

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 374

Introduced by Murman, 38; Albrecht, 17; Brewer, 43; Clements, 2; Erdman, 47; Halloran, 33; Hansen, B., 16; Holdcroft, 36; Lippincott, 34; Moser, 22.

Read first time January 12, 2023

Committee: Education

- 1 A BILL FOR AN ACT relating to schools; to adopt the Parents' Bill of
- 2 Rights and Academic Transparency Act; to eliminate provisions
- 3 relating to parental involvement in public schools; to provide
- 4 operative dates; and to outright repeal sections 79-530, 79-531,
- 5 79-532, and 79-533, Reissue Revised Statutes of Nebraska.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 13 of this act shall be known and may be
2 cited as the Parents' Bill of Rights and Academic Transparency Act.

3 Sec. 2. For purposes of the Parents' Bill of Rights and Academic
4 Transparency Act:

5 (1)(a) Activity means any assembly, guest lecture, presentation, or
6 other educational event that is facilitated by the school or school
7 district and in which participation of the student body is required or a
8 majority of students in a given grade level participate, including those
9 conducted by outside individuals or organizations.

10 (b) Activity does not include a student presentation or a teacher's
11 lesson plan;

12 (2) Inappropriate for minors means that an item of library content:

13 (a)(i) Is designed to appeal or pander to the prurient interest;
14 (ii) depicts, describes or represents, in a manner patently offensive
15 with respect to what is suitable to minors, an actual or simulated sexual
16 act, sexual contact, or a lewd exhibition of the genitals or post-
17 pubescent female breast; and (iii) lacks serious literary, scientific,
18 artistic, or political value for minors;

19 (b) Contains excessive profanity; or

20 (c) Contains excessive violence;

21 (3)(a) Learning materials means any material used for student
22 instruction, regardless of format, including, but not limited to,
23 textbooks, reading materials, curriculum, syllabi, course calendars,
24 teacher manuals, outlines, handouts, presentations, videos, audio
25 materials, digital materials, and websites and other online applications.

26 (b) Learning materials does not include academic assessments or
27 tests, a teacher's individual lesson plans, or plans or materials that
28 are specific to an individual student, such as an individualized
29 education plan, an individual plan of study, or a plan adopted pursuant
30 to the requirements of section 504 of the federal Rehabilitation Act of
31 1973, 29 U.S.C. 794, or Title II of the federal Americans with

1 Disabilities Act of 1990, 42 U.S.C. 12131 to 12165;

2 (4) Library content or item of library content means any book,
3 magazine, newspaper, pamphlet, poster, print, picture, figure, image,
4 description, motion picture, film, record, video or any other written
5 communication made available to students in the school library;

6 (5) Parent means a natural parent, a stepparent, an adoptive parent,
7 a legal guardian, or another legal custodian of a child;

8 (6) Parent transparency portal means the Internet-based transparency
9 tool provided for in section 6 of this act;

10 (7) Parental Review Recommended means that, for a given item of
11 library content, the average person would find such item to be
12 inappropriate for minors. In making such determination, the item of
13 library content shall be judged:

14 (a) By applying contemporary community standards;

15 (b) By taking the item as a whole; and

16 (c) With respect to the minors that would be reading or consuming
17 such item;

18 (8) School means any public school offering instruction in
19 elementary or high school grades which is supported by public funds and
20 wholly under the control and management of the State of Nebraska or any
21 of its political subdivisions; and

22 (9) Used for student instruction means any material or activity that
23 is assigned, distributed, or otherwise presented to students in any:

24 (a) Course for which students receive academic credit; or

25 (b) Educational capacity in which participation of the student body
26 is promoted or required by the school or in which a majority of students
27 in a given grade level participate.

