhood, when reinforced by respected adults, can become self-reinforcing and do long-term harm. Gender dysphoria is also a serious medical condition. If a child is experiencing gender dysphoria, they need access to medical care and psychotherapy support that cannot be provided within the public-school systems. To withhold this information from parents is without a doubt harmful to the overall wellbeing of the child because it may delay access to critical medical care that is needed.

AB 963 ensures that schools will defer to parents on this serious issue, and that parents will no longer be kept in the dark about important medical decisions regarding their child.

The right to review educational materials and access to learning materials

This legislation empowers parents to have access to the learning materials used in the education of their child. Parents have this right under the state's public records laws and the pupil rights amendment, a federal law. However, there has been news story after story about parents attempting to get information from their local school districts without avail due to barriers such as long delays or expensive fees. Other parents have been denied access by their district.

For example, Fox6 News Milwaukee covered this issue in April 2021 and interviewed parents attempting to get information from their children's public schools.² Specifically, the Waukesha parent submitted a public records request to the district about student performance data, such as hours of absences and average GPA, etc. But the district asked for over \$500 to cover location fees.

WILL faced similar challenges when submitting records for classroom materials. When WILL submitted narrowly tailored requests for key terms for two high-school classes at districts across the state, fees ranged from \$351 (from Appleton Area School District) to over \$10,000 (from Madison Metropolitan).³ Even worse, some districts, like Sheboygan Area School District, never responded to our public records request. Classroom materials should not be inaccessible due to high fees or districts ignoring public records laws.

This legislation ensures that parents have access to materials related to their child's learning. This provides vital access as parents engage with their child's teachers and school administrators.

¹ See attached testimony from our client in *B.F. v. Kettle Moraine School District*. The family sought professional and medical support for her, and after extensive research, decided that immediately transitioning would not be in her best interest. But the Kettle Moraine School District refused to honor their decision. The principal informed them that it was district policy that if their daughter returned to school, school staff would refer to her using whatever name and pronouns she wanted while at school, even over her parents' objection.

² Fox 6 News, April 22, 2021, "So you want information about your child's school; got \$500?" <https://www.fox6now.com/news/so-you-want-information-about-your-childs-school-got-500>

³ Opening the Schoolhouse Door, WILL Report, https://will-law.org/wp-content/uploads/2021/05/OpeningTheSchoolhouseDoor_FINAL.pdf



Right to be notified about surveys to students

AB 963 also puts some existing federal rights into state law for public-school parents. This is important because there have been recent examples of districts violating parents' federal rights.

Federal law protects students from being required to participate in any sort of "survey, analysis, or evaluation" that divulges information concerning, among other things, political affiliations or beliefs of the student or the student's parent; legally recognized privileged relationships, such as that between a physician and a patient; and religious practices, affiliations, or beliefs of the student or student's parent." *20 U.S.C. § 1232h(b)(1), (6), (7)*. Federal law also requires that any survey on these otherwise-prohibited subjects require prior parental notice and consent. *20 U.S.C. § 1232h(c)(2)(C)(ii)*

In August 2021, WILL sent a letter⁴ to Milwaukee Public Schools when a parent shared that a geometry teacher at Rufus King High School issued a survey on the first day of classes asking students about their vaccination status and requiring that those who were not vaccinated provide the teachers with reasons why they were not. Neither the teacher nor the school complied with federal law when issuing this survey to high-school students. AB 963 includes a provision that will ensure that public schools are following federal law and providing important advanced notice to parents.

The right to opt-out and be notified about educational topics

In Wisconsin, as well as other states across the country, parents have been leading the discussion about curriculum and parents' concerns about age-appropriate material used in the classroom. This legislation does not require the removal of controversial curriculum. Rather this legislation provides parents with options to decide their own child's educational experience and learning materials based on whether that material violates the parent's religious or personal convictions.

Existing law gives parents a limited ability to opt their child out of some requirements. Specifically, parents may opt-out of human growth and development courses and state-manded assessments. Districts may have an additional policy that allows parents to opt-out of classes but that is not a consistent policy across the state. AB 963 provides all parents access to information about what is being taught in the classroom and the ability to decide whether it is appropriate for their child in accordance with their beliefs.

