

HOUSE No. 458

The Commonwealth of Massachusetts

PRESENTED BY:

David F. DeCoste, (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to parental rights in education.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Carol Mattes</i>		<i>1/19/2023</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/19/2023</i>
<i>Kelly W. Pease</i>	<i>4th Hampden</i>	<i>1/31/2023</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>1/31/2023</i>

HOUSE No. 458

By Representative DeCoste of Norwell (by request), a petition (accompanied by bill, House, No. 458) of Carol Mattes and others relative to parental rights in education. Education. [Local Approval Received.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act relative to parental rights in education.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 An act relating to parental rights in education; amending s. 1001.42, F.S.; requiring
2 district school boards to adopt procedures that comport with certain provisions of law for
3 notifying a student's parent of specified information; requiring such procedures to reinforce the
4 fundamental right of parents to make decisions regarding the upbringing and control of their
5 children in a specified manner; prohibiting the procedures from prohibiting a parent from
6 accessing certain records; providing construction; prohibiting a school district from adopting
7 procedures or student support forms that prohibit school district personnel from notifying a
8 parent about specified information or that encourage or have the effect of encouraging a student
9 to withhold from a parent such information; prohibiting school district personnel from
10 discouraging or prohibiting parental notification and involvement in critical decisions affecting a
11 student's mental, emotional, or physical well-being; providing construction; prohibiting
12 classroom discussion about sexual orientation or gender identity in certain grade levels or in a
13 specified manner; requiring certain training developed or provided by a school district to adhere

14 to standards established by the Department of Education; requiring school districts to notify
15 parents of healthcare services and provide parents the opportunity to consent or decline such
16 services; providing that a specified parental consent does not wave certain parental rights;
17 requiring school districts to provide parents with certain questionnaires or health screening forms
18 and obtain parental permission before administering such questionnaires and forms; requiring
19 school districts to adopt certain procedures for resolving specified parental concerns; requiring
20 resolution within a specified timeframe; requiring the Commissioner of Education to appoint a
21 special magistrate for unresolved concerns; providing requirements for the special magistrate;
22 requiring the State Board of Education to approve or reject the special magistrate's
23 recommendation within specified timeframe; requiring school districts to bear the costs of the
24 special magistrate; requiring the State Board of Education to adopt rules; providing requirements
25 for such rules; authorizing a parent to bring an action against a school district to obtain a
26 declaratory judgment that a school district procedure or practice violates certain provisions of
27 law; providing for the additional award of injunctive relief, damages, and reasonable attorney
28 fees and court costs to certain parents; requiring school district to adopt policies to notify parents
29 of certain rights; providing construction; requiring the department to review and update, as
30 necessary, specified materials by a certain date; providing an effective date.

31 Page Break

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33 Be It Enacted by the Legislature of the State of Massachusetts:

34 Section 1. Paragraph (c) is added to subsection (8) of section 1001.42, Massachusetts

35 Statutes, to read:

36 1001.42 Powers and duties of the district school board.—The district school board,
37 acting as a board, shall exercise all powers and perform all duties listed below:

38 (8) STUDENT WELFARE.—

39 (c)1. In accordance with the rights of parents enumerated in ss. 1002.20 and 1014.04,
40 adopt procedures for notifying a student's parent if there is a change in the student's services or
41 monitoring related to the student's mental, emotional, or physical health or well-being and the
42 school's ability to provide a safe and supportive learning environment for the student. The
43 procedures must reinforce the fundamental right of parents to make decisions regarding the
44 upbringing and control of their children by requiring school district personnel to encourage a
45 student to discuss issues relating to his or her well-being with his or her parent or to facilitate
46 discussion of the issue with the parent. The procedures may not prohibit parents from accessing
47 any of their student's education and health records created, maintained, or used by the school
48 district, as required by s. 1002.22(2).

49 2. A school district may not adopt procedures or student support forms that prohibit
50 school district personnel from notifying a parent about his or her student's mental, emotional, or
51 physical health or well-being, or a change in related services or monitoring, or that encourage or
52 have the effect of encouraging a student to withhold from a parent such information. School
53 district personnel may not discourage or prohibit parental notification of and involvement in
54 critical decisions affecting a student's mental, emotional, or physical health or well-being. This
55 subparagraph does not prohibit a school district from adopting procedures that permit school
56 personnel to withhold such information from a parent if a reasonably prudent person would

57 believe that disclosure would result in abuse, abandonment, or neglect, as those terms are defined
58 in s. 39.01.

59 3. Classroom instruction by school personnel or third parties on sexual orientation or
60 gender identity may not occur in kindergarten through grade 3 or in a manner that is not age
61 appropriate or developmentally appropriate for students in accordance with state standards.

62 4. Student support services training developed or provided by a school district to
63 school district personnel must adhere to student services guidelines, standards, and frameworks
64 established by the Department of Education.

65 5. At the beginning of the school year, each school district shall notify parents of
66 each healthcare service offered at their student's school and the option to withhold consent or
67 decline any specific service. Parental consent to a health care service does not waive the parent's
68 right to access his or her student's educational or health records or to be notified about a change
69 in his or her student's services or monitoring as provided by this paragraph.

70 6. Before administering a student well-being questionnaire or health screening form
71 to a student in kindergarten through grade 3, the school district must provide the questionnaire or
72 health screening form to the parent and obtain the permission of the parent.

73 7. Each school district shall adopt procedures for a parent to notify the principal, or
74 his or her designee, regarding concerns under this paragraph at his or her student's school and the
75 process for resolving those concerns within 7 calendar days after notification by the parent.

76 a. At a minimum, the procedures must require that within 30 days after notification
77 by the parent that the concern remains unresolved, the school district must either resolve the
78 concern or provide a statement of the reasons for not resolving the concern.

79 b. If a concern is not resolved by the school district, a parent may:

80 (I) Request the Commissioner of Education to appoint a special magistrate who is a
81 member of The Massachusetts Bar in good standing and who has at least 5 years of experience in
82 administrative law. The special magistrate shall determine facts relating to the dispute over the
83 school district procedure or practice, consider information provided by the school district, and
84 render a recommended decision for resolution to the State Board of Education within 30 days
85 after receipt of the request by the parent. The State Board of Education must approve or reject
86 the recommended decision at its next regularly scheduled meeting that is more than 7 calendar
87 days and no more than 30 days after the date the recommended decision is transmitted. The costs
88 of the special magistrate shall be borne by the school district. The State Board of Education shall
89 adopt rules, including forms, necessary to implement this subparagraph.

90 (II) Bring an action against the school district to obtain a declaratory judgment that
91 the school district procedure or practice violates this paragraph and seek injunctive relief. A
92 court may award damages and shall award reasonable attorney fees and court costs to a parent
93 who receives declaratory or injunctive relief.

94 c. Each school district shall adopt policies to notify parents of the procedures
95 required under this subparagraph.

96 d. Nothing contained in this subparagraph shall be construed to abridge or alter
97 rights of action or remedies in equity already existing under the common law or general law.

98 Section 2. By June 30, 2024, the Department of Education
99 shall review and update, as necessary, school counseling frameworks and standards;
100 educator practices and professional conduct principles; and any other student services personnel
101 guidelines, standards, or frameworks in accordance with the requirements of this act.

102 Section 3. This act shall take effect July 1, 2023.