28 Sec. 3. Every parent of a child in this state shall have a
29 fundamental right to direct the upbringing, education, care, and mental
30 health of the parent's child. The following rights are reserved to each
31 parent of a child in this state:

1 (1) The right to direct the education and care of such child;

2 (2) The right to direct the upbringing and the moral or religious
3 training of such child;

4 (3) The right to retain the primary role in a child's education, to
5 obtain critical information about what is being taught or provided in the
6 classroom, and to take action when a parent feels that the quality or
7 content of a child's education does not align with the values and
8 expectations the parent expects and deserves;

9 (4) The right to request, access, and inspect all written and
10 electronic records maintained by a school relating to such child;

11 (5) The right to be informed of and inspect the curriculum, learning
12 materials, and any other materials that are made available or taught to
13 such child in the child's school;

14 (6) The right to attend publicly designated meetings of the school
15 board and the right to question and address school officials during
16 designated public comment periods or through letters, electronic
17 communications, or in-person meetings;

18 (7) The right to make healthcare and medical decisions for such
19 child, including the right to make decisions regarding vaccinations and
20 immunizations as provided in section 79-221;

21 (8) The right to expect that no school or school employee will
22 compel a teacher, educator, or student to adopt, affirm, adhere to, or
23 profess ideas in violation of Title IV or Title VI of the federal Civil
24 Rights Act of 1964, as amended. Such ideas include, but are not limited
25 to:

26 (a) That individuals of any race, ethnicity, color, or national
27 origin are inherently superior or inferior;

28 (b) That individuals should be adversely or advantageously treated
29 on the basis of individual race, ethnicity, color, or national origin; or

30 (c) That individuals, by virtue of their race, ethnicity, color, or
31 national origin, bear collective guilt and are inherently responsible for

1 actions committed in the past by other members of the same race,
2 ethnicity, color, or national origin;

3 (9) The right to expect that no learning materials, course of
4 instruction, activity, or unit of study offered by a school will direct
5 or otherwise compel a student to personally affirm, adopt, or adhere to
6 any of the ideas listed in subdivision (8) of this section;

7 (10) The right to expect that no course of instruction, unit of
8 study, professional development course, or training program will direct
9 or otherwise compel a teacher or educator to personally affirm, adopt, or
10 adhere to any of the ideas listed in subdivision (8) of this section;

11 (11) The right to expect that no school employee, when acting in the
12 course of such employee's official duties, will organize, participate in,
13 or carry out any act or communication prohibited by section 10 of this
14 act;

15 (12) The right to expect that each teacher and educator of such
16 child will endeavor to present facts without distortion, bias, or
17 personal prejudice;

18 (13) The right to expect that each teacher and educator of such
19 child shall work to eliminate coercion that forces teachers and educators
20 to support actions and ideologies that violate individual professional
21 integrity; and

22 (14) The right to assert any other inalienable or constitutional
23 right that is reserved to the parent and the child pursuant to state or
24 federal law.

25 Sec. 4. On or before July 1, 2024, each public school district in
26 the state shall develop and adopt a policy to guarantee parents' right to
27 be involved in their children's education. Such policy shall state how
28 the district will seek to involve parents in schools and what parents'
29 rights shall be relating to access to schools, testing information, and
30 curriculum matters. The policy required by this section shall include,
31 but need not be limited to, policies and procedures for a parent to:

1 (1) Be informed through the parent transparency portal or other
2 means of notification and have the ability to inspect any learning
3 materials, activities, curriculum, lessons, syllabi, surveys, tests,
4 questionnaires, examinations, books, magazines, handouts, and
5 professional development and training materials;

6 (2) Inspect and review any educational or health records maintained
7 by the school that pertain to the parent's child;

8 (3) Have an opportunity to object to any learning material or
9 activity on the basis that such material or activity harms the child or
10 impairs the parent's firmly held beliefs, values, or principles and
11 withdraw such child from the activity, class, or program in which the
12 material is used;

13 (4) Have an opportunity to request that the school designate any
14 item of library content as Parental Review Recommended as provided in
15 section 8 of this act. Such policies and procedures shall require
16 consideration of each such request and that if a request is upheld, such
17 item of library content shall be designated in accordance with the
18 provisions of section 8 of this act; and

19 (5) Have an opportunity to challenge the educational benefit of any
20 item of library content. Such policies and procedures shall require
21 consideration of each such challenge and that if a challenge is upheld,
22 item of library content shall be removed from the school.

