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# AMY BINSFELD

STATE REPRESENTATIVE • 27<sup>TH</sup> ASSEMBLY DISTRICT

## *Testimony before the Assembly Committee on Education*

*Representative Amy Binsfeld*

*May 25th, 2023*

Thank you Chairman Kitchens and members of the Education committee for allowing me to speak on behalf of AB 246.

I would like to share that AB 246 is a bill that insures local input on the topic of health and human growth development being taught in our schools. AB 246 buttons up some questions that have come up in local school board meetings with regard to the makeup of the advisory committee.

AB 246 states that the committee should be comprised of local members in the following categories: parents, residents, teachers, pupils, health care professionals and clergy. It states that all members on the committee should be residents of the district, except in the case of a rural area that may not have a local resident to fill the health care professional or clergy, then the committee should look to those individuals who serve that community and already interact with the families of the local schools.

AB 246 wants to provide a voice for our parents and residents to work with the school board to advise as to how they feel on the topic of health and human growth development curriculum, but it is the final decision of the elected school board, school superintendent, and the curriculum committee to decide what is taught in the school. This is an advisory committee in which making sure that those involved don't feel pressured by others not to share their true thoughts. For this reason school administrators are removed from the committee as well as members that would have a familiar link.

This concern came to my attention while attending a local school board meeting in which the School Board Chair said herself that the statute was ambiguously written and it is unclear as to the number of parents that can be on the committee or if committee members would have to be residents of the district.

As we look to the fact that local school boards are elected by our local residents I think it stands to reason that those same local voters should be the ones involved in the advisement of said committee. We want to make sure that our children and what they learn reflect the community in which they are living. I think we can all agree that there will be different opinions of such committee based on the location of the school and that is how it should be.

AB 246 makes sure that one community is not making a decision for schools in rural Wisconsin and vice versa. This empowers local control and understanding to guide our schools for the well-being of our students.

Thank you for your time and willingness to listen to this proposed legislation and I'm happy to take any questions you may have.



**JOAN BALLWEG**

STATE SENATOR · 14<sup>TH</sup> SENATE DISTRICT

**Assembly Bill 246: Membership of a Human Growth and Development  
Curriculum Advisory Committee  
Assembly Committee on Education  
Testimony of Senator Joan Ballweg  
May 25, 2023**

Good morning, members of the committee. Thank you for taking the time to hear Assembly Bill 246 regarding human growth and development curriculum advisory committees.

Currently, if a school board chooses to provide a human growth and development instructional program in any grade from kindergarten through high school, then the school board must appoint an ad hoc advisory committee to advise the school board on the curriculum. These programs may teach students about age-appropriate reproductive and sexual anatomy, the effects of alcohol and drug use, and healthy communication skills, as well as other topics to foster physical and psychological health.

This bill helps to empower parents, students, and the local community's involvement on these committees by making changes to how the ad hoc advisory committees are currently required to function.

This bill removes school administrators as a required category to be represented on these committees, and it also does not allow members of the committee to be relatives. These committees are meant to foster open dialogue to advise school leaders on this curriculum. Including school administrators or individuals who are related may impact the members' willingness to discuss sensitive topics freely.

The bill also removes ambiguity in statute that creates confusion for some school boards. It makes clear that the school board must appoint residents of the school district. However, it gives flexibility to a school board to appoint a nonresident, only if they are unable to find a resident to fill a specific role. This flexibility is necessary since current law specifies roles such as teachers, health care professionals, and members of the clergy that must be on the advisory committee. It is possible that the district may not have a resident that is willing or able to fill that role, so they may need to ask someone from outside the district.

While these ad hoc committees have an advisory role and do not formally make curriculum decisions, I believe it is important to promote the involvement of parents and other community members that have expertise on these subjects. When we foster these partnerships between our schools and communities, we see positive outcomes for our kids.

Thank you for your consideration of Assembly Bill 246, and I am happy to answer any questions.



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**TESTIMONY IN SUPPORT OF ASSEMBLY BILL 246**  
**ASSEMBLY COMMITTEE ON EDUCATION**  
**THURSDAY, MAY 25, 2023**  
**JULAIN K. APPLING, PRESIDENT**

Thank you, Chairman Kitchens and committee members, for the opportunity to testify in support of Assembly Bill 246. I am Julaine Appling, president of Wisconsin Family Action.

Wisconsin Family Action believes the education of our children is paramount to a successful, civilized, free society—especially for the perpetuation of a Republic—and that education of children starts at birth.

We believe and have long publicly promoted the truth that parents are children’s primary educators—a responsibility parents never relinquish. They may choose to partner with an educational institution for their child’s formal schooling, but in doing so they do not relinquish their ultimate authority over their children nor are they relieved of the responsibility for their child’s education. On that basis, we wholeheartedly believe parental input is always important and should always be sought and respected; but parental input and involvement is never more important than when sensitive subjects are involved—subjects such as “human growth and development,” something we used to call “sex education.”

