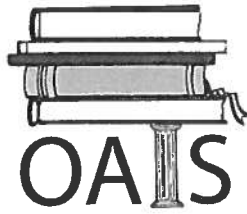


- Agnon School
- Andrews Osborne Academy
- Birchwood School
- Canton Country Day
- Cincinnati Country Day
- Cincinnati Hills Christian Academy
- Columbus Academy
- Columbus Jewish Day School
- Columbus School for Girls
- Columbus Torah Academy
- Gilmour Academy
- Grand River Academy
- Hathaway Brown School
- Hawken School
- Hershey Montessori School
- Hudson Montessori School
- Lake Ridge Academy
- Laurel School
- Lawrence School
- Linden Grove School
- Lippman Day School
- Mansion Day School
- Marburn Academy
- Maumee Valley Country Day
- McGuffey Foundation School
- Miami Valley School
- The New School
- Old Trail School
- Olney Friends School
- Ratner School
- Ridgewood School
- Ruffing Montessori School - Cleveland Heights
- Ruffing Montessori School - Rocky River
- Schilling School for Gifted Children
- Seven Hills School
- Spring Garden Waldorf School
- Springer School and Center
- Summit Country Day
- University School
- Village Academy Schools
- Wellington School
- Welsh Hills School
- Western Reserve Academy



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March 6, 2013

House Education Committee
Primary and Secondary Education Subcommittee

Ohio Association of Independent Schools
Dan Dodd, Executive Director

Chairman Hayes, Ranking Member Lundy and members of the committee, thank you for the opportunity to present testimony on behalf of the Ohio Association of Independent Schools (O AIS) regarding the state's biennial budget as contained in House Bill 59.

The 44 members of the Ohio Association of Independent Schools believe the budget represents opportunities for meaningful change in the restrictive regulations that hamper independent schools. We also believe there are additional opportunities to reform current laws to increase the flexibility that our schools may have to respond to rapidly changing circumstances in the education world. These reforms would make Ohio more consistent with the rest of the nation in its treatment of independent schools.

Days-to-Hours Change

O AIS has been an advocate of a change from the measurement of the school year in hours rather than days for well over a decade. While many states do not put specific requirements on the length of a school year for independent schools, there are few instances nationwide where the rules in place for Ohio's chartered nonpublic schools for the school year could lead to absurd results.

As many of you are aware, chartered nonpublic schools are not specifically required to follow the 182 day requirement as found in Ohio Revised Code § 3313.48 since that section is limited to public schools. Chartered nonpublic schools are required to have 182-day calendars through their inclusion in the Operating Standards and the lack of clarifying language that such a mandate should only be applicable to public schools. What a 182 calendar means is that a nonpublic school in session 6.5 hours a day (the typical length of a day for O AIS members) for 175 days for a total of 1137.5 hours would be out of compliance but a school in session for approximately 200 fewer hours for 182 days would be in compliance. Such a result should be considered contrary to the best interests of both students and parents.

Nonpublic schools ought to have the ability to best determine the length of time necessary to educate students using the curriculum developed by the school. O AIS supported amended House Bill 191 in the previous session of the General Assembly and we are supportive of the language currently contained in the budget.

Jon Peterson Special Needs Scholarship Changes

The proposed changes to the Jon Peterson Special Needs (JPSN) Scholarship amounts have the potential to create confusion for parents and providers alike. The replacement of the current set amount with a calculation based on the Core Opportunity Aid calculation for each school district, plus special education aid, will create a paperwork nightmare for larger schools that specialize in educating students with learning differences.

Consider the situation of a school such as The Lawrence School, an O AIS member located in northeastern Ohio with an enrollment of 285 students from first grade through twelfth. Lawrence's current enrollment consists of students from over 70 different communities throughout the region. Going from a set scholarship amount to a variable amount based on the local district means that Lawrence will be required to adjust its standard tuition contract to account for the amount received by each family through the JPSN program and would have to do so by plugging in the amounts of the scholarships based on the school district. The lack of predictability in the calculation means that these amounts will constantly need to be revised. The fluctuations that could occur means that families will not be able to depend on a certain amount being available in the scholarship and will drive down the incentive of families to participate in the program if they cannot accurately assess how much assistance they will receive from year to year.