23 Sec. 5. The policy required by section 4 of this act shall be
24 developed with parental input and shall be the subject of a public
25 hearing before the school board before adoption by the board. On or
26 before July 1, 2025, and on or before each July 1 thereafter, the policy
27 shall be reviewed and either altered and adopted as altered or reaffirmed
28 by the board following a public hearing.

29 Sec. 6. On or before July 1, 2024, each public school district in
30 this state shall establish an Internet-based transparency tool to be
31 known as a parent transparency portal. The portal shall be accessible by

1 a prominently displayed link on the main website of the school district
2 and the main website of each school in such school district. Each school
3 district's parent transparency portal shall provide the following
4 information to the public:

5 (1) The parents' bill of rights established pursuant to section 3 of
6 this act;

7 (2) A list organized by school, grade level, and area of instruction
8 that includes the learning materials, activities, and curriculum used for
9 student instruction at any school of the school district. Such list shall
10 include the title, author, organization, website address, and any other
11 information that is necessary for the identification of such materials,
12 activities, and curriculum;

13 (3) A list organized by school, grade level, and area of instruction
14 that includes the social and emotional learning materials, activities and
15 curriculum used for student instruction at any school of the school
16 district. Such list shall include the title, author, organization,
17 website address, and any other information that is necessary for the
18 identification of such materials, activities, and curriculum;

19 (4) A link to the academic content standards adopted by the State
20 Board of Education under section 79-760.01, broken down by grade level
21 and subject matter;

22 (5) A list organized by school, grade level, and area of instruction
23 that includes the following information for each attitude or belief
24 examination referred to in section 9 of this act that is administered in
25 any school of the school district:

26 (a) A copy of each examination;

27 (b) The name of the company or entity that produces or provides the
28 examination;

29 (c) An explanation of the purposes of the data collection, how the
30 collected data is intended to be used, and whether the data will remain
31 private or be reported as aggregate data;

1 (d) An explanation of how such examination benefits student learning
2 and academic achievement; and

3 (e) An explanation of whether the school district will receive or
4 maintain the resulting data and an explanation of how the school intends
5 to use and maintain such data;

6 (6) A list organized by school, grade level, and area of
7 instruction, if applicable, that includes the professional development
8 courses, training materials, and related activities that were provided or
9 offered to any teacher or administrator of the school district. Such list
10 shall include the title, author, organization, website address, and any
11 other information that is necessary for the identification of the
12 courses, materials and activities;

13 (7) A link to the library catalog or a list of the documented
14 inventory of the resources available to students in each school library.
15 Such link or catalog shall clearly provide whether any item of library
16 content is designated as Parental Review Recommended or has been placed
17 on a review list in accordance with section 8 of this act. If an item is
18 designated as Parental Review Recommended, the link or catalogue shall
19 indicate whether such designation is due to sexual content, excessive
20 profanity, or excessive violence and shall provide a sample of the
21 material that necessitates such designation;

22 (8) Information and guidance on how a person may request and be
23 given the opportunity to review and inspect any of the learning
24 materials, activities, and information that is required to be listed or
25 referenced on the parent transparency portal. Such information and
26 guidance shall include a point of contact at the school district and at
27 each school for the purpose of making a request for such review;

28 (9) The school district's policies, procedures, and processes under
29 the School Safety and Security Reporting System Act; and

30 (10) The school district's policies adopted pursuant to section 4 of
31 this act.