As a reminder to all, in Wisconsin no school district is required to have a Human Growth and Development program. Since the original law was passed in 1985, having such a program has been voluntary. But the law also says if a school district decides to have an HG&D program, then certain things must be done.

In 2011, the legislature passed, and then-Governor Scott Walker signed into law, a bill that substantially revised statute 118.019, a statute the purpose of which was and is “to foster a partnership between parents of pupils attending schools in the school district and the schools in the school district to promote the optimal health and well-being of the pupils.” Note the purpose statement of statute 118.019 highlights the partnership between parents and the district.

I know a little bit about why this purpose statement was written as it is because our organization led a coalition of organizations and individuals who worked with legislators to get the current version of the HG&D statute passed. The authors wanted to be sure that there was a clear declaration that parents are never to be excluded from this important subject and that, really, the state believes parents should be the primary educators especially in this sensitive and so frequently controversial subject that is, or should be, about promoting “the optimal health and well-being of the pupils.”

To ensure parents have a direct and important say if a school district elects to have a “human growth and government” program, the law mandates several things: First, school districts must annually give parents or guardians an outline of the HG&D curriculum used in their child’s grade. Second, each year the school district has to let parents know how they can inspect the complete curriculum and instructional materials and must make the full HG&D curriculum and instructional materials available to a parent or guardian upon their request at any time. Third, parents are allowed to opt their child out of any or all HG&D subjects, programs, or courses. And finally, a school district with an HG&D program must have an ad hoc advisory committee that includes parents. The current statute specifies the groups of individuals that must be represented on the committee and also stipulates that no less than one-fifth of the ad hoc advisory committee be made up of parents or guardians. In fact, the statute currently further allows only parents to make up more than one-fifth of the committee.

It is this ad hoc advisory committee is the subject of Assembly Bill 246. AB 246 does essentially four things: removes school administrators from the list of "required" groups that must be represented on this ad hoc committee, clarifies that there is no limit on the number of parents that can be on the HG&D ad hoc committee, requires that each member of the committee be a resident in the school district unless the school board cannot find a resident of the district to fulfill the committee's membership requirements, and finally stipulates that no member of the committee can be related to another member of the committee.

We support removing school administrators as a group required to be represented on a school district's ad hoc HG&D advisory committee. We do so for two reasons: first, having both school administrators and teachers on the committee creates an over-representation of school district employees. Leaving teachers on the committee, who report to administrators, keeps the representation more equitable.

The second reason we support removing school administrators from the committee is that since 2011, we have heard from parents in more than one school district who have indicated they and other parents often feel inhibited from expressing their opinions on the content of the curriculum or making contributions that may run counter to those made by school administrators, for fear that an such an opinion or contribution might result in their children being viewed differently by school administration. Because parents are their child's primary and best educators, it's important that they are comfortable expressing opinions and making contributions to the school district on any topic or issue, and especially important that be true when discussing HG&D programs, curricula, and instructional materials.

We have no issue with the other changes AB 246 makes. However, we do have some recommendations for amendments.

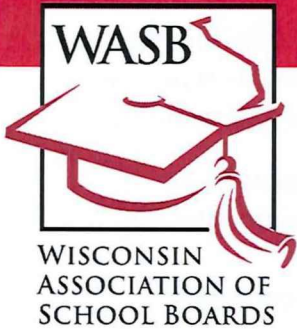
We would recommend an amendment that requires the ad hoc committee to meet and review the district's curriculum every three years. In 2011 when the current language was enacted, we all thought we should leave it to the individual school boards to decide when to have these committees meet and review the HG&D program. Time has proven that it is likely prudent that schools be required to actually convene the committee and review the program.

Additionally, we would recommend that the language of the current statute be amended to require that school boards actually do the appointing and the approving of the committee members. Again, experience over the years has taught us that rather than being actively and knowledgeably engaged in who serves on these committees, school boards too often give school administrators complete freedom to find the various committee members with very little, if any oversight, by the board other than perhaps a formal approval with little to no knowledge about the people being asked to serve. Requiring the school board to be more actively involved helps mitigate this situation.

Since this bill is making some significant changes in the committee, it makes sense to consider these amendments now as this bill moves forward.

In summary, Wisconsin Family Action supports the intent of AB 246 and encourages the authors to consider amendments that will continue to ensure that parents have every opportunity to be meaningfully engaged and heard in determining what is included in the HG&D program that will be used in their child's classrooms.

Thank you for your time and attention today and your thoughtful consideration of our position on AB 246.



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JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Members, Assembly Committee on Education  
FROM: Dan Rossmiller, WASB Government Relations Director  
DATE: May 25, 2023  
RE: OPPOSITION TO ASSEMBLY BILL 246, relating to: the membership of a human growth and development curriculum advisory committee.

The Wisconsin Association of School Boards (WASB) is a voluntary membership association representing all 421 of Wisconsin's public school boards. One of our core tenets is local control of school district operations by locally elected school board members who are members of those communities.

