

Executive Summary of the

Model for Parental Rights Policy/Legislation

Purpose: To strengthen parents' rights to guide their children's education, especially concerning sensitive topics about sexuality and family issues.

Why it's Needed: 1) Parents' rights have been undermined by recent court rulings that, among other things, have upheld public schools' efforts to give kids invasive surveys with sexually explicit questions or promote things like same-sex marriage to elementary-age students against their parents' will. Since the courts have failed to respect parental rights, a legislative solution is needed. 2) Many state education codes only make allowances for parents to opt their children out of teaching categorized as "sex education" or "health" classes. But this has proved to be inadequate protection in cases where controversial sexual topics labeled as "tolerance" or "diversity" instruction were mandated for kids as young as kindergarten, whether their parents liked it or not.

What It Does:

Notification/Opt-out/Consent Requirements

- It requires public schools to notify parents about potentially sensitive subject matter that will be taught—and then give them the opportunity to opt their child out of those lessons.
- It accomplishes this by requiring schools to notify parents about instruction that falls under the "notification issues" category.
- Among other things, the "notification issues" category includes instruction about sex education and contraceptives, human sexuality and family issues, as well as instructional materials that contain excessive and graphic depictions of violence.
- It also allows parents to opt their child out of subject matter other than the "notification issues" category when it conflicts with their family's deeply held moral or religious beliefs.
- The policy specifically requires that parents must give consent before their children can attend any instruction about contraceptives devices/services provided by the public school.

Note: This requirement for consent is what the policy refers to as an "opt-in" procedure, which puts the burden on the school to obtain consent from parents before a child can participate in the activity or lesson. All other subjects referred to in the policy are handled through an "opt-out" mechanism—which allows students to participate unless their parents proactively take the opportunity to opt them out of instruction or an activity.

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- However, even in the case of opt-out procedures, the policy makes clear that schools must be able to demonstrate that they made more than one legitimate attempt to notify parents and educate them about their right to exempt their children from lessons in the notification-issues category.
- At the same time, it makes clear that parents also have a responsibility to return a signed statement within the specified amount of time, indicating that they wish to opt their child out of certain subjects or give their consent for their child to participate in contraceptive instruction.
- The policy makes clear that parents may not abuse these rights, for instance, to avoid a test or prevent a child from receiving instruction in academic subjects for an entire semester.
- Likewise, children must still meet grade-level and graduation requirements. But at the same time, school officials need to create reasonable policies for how students can receive credit through alternative assignments if their parents opt them out of certain lessons.

Parental Involvement/Access to Student Information

- The policy also protects parents' rights to review teaching materials and tests given to their children—and requires that school officials make available schedules during which this can be done.
- The model policy requires schools to list all extracurricular activities and clubs that are available for students—and to honor parents' wishes if there are activities or clubs they do not want their children to participate in.
- The language ensures parents have the right to access public school information about their child including, among other things, attendance records, test scores, participation in extracurricular activities, as well as disciplinary and health records.

Respecting Families' Moral and Religious Beliefs

- The bill ensures families can remove a child for a reasonable amount of time to observe a religious ceremony or event—without the student being academically penalized. The student should be given a chance to do make-up work just as in the case of any other excused absence.
- Finally, one of the most important components of this model legislation is that it establishes a standard of judgment that courts must use to decide if a parent's rights have been violated. It categorizes parental rights as “fundamental”—meaning there's a higher legal standard to reach in order for schools to justify infringing on this right. Government schools and officials, for instance, must show that they chose the least burdensome way of trying to accomplish their purpose and that they had a compelling reason for their actions.

To view or download the Alliance Defending Freedom's model parental rights policy in its entirety—which can be used as guidance for state elected officials and/or school officials—visit the TrueTolerance.org Web site's Take Action section.