MODEL POLICY #29

SOCIAL EMOTIONAL LEARNING INSTRUCTION AND PARENTAL NOTIFICATION

Why Adopt This Policy?

Wisconsin Statue 118.01(2)(d) requires school districts to provide an instructional program designed to address a number of topics including, but not limited to topics that are currently referred to as "social emotional learning" (SEL). It includes things like the "skills needed to cope with social change," the "ability to construct personal ethics and goals," and "knowledge of morality and the individual's responsibility as a social being." Some of these topics have become controversial because of the potential to import politics into education and to permit teachers to discuss issues like gender identity and sexual orientation, "diversity, equity, and inclusion" topics, and mental health discussions that border on psychological counseling of students, among others.

Many parents believe that district personnel "teaching" their children about the "right way" to think about these topics interferes with the parents' right to guide their children's values and upbringing. Most of the curriculum required by Wis. Stat. 118.01(2)(d) is non-controversial but some of it has become extremely controversial. The Board believes that the best way to deal with this is to require transparency and to allow parents to opt out of having their children participate in lessons that deal with topics where the parents disagree with the approach being taken in the classroom. Having a policy on this issue that requires transparency and allows full opt-out rights allows the District to provide a curriculum which fully complies with the Wisconsin statute in a way that protects parents' rights.

Note: *This policy works in coordination with a District's Human Growth and Development Curriculum policy and its Controversial Issues policy. WILL has also published Model Policies for those two subjects.*

Policy

The Board affirms the importance of having an appropriate curriculum for the personal development topics addressed in Wis. Stat. 118.01(2)(d). This includes prioritizing character development and positive behavioral outcomes. The Board also affirms the importance of making sure that parents are informed of such curriculum and that parents have the opportunity to opt out of such curriculum if the parents believe that it is inconsistent with the values they wish to teach their children.

To uphold these commitments, the District shall provide parents with an outline of any teaching or discussion of the topics in Wis. Stat. 118.01(2)(d) that will be used in their child's grade level as well as information regarding how the parent may inspect the complete program and instructional materials. Prior to use in the classroom, the program shall be made available to parents for inspection.

For all units or class providing instruction on the topics in Wis. Stat. 118.01(2)(d), parents shall be provided notice in advance of the instruction and given the opportunity to opt their child out. If the topics are covered in a course designated to cover such topics (such as Human Growth and Development), then the outline for such classes shall be provided for the course at the beginning of the term and parents shall have the opt-out rights set forth in the District's Human Growth and Development Policy. If such topics are to be addressed in a class not designated to cover such topics, then prior to including any curriculum or discussion of such topics in such classes, a designated, parental notice shall be provided in accordance with the District's Controversial Issues policy in advance of any instruction on such issues and the parents have the right to opt out their children from such lessons.

Also, the District Administration shall develop a plan for monitoring curriculum intended to comply with Wis. Stat. 118.01(2)(d) periodically, and the overall program evaluation method of the district shall be reviewed at least annually and revised as appropriate, to assess compliance with this policy. The District Administration shall report to the Board annually on its evaluation. Additionally, District Administration shall establish feedback mechanisms to allow parents and students to report any concerns or instances of non-compliance. Violations of this policy will be addressed, which may include revision or removal of non-compliant content and disciplinary measures for those responsible for its inclusion.

For purposes of this policy, the term "parent" includes a legal guardian or other person who is legally responsible for the welfare of the child (such as a grandparent or stepparent with whom the child lives). Rights under this policy transfer from the parents to a student who is 18 years old or emancipated under state law.

Legal Analysis — National

In order for a federally qualified health center to receive funds, any services provided by a psychologist or social worker must be done by someone who is legally authorized to perform such services under State law or the State regulatory mechanism provided by the law of the State in which such services are performed. 42 C.F.R. § 405.2450. Federally, several bills addressing Social Emotional Learning have been brought over the last several years in Congress, but none have passed so far. *See* 2011 H.R. 2437; 2015 H.R. 497; 2015 H.R. 850.

Federal law also allows parents to receive notice and an opportunity to opt his or her student out of certain surveys and polls, specifically regarding mental and psychological problems, anti-social or demeaning behavior, and more. 34 C.F.R. § 98.4. Under this same federal law, parents have a right to inspect materials that will be used in their children's education. 34 C.F.R. §98.3. Additionally, parents have the right to direct the upbringing of their children, and since SEL instruction is so closely tied with the ethics and values that families instill in their children during their childhood, parents should be given the option to opt out of such instruction. *See Pierce v. Society of Sisters*, 268 U.S. 510, 534-35 (1925).

Legal Analysis — Wisconsin

In Wisconsin, it is required that schools teach "personal development" to students. Wis. Stat. § 118.01(2)(d). However, no person may engage in the practice of psychology, which includes counseling, management of mental and emotional disorders or disability, or social work in Wisconsin without a license. Wis. Stat. §§ 455.02(1m)(a), 455.01(5)(a), 118.19(10)(b) and (c); *See also* Wis. Admin. MPSW § 20.02. Federal law allows parents to receive notice and an opportunity to opt his or her student out of certain surveys and polls, specifically regarding mental and psychological problems, anti-social or demeaning behavior, and more. 34 C.F.R. § 98.4. Under this same federal law, parents have a right to inspect materials that will be used in their children's education. 34 C.F.R. §98.3. Finally, parents have the right to direct the upbringing of their children, and since SEL instruction is so closely tied with the ethics and values that families instill in their children during their childhood, parents should be given the option to opt out of such instruction or it could be an infringement on their rights. *See Pierce v. Society of Sisters*, 268 U.S. 510, 534-35 (1925).

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