To complicate matters, because of the application and acceptance guidelines that are in place with the state and with schools like Lawrence, parents will essentially be in a position where they must confirm enrollment in the program and with the school without a certainty of the amount of the scholarship. For parents signing tuition contracts that requires them to pay any part of tuition that is not covered by a scholarship or other financial aid, this could create a very serious problem for them should they not receive as much from the scholarship as they had anticipated.

I should also point out that schools that specialize in teaching students with learning differences have a higher turnover of students. One of the main goals for many families at a school specializing in learning differences is to have the student transition back into a public school or private school once the child has effectively learned how to study in an alternative manner that takes into account his or her learning difference. Schools that specialize in learning differences can experience higher turnover than a standard private school, which means that more tuition contracts must be processed than a case where one family can consistently expect to pay a certain amount over a period of twelve years.

O AIS urges the General Assembly to continue the JPSN scholarship as a defined amount scholarship in order to give parents and schools more predictability while participating in the program.

End-of-Course Exams

In 1995, the Ohio General Assembly chose to extend the requirement of passing the Ohio Proficiency Test to chartered nonpublic schools. Independent schools strenuously objected to this requirement to the point that a lawsuit was filed in federal court.

OAIS was not successful in its legal challenge and our schools have been required to administer the test to its students ever since. In a review of information on the Ohio Department of Education (ODE) website, one can see that OAIS schools as a multi-school subgroup have the highest passage rate of all five parts of the OGT on the first try every year for the past decade. It was not the difficulty of the test at issue for OAIS, it was the unprecedented intrusion into the operation our schools that we believed to be unconstitutional.

While the District Court and Court of Appeals did not side with us in our legal arguments, the majority opinion did restrict the use of such tests by the state. The majority stated "Plaintiffs have not demonstrated that the testing requirement would require such extensive preparation that it would substantially encroach upon plaintiffs' discretion to design their own curricula." The court narrowed the use of such tests when it stated:

"We acknowledge that in some situations, state-imposed testing requirements could be so intrusive that they could potentially displace private schools' discretion to fashion their own educational programs and focus on subjects deemed to be of particular importance. This is not such a case. Here, the tests require ninth-graders to demonstrate basic proficiency in reading, writing, mathematics, science, and citizenship. The examinations do not address areas vulnerable to more subjective interpretations such as history, sociology, political science, art, or literature, reinforcing our conclusion that the testing requirement is a reasonable regulation of private education." OAIS v. Goff, 92 F. 3d 319.

(Note: The General Assembly recently passed an examination requirement for history, a subject specifically mentioned by the court, when it passed SB 165 last session.)

The Ohio Department of Education has not shied away from reminding education stakeholders about the impact of the shift to the end-of-course exams. Testimony presented by Interim Superintendent Sawyers contained items on a timetable such as "Begin using new standards in Grades K-2 and 11-12," "Integrate standards and curricula into district curricula," and "Integrate performance tasks in course activities." An ODE PowerPoint presentation talks about how the tests will "guide changes in instructional practice." ODE's testimony also specifically stated multiple times that this is not a "basic proficiency" test but rather a "college and career readiness" series of tests that is a much higher standard than just a basic proficiency.

If the General Assembly chooses to make a policy decision for its public schools that all students should try and achieve the college or career ready standard, it is well within its authority to do so. However, when it imposes those testing requirements on private

schools and requires our school to change their instructional practices, it violates the well-recognized constitutional right of parents to direct their children's education through sending them to private schools, as recognized in *Runyon v. McCrary* (1976), *Pierce v. Society of the Sisters* (1925) and *Wisconsin v. Yoder* (1972) on the federal level, and *Ohio v. Whisner* (1976) on the state level.

Every OAIS member with a high school component is a college preparatory school. These schools lay a foundation for students to apply for and receive admission to many of the most prestigious schools in the world. The efforts of the college counseling staff at each of these schools are based on the expectations of universities and what they expect in proficiencies for their candidates for admission. In my many conversations with college counseling staff at OAIS schools, there are two things that I have yet to hear. The first is that universities are telling them that there is a lack of adequate testing for independent school students in Ohio. The second is that the end-of-course exams will provide anything of value to universities in assessing the abilities of prospective independent school students.