1 Sec. 7. (1)(a) Before each June 30, a school district shall post on
2 the parent transparency portal any learning materials, activities,
3 curriculum and any other information required to be listed or provided
4 pursuant to section 6 of this act if such school district knows that such
5 materials, activities, curriculum, or information will be used during the
6 upcoming school year. For any learning materials, activities, curriculum
7 or other materials that are not listed or provided on the parent
8 transparency portal by June 30, the school district shall cause any such
9 materials, activities, curriculum, or information to be listed or
10 provided on an ongoing weekly and monthly basis as such materials,
11 activities, curriculum, or information is presented or provided to
12 students.

13 (b) For the purpose of making ongoing weekly and monthly updates, a
14 school district may use collaborative online document or spreadsheet
15 software that allows multiple users to update or make additions to
16 content on an ongoing basis as long as the contents of such online
17 document or spreadsheet are made available on the parent transparency
18 portal.

19 (2) All such information shall be maintained for not less than two
20 school years following the school year for which such information was
21 provided on the parent transparency portal.

22 (3) The State Department of Education may provide guidance and
23 assistance to school districts regarding the establishment and
24 maintenance of parent transparency portals.

25 Sec. 8. (1) This section applies beginning July 1, 2024.

26 (2) A school district shall designate an item of library content as
27 Parental Review Recommended upon request by a parent pursuant to the
28 school district's policies unless the item is unequivocally not deserving
29 of such designation. A school district shall make a decision regarding
30 any such request within thirty days after receiving a request made in
31 accordance with the school district's policies. A parent may seek review

1 of an adverse decision as provided in subsection (2) of section 12 of
2 this act.

3 (3) When purchasing or obtaining an item of library content not
4 already included in the school district's library catalogue, a school
5 district shall establish a process to designate as Parental Review
6 Recommended any such items that meet the criteria for such designation
7 prior to making any such item available to students in the school
8 library. If there is doubt regarding whether such new item should be so
9 designated and such item meets the criteria for such designation, the
10 school district shall resolve such doubt in favor of designating the item
11 as Parental Review Recommended so that parents may make informed
12 decisions regarding the use of such item.

13 Sec. 9. (1) Except as provided in subsection (6) of this section, a
14 school shall not administer an attitude or belief examination to any
15 student unless:

16 (a) The parents of such student are notified in writing not more
17 than four months in advance of the administration of such examination.
18 Such notification shall include:

19 (i) A statement that the parent may refuse to consent to
20 administration of such examination for any reason and that the student
21 will not suffer adverse consequences as a result of such refusal;

22 (ii) A copy of the examination or information on how to find a copy
23 of the examination on the parental transparency portal;

24 (iii) Information on how the parent may provide written consent to
25 authorize the student to take such examination;

26 (iv) The name of the company or entity that produces or provides the
27 examination to the school;

28 (v) An explanation of the purpose of the data collection, how the
29 collected data is intended to be used, and whether the data will remain
30 private or be reported as aggregate data;

31 (vi) An explanation of how such examination benefits student

1 learning and academic achievement; and

2 (vii) whether the school will receive or maintain the resulting data
3 and an explanation of how the school intends to use and maintain such
4 data;

5 (b) Prior to such examination, the parents of such student give
6 written consent through a written or electronic signature to authorize
7 the student to take the examination. Such written consent may only be
8 accepted after a parent has received the notification required by
9 subdivision (1)(a) of this section and had an opportunity to review the
10 information contained in such notification. Written consent shall be
11 provided separately for each examination that is to be administered;

12 (c) Prior to such examination, the student is informed that:

13 (i) The student has the right to refuse to take such examination,
14 without limitation, regardless of the fact that such student's parents
15 have given written consent; and

16 (ii) That refusal to take the examination will not result in any
17 adverse consequences; and

18 (d) Prior to such examination, the school district has posted and
19 maintained a copy of the examination on the parental transparency portal
20 as provided in section 6 of this act.

21 (2) Except as provided in subsection (6) of this section:

22 (a) A parent shall have the right to refuse to consent to their
23 child taking any attitude or belief examination for any reason; and

24 (b) A student shall have the right to refuse to take any attitude or
25 belief examination at any time without limitation, regardless of the fact
26 that such student's parent may have given written consent for the
27 examination.