⁴ WILL letter to Milwaukee Public Schools regarding survey, August 27, 2021, <https://will-law.org/wp-content/uploads/2021/08/2021-08-27-Letter-to-MPS-re-vaccination-quiz-FINAL.pdf>



The right to visit the child at school during school hours, consistent with school policy

WILL represented a parent who wanted to visit her child’s classroom at Kenosha School of Technology Enhanced Curriculum in September 2021. Her son was struggling academically and telling his mother of disruptive behavior in the classroom. In an attempt to better understand her son’s experience and struggles, she made a request to visit the classroom consistent with school board policy and federal law. But after several requests to observe her son’s classroom in person, the district continued to deny our client. Only after months of repeated attempts and a letter from WILL⁵ explaining the federal law’s explicit requirement for districts to have a policy for parents to “observe classroom activities” did the district permit our client access.⁶

This provision will ensure that school administrators are following federal law, including implementing their own policies for parents to visit the child during school hours.

The right to engage with local school-board members

Without a doubt, the pandemic has empowered parents to ask questions to their local districts in a way that many school boards and school administrators have never experienced before. Unfortunately, there continues to be a power struggle of sorts between districts and parents.

As school boards decide how to best engage parents and taxpayers, it is important to remember that they must remember that parents do indeed have a right to engage school-board members in the district where their child attends school. However, parents do not have the right to speak at all times or in all places. The state and districts can impose reasonable time, place and manner limitations on parent speech. This provision ensures that districts meet this requirement.

The right to be notified about student safety and incidents of violence

AB 963 addresses the important issue of student safety. Specifically, the legislation requires a school to notify parents about security updates, disciplinary actions taken against their child and if crimes or acts of violence occur on a school campus.

Student safety is an important topic to parents and students. We know this because a multi-year survey by University of Wisconsin-Milwaukee asks Milwaukee Public School students, among other things, about their feelings of safety across a number of different dimensions including in hallways, classrooms, bathrooms, and walking to school.⁷ Many middle and high-school students reported that they felt “not safe” in a number of locations in and around their school.⁸

⁵ WILL letter to Kenosha Unified School District regarding access to classroom, November 3, 2021, <https://will-law.org/wp-content/uploads/2021/11/Letter-to-KUSD-re-Parental-Access-to-Classrooms-FINAL.pdf>

⁶ WILL resolves issue with Kenosha Unified School District, November 8, 2021, <https://will-law.org/kenosha-schools-to-allow-parent-to-observe-classroom-after-will-letter/>

⁷ Using School Climate data to Improve Milwaukee Public Schools, <https://www.udisp.com/schools>

⁸ 2020 survey results with more than 50% of high school and middle school student responses: Audubon High School, Milwaukee High School of the Arts, and Roosevelt Middle School.



This matches the trend for MPS schools on average that students reported feeling “not safe” while at school.⁹

The importance of AB 963 provisions was also highlighted by a recent news reports out of Milwaukee. WISN 12 reported that the district failed to notify parents about the shooting of five individuals, including several students, outside of Rufus King High School last week.¹⁰ Instead, many parents found out about the incident on the news. But this issue is not specific to just Milwaukee.

The University of Wisconsin-Milwaukee data is informative. Unfortunately, not every public-school parent has access to this sort of the information about the overall safety environment of their child’s school. Particularly in our urban schools, student safety is often a primary concern – even above things like academics. This legislation will help ensure that parents have the information they need in evaluating school safety.

2) AB 963 creates a statutory parental right to direct the education of their child.

This legislation creates a legal standard for state infringement on fundamental rights of parents and guardians through specific items enumerated in the bill. It also gives parents and guardians a way to hold the district accountable for their actions if the district is found to fail to meet the requirements of this legislation. As explained in my testimony, these provisions are important because districts are not meeting these requirements today.

This legislation includes protections against an individual who may attempt to use these fundamental rights in an effort to harm a child. School administrators and teachers continue to be mandated reporters for any concerns of harm towards the child and courts continue to have the power to restrict or terminate parental rights.

While the hope is that local school districts would be responsive to parents’ questions and concerns, our examples today show that all too often that is not the case. This legislation will help change the dynamic – empowering parents to know more information about their child and ensuring that the district is treating the parents as an equal partner in the education of their child.

I would be happy to answer any questions.

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Wisconsin Institute for Law & Liberty

⁹ 2020 survey results MPS average: MPS school average for “in the hallways at school” was 11% students reporting feeling “not safe.” MPS school average for “in the bathrooms of the school” was 15% of students reporting feeling “not safe.” MPS school average for “outside around the school” was 19% of students reporting feeling “not safe.”

¹⁰ WISN 12, February 7, 2022, “Parents: District failed to properly communicate shooting outside school,” <https://www.wisn.com/article/rufus-king-parents-say-district-failed-to-properly-communicate-shooting-outside-school/39007319#>