OAIS urges the General Assembly to follow states like Massachusetts and Maryland, states frequently cited by ODE as having some of the best education systems in the nation, and eliminate the end-of-course exam requirements for chartered nonpublic schools.

Nationally Standardized Assessment that Measures College and Career Readiness

The Ohio Department of Education, in conjunction with the Board of Regents, recently announced its intention to use the PLAN test to fulfill the Revised Code requirement of using a "nationally standardized assessment that measures college and career readiness."

What is PLAN, according to PLAN's own website? It is "a comprehensive guidance resource that helps students measure their current academic development, explore career/training options, and make plans for the remaining years of high school and beyond." PLAN is "a great way to prepare for the ACT."

What is PLAN not? It is not "a nationally standardized assessment that measures college and career readiness." No college or university that I am aware of uses PLAN as part of its admissions process. The best argument that can be made for PLAN as a measure of college and career readiness is that it helps elite colleges and universities identify gifted students and those testing at a high level as a way to narrow the scope of those students who might be worth pursuing for admission. It does not serve as a method to ascertain college and career readiness in the way that was anticipated when this section became law.

OAIS schools are willing to submit to a mandatory testing requirement if the test is of benefit to the student taking the test. With few exceptions, every student at an OAIS school will take the SAT or ACT and in many cases both, so if the state wants to mandate one of those tests, OAIS schools would be willing to live with that. The choice of taking the PLAN or PSAT should be just that: a choice, made by parents, students and college counseling staff.

An OAIS member school located in Upper Arlington, The Wellington School, used to administer the PLAN test to all of its students. After dialogue between administration, the college counselor and the teaching staff, the decision was made to shift to the PSAT. It is worth pointing out that The Wellington School, in the last set of numbers available from the Board of Regents, had a 0% remediation rate among its students that attended public universities in Ohio. With the decision of ODE and the Board of Regents to mandate the PLAN test, the state is undercutting the ability of the staff at a school like Wellington to make the best decision on testing for its students, and the state is doing so in a way that is not all that beneficial to students.

OAIS urges the General Assembly and Governor to restore decision-making authority to our schools and provide some benefit to students by clarifying the current law to specify that either the SAT or ACT tests must be selected by the Superintendent and Chancellor for use as the required nationally standardized assessment.

Transportation Fee Clarification

The last issue I would like to address pertains to the inability of chartered nonpublic schools to charge a fee for transportation. Public school districts, according to current law, may not charge a fee for transportation they are required to provide by law and that prohibition extends to public and chartered nonpublic schools alike. It is easy to understand why such a prohibition is in place: Taxpayers pay for the buses and the schools. Parents ought to be able to use the buses for transporting their kids without paying an extra fee.

However, there are chartered nonpublic schools that also own buses. They purchase the buses with private funds, not tax dollars, and they provide transportation to students and families that public school districts are either unwilling or not required to provide, yet according to the Ohio Department of Education, the prohibition extends to them as well.

This prohibition simply makes no sense. Nonpublic schools are non-profit business entities that ought to be able to provide this service to parents and let the parents decide whether or not they want to utilize the service. Nonpublic schools are not looking to profit off of this; in fact, the fees they would need to charge to profit from the service would be so high that I doubt any parents would pay for the service. These schools ought to be able to at least offset some of the cost of the service through a fee and schools should not be required to charge all families for the service instead of those using the transportation.

OAIS asks the General Assembly to clarify, through the budget, that the fee prohibition only applies to public schools.

Conclusion

According to the National Association of Independent Schools, Ohio regulates independent schools more than any other state or territory in the nation. This overregulation persists despite OAIS schools consistently demonstrating a level of achievement higher than any other group of schools, public or nonpublic.

With the emphasis of tearing down red tape and freeing up schools from unnecessary regulations that this budget holds, we feel that the as-introduced version of this bill takes some good first steps, but could and should go much further. Our state should follow the example of states like Massachusetts and Maryland and focus its attention on poorly-performing schools and free up high-performing schools to do what they do best: educate students and prepare young men and women for lives of leadership and contributions to our communities and our state.

Thank you for the opportunity to testify. I would be happy to answer any questions you may have.