28 (3) No adverse consequences shall be imposed upon a parent or
29 student exercising the rights protected by this section by the school
30 district or any employee of the school district.

31 (4) No attitude or belief examination shall be incorporated or

1 embedded in any academic program, course, or curriculum offered or
2 provided by a school district.

3 (5) Except as provided in subsection (6) of this section, no
4 personally identifiable student data shall be collected through any
5 attitude or belief examination.

6 (6)(a) If any school district employee has reasonable cause to
7 believe that a student may be at risk of suicide, the school personnel
8 who are designated by the school to administer a suicide risk assessment
9 or screening tool may administer such risk assessment or screening tool
10 in accordance with the provisions of this subsection to determine whether
11 the student could be at risk for suicide. Such designated school
12 personnel may include, but is not limited to, any administrator, teacher,
13 counselor, social worker, psychologist, or nurse.

14 (b) Prior to the administration of any such risk assessment or
15 screening tool, the designated school personnel shall make a reasonable
16 attempt to verbally notify a parent of the student. Except as provided in
17 subdivision (6)(d) of this section, if such reasonable attempts to notify
18 the parent do not succeed, the designated school personnel shall notify
19 the parent following administration of the risk assessment or screening
20 tool.

21 (c) Except as provided in subdivision (6)(d) of this section, the
22 school shall provide the parent all information obtained from the risk
23 assessment or screening tool administered to the student.

24 (d) A school shall not notify a parent following administration of a
25 risk assessment or screening tool or provide information obtained from
26 such risk assessment or screening tool if the designated school personnel
27 has reasonable cause to believe that a child has been subjected to child
28 abuse or neglect and that:

29 (i) Such parent was the perpetrator of such child abuse or neglect;
30 or

31 (ii) Disclosure to such parent could endanger such student or any

1 other person.

2 (7) For purposes of this section:

3 (a) Attitude or belief examination or examination means any
4 examination, test, questionnaire, or survey that:

5 (i) Contains any questions about the personal and private attitudes,
6 values, beliefs, or practices of a student or a student's parents, family
7 members, associates, friends, or peers; and

8 (ii) Is administered to any student by any employee of a school
9 district, including, but not limited to, any administrator, teacher,
10 counselor, social worker, psychologist, or nurse;

11 (b) Child abuse or neglect has the same meaning as in section
12 28-710;

13 (c) Personally identifiable student data means student data that,
14 alone or in combination, is linked or linkable to a specific student and
15 would allow a reasonable person to identify the student with reasonable
16 certainty; and

17 (d) Student data means the following information contained in a
18 student's educational record:

19 (i) State and national assessment results, including information on
20 untested students;

21 (ii) Course taking and completion, credits earned, and other
22 transcript information;

23 (iii) Course grades and grade point average;

24 (iv) Date of birth, grade level, and expected date of graduation;

25 (v) Degree, diploma, credential attainment, and other school exit
26 information such as general education development and drop-out data;

27 (vi) Attendance and mobility;

28 (vii) Data required to calculate the federal four-year adjusted
29 cohort graduation rate, including sufficient exit and drop-out
30 information;

31 (viii) Remediation;

- 1 (ix) Special education data;
- 2 (x) Demographic data and program participation information; and
- 3 (xi) Any other information included in a student's educational
- 4 record.

5 Sec. 10. (1) No school or school employee shall compel a teacher or
6 student to adopt, affirm, adhere to, or profess ideas in violation of
7 Title IV or Title VI of the federal Civil Rights Act of 1964, including,
8 but not limited to, the following:

9 (a) That individuals of any race, ethnicity, color, or national
10 origin are inherently superior or inferior;

11 (b) That individuals should be adversely or advantageously treated
12 on the basis of individual race, ethnicity, color, or national origin; or

13 (c) That individuals, by virtue of their race, ethnicity, color, or
14 national origin, bear collective guilt and are inherently responsible for
15 actions committed in the past by other members of the same race,
16 ethnicity, color, or national origin.

