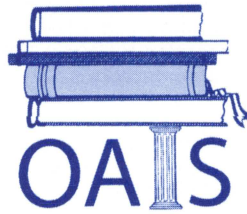


- Agnon School
- Andrews Osborne Academy
- Birchwood School
- Canton Country Day
- Cincinnati Country Day
- Cincinnati Hills Christian Academy
- Columbus Academy
- Columbus Jewish Day School
- Columbus School for Girls
- Columbus Torah Academy
- Gilmour Academy
- Grand River Academy
- Hathaway Brown 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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May 2, 2013

Senate Finance Committee **Education Subcommittee**

Ohio Association of Independent Schools **Dan Dodd, Executive Director**

Chairman Gardner, Ranking Member Turner and members of the committee, thank you for the opportunity to present testimony on behalf of the Ohio Association of Independent Schools (OAIS) regarding House Bill 59.

OAIS is made up of 44 member nonpublic schools throughout the state. The vast majority of OAIS member schools are accredited by the Independent Schools Association of the Central States (ISACS). Even within the chartered nonpublic school community, OAIS schools are unique. Every OAIS member with a high school component is a college preparatory school. ISACS accredits all of our schools with high school components except one. The one school that is not accredited is a school for gifted students with enrollment of under 50 and all of the students at that school are required to have a 130 IQ or above in order to be admitted to the school.

The ISACS accreditation process is a seven-year continuous cycle that consists of financial audits and a year of self-study by the school that leads to a visit by an accrediting team. The team visit examines every aspect of the school, from the leadership, teachers and curriculum all the way down to what is served for lunch. The visiting team reviews the self-study report and conducts interviews with administrators, parents, staff and students to confirm or challenge the contents of the self-study report and make recommendations for improvement. The school must follow-up and report to ISACS the progress made on the recommended changes to the school. While ISACS has religious school members, the accreditation does not have a religious component and focuses on the quality of education at each school.

For all OAIS schools, curricular and operational independence is of the utmost importance. While our schools do not object to required health and safety regulations, mandates that interfere with a school's ability to offer a high-quality education are something we oppose. We believe the budget represents an opportunity to lift some of those mandates from our schools.

Days-to-Hours Change

OAIS has been an advocate of a change from the measurement of the school year in hours rather than days for well over a decade. Most states do not have the stringent days-based requirements that Ohio mandates for nonpublic schools through the Operating Standards. Nonpublic school staff and parents ought to have the ability to best determine the length of time necessary to educate students using the curriculum developed by the school. Additionally, the way that the law and rule currently operate leads to possibly absurd results when the 182 day requirement is enforced. OAIS supported Am. House Bill 191 in the previous session of the General Assembly and we are supportive of the language currently contained in the budget. I would note that we would not object to the Senate amending the language to mandate a five-day school week.

Jon Peterson Special Needs Scholarship Changes

OAIS supports the changes made by the House to the Executive budget regarding the calculation of Jon Peterson Special Needs Scholarship amounts for eligible students. The method used for determining the amount of a scholarship that was contained in the Executive budget would create uncertainty and instability for school leaders that need as much certainty and stability in possible when making future financial and enrollment decisions for their schools.

OAIS urges the Senate to retain the House changes made to the Executive budget and keep the JPSN scholarship as a defined amount scholarship in order to give parents and schools more predictability when participating in the program. OAIS also supports the House's change in raising the base amount to \$5,700 over the current \$5,000 base.

Transportation Fee Clarification

Another 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. The schools 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.

OAIS supports the transportation fee clarification language contained in the House version of the budget, as well as the changes to the payment-in-lieu of transportation law contained in the House version. We believe these changes will provide flexibility to parents and schools alike to arrange for alternative transportation plans that will not have a negative impact on public schools.

In his testimony, Superintendent Ross indicated that ODE has concerns with the drafting and some ambiguity of the language contained in the House budget on these issues. I would encourage the Senate to work with ODE and stakeholders to resolve any major issues with these items and retain the concepts in the Senate version of the budget.

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 on behalf of member schools and parents [*OAIS v. Goff*, 92 F.3d 419 (6th Cir. 1996)].

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 student's first attempt every year for the past decade. It was not the difficulty of the test that caused OAIS to sue the state. It was the unprecedented intrusion into the operation our schools that we believed to be unconstitutional.

While the federal 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 wrote:

"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 (emphasis added)." 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 to the House Education Committee by then-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 to the House Education Committee 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 the basic proficiency cited in *OAIS v. Goff*.

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 using PARCC or other tests, it is well within its authority to do so. However, when it imposes those testing requirements on private schools and requires our schools 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 Sisters* (1925) and *Wisconsin v. Yoder* (1972) on the federal level, and *Ohio v. Whisner* (1976) on the state level.

All OAIS 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 to place students in a college that is the best fit for each student 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 would be universities telling our schools that there is a lack of adequate testing for independent school students in Ohio. The second would be that the end-of-course exams will provide anything of value to universities in assessing the abilities of prospective college students who graduate from independent schools.

As the Executive Director of the Ohio Association of Independent Schools, I cannot guarantee the quality of every chartered nonpublic high school in the state. However, when I look at the list of OAIS member high schools and knowing the standards they follow through accreditation and the admission of gifted students, I know that all of the students at these schools are getting an education of high quality. I would urge the Senate to grant an exemption from the end-of-course exam requirement for the schools accredited by ISACS.

Nationally Standardized Assessment

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 or may serve as an option for the required assessment.

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 subgroup of schools, public and nonpublic.

With the emphasis of tearing down red tape and freeing up schools from unnecessary regulations that this budget holds, we feel the Executive and House versions of HB 59 take some good first steps, but could and should go much further. Our state should follow the example of other states and focus its attention on poorly-performing schools while freeing 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 am happy to answer any questions you may have.