17 (2) No course of instruction or unit of study offered by any school
18 shall direct or otherwise compel students to personally affirm, adopt, or
19 adhere to any of the ideas listed in subsection (1) of this section.

20 (3) No course of instruction, unit of study, professional
21 development, or training program shall direct or otherwise compel
22 teachers to personally affirm, adopt, or adhere to any of the ideas
23 listed in subsection (1) of this section.

24 (4) No school employee, when acting in the course of such employee's
25 official duties, shall organize, participate in, or carry out any act or
26 communication that would violate subsection (1) of this section.

27 (5) This section shall not be construed to prohibit:

28 (a) A teacher or school employee from discussing the ideas and
29 history of the ideas listed in subsection (1) of this section; or

30 (b) Teachers or students from discussing public policy issues or
31 ideas that individuals may find unwelcome, disagreeable, or offensive.

1 Sec. 11. (1) A teacher who refuses to teach matters prohibited by
2 section 10 of this act or to teach matter against such teacher's
3 sincerely held religious beliefs shall not be subject to an adverse
4 licensure or employment action by a state or local educational authority
5 because of such refusal.

6 (2) For purposes of this section:

7 (a) Adverse licensure or employment action means:

8 (i) To receive a negative evaluation;

9 (ii) To have a certificate revoked, suspended, or otherwise subject
10 to restriction or discipline; or

11 (iii) To have a contract refused renewal;

12 (b) Certificate has the same meaning as in section 79-807; and

13 (c) State or local educational authority means a school or school
14 district as defined in section 79-101, the State Board of Education, the
15 State Department of Education, and the Commissioner of Education.

16 Sec. 12. (1) Except as provided in subsection (2) of this section,
17 a parent, student, or teacher aggrieved by a violation of the Parents'
18 Bill of Rights and Academic Transparency Act may bring a civil action for
19 appropriate relief. Appropriate relief includes:

20 (a) Actual damages;

21 (b) Such preliminary and other equitable or declaratory relief as
22 may be appropriate; and

23 (c) Reasonable attorney's fees and other litigation costs reasonably
24 incurred.

25 (2) A parent who believes a school's decision to not designate an
26 item of library content as Parental Review Recommended under section 8 of
27 this act may protest such decision by filing a complaint with the State
28 Department of Education in accordance with the rules and regulations of
29 the department. Any such complaint shall be filed within sixty days after
30 the school's decision. The department shall investigate the matter and
31 within twenty days after receipt of the complaint shall:

1 (a) Order the school to designate the item as Parental Review
2 Recommended if the item warrants such designation under section 8 of this
3 act; or

4 (b) Set the matter for a hearing under the Administrative Procedure
5 Act at which the parent and school shall be parties. Within twenty days
6 after such hearing the department shall issue a decision either ordering
7 the school to designate the item as Parental Review Recommended if the
8 item warrants such designation under section 8 of this act or affirming
9 the decision of the school. The decision of the department shall be final
10 and may be appealed by the parent. The appeal shall be in accordance with
11 the Administrative Procedure Act.

12 (3) The State Department of Education may adopt and promulgate rules
13 and regulations as necessary to carry out this section.

14 Sec. 13. Nothing in the Parents' Bill of Rights and Academic
15 Transparency Act shall be construed as requiring:

16 (1) Disclosure of information in violation of the federal Family
17 Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, or any
18 federal regulations and applicable guidelines adopted in accordance with
19 such act; or

20 (2) A school district to violate any state or federal legal
21 protections for intellectual property.

22 Sec. 14. Section 15 of this act becomes operative on July 1, 2024.
23 The other sections of this act become operative on their effective date.

24 Sec. 15. The following sections are outright repealed: Sections
25 79-530, 79-531, 79-532, and 79-533, Reissue Revised Statutes of Nebraska.