Under current law, school boards **are not** required to provide a human growth and development instructional program in grades kindergarten to twelve. Providing such a program is up to the discretion of each school board. However, **if** a school board decides to provide an instructional program in human growth and development in grades kindergarten to twelve, it must appoint an **ad hoc advisory** committee to advise the school board on the design and implementation of the human growth and development curriculum, as well as to review the curriculum.

Assembly Bill 246 would make four changes to the composition of the membership of these ad hoc advisory committees. The bill would:

- 1) eliminate school administrators as a membership category that must be represented on the advisory committee;
- 2) specify that each member of advisory committee must be a resident of the school district, unless the school board is unable to fill a membership position with a school district resident, in which case the school board may appoint a nonresident to the advisory committee; and
- 3) provide that no member of the advisory committee may be a relative of another member of the committee; and
- 4) require a school board to remove a committee member who is absent from two consecutive meetings without prior written approval.

Permit me to address our concerns with each of those changes in order.

1) The provision eliminating school administrators could lessen the likelihood that certain school administrators who have experience in developing and reviewing school curricula might have valuable input to offer such a committee—such as school district curriculum and instruction directors—would be part of these committees. Although such administrators could serve as a resource or liaison to the committee, that is not the same as being a member and having a voice and a presence on the committee during its deliberations.

2) The provision requiring each member of the advisory committee to be a resident of the school district unless the school board is unable to find a resident could work to eliminate certain categories of stakeholders or persons with relevant input from participating on such committees. This provision could work to exclude persons such as:

- Parents of pupils who are open enrolled into the school district under the state's public school open enrollment program but do not reside in the district, as well as parents from divorced families who may not reside in the district.
- Teachers, administrators, or other school district employees who might offer valuable input to the committee but do not reside in the district. (School boards cannot always control where employees with expertise on the issues these advisory committees address reside.)
- Members of the clergy who do not reside in the district but regularly provide their services within the district.

3) The provision that no member of the advisory committee may be a relative of another member of the committee defines "relative" in such a broad manner that would prohibit and the aunt or uncle of a committee member or the niece or nephew of a committee member or the grandparent or grandchild (or even the great-grandchild) of a committee member from being appointed to these committees. In school districts in smaller, tight-knit communities, this could reduce the pool of individuals eligible to serve on these advisory communities.

4) The provision that would require a school board to remove a committee member who is absent from two consecutive meetings without prior written approval seems more appropriately applied to a permanent committee such as a standing committee rather than to an *ad hoc* committee, especially one that is only advisory in nature. As typically understood, an ad hoc committee is convened to fulfill a specific purpose or charge and when that purpose or charge is completed, the ad hoc committee is disbanded. As outlined in the Appendix (next page), these committees used to be more akin to standing committees but are now specifically designated as ad hoc committees.

For all the above reasons, the WASB has concerns about the provisions of Assembly Bill 246. Given that these ad hoc committees are only advisory in nature, our strong preference would be for providing flexibility at the local level to the locally elected school board. Ultimately, decisions about human growth and development are in the hands of the school board, which is elected to represent the values of the community it serves. We would generally prefer to "just let the school board decide" how it wishes to get the relevant information it needs to make the decisions it is charged with making.

Thank you for your consideration of this testimony.

PS: The WASB believes committee members should be aware that nature and role of human growth and development advisory committees has changed over the years due to changes enacted by the Legislature. Additional information on those changes is provided in the Appendix to this testimony on the following page.

## APPENDIX

Prior to the enactment of 2011 Wisconsin Act 216, section 118.09 (5), Wis. Stats., provided that:

In any school district that offers a human growth and development curriculum, the school board must appoint an advisory committee composed of parents, teachers, school administrators, pupils, health care professionals, members of the clergy, and other residents of the school district. The advisory committee must develop the human growth and development curriculum and advise the school board on the design, review, and implementation of the advisory committee's human growth and development curriculum. The advisory committee must review the curriculum at least every three years.

However, 2011 Wisconsin Act 216 changed section 118.019 (5) to specify that the advisory committee is an "ad hoc" committee and deleted the requirement that "the advisory committee must review the curriculum at least every three years."

Thus, under current law, the advisory committee for human growth and development instruction is an ad hoc committee. Furthermore, state law no longer includes a specific requirement on how often the human growth and development instruction curriculum needs to be reviewed. This is a local decision. The DPI does, however, encourage school districts to update the curriculum and instructional materials on a regular basis to keep them accurate and relevant.

Act 216 also changed the role of the advisory committee in an important way. Act 216 provided that, instead of developing the human growth and development curriculum and advising the school board on the design, review, and implementation of the advisory committee's human growth and development curriculum, the role of the advisory committee was changed to advise the school board on the design and implementation of the curriculum and to review the curriculum.

Finally, Act 216 adopted a set of specifications regarding how the membership of the advisory committee was to be divided among the categories of members who comprise the committee. Specifically, it provided that no one category of member may constitute more than one-fifth of the membership of the committee, except that parents may comprise more than one-fifth of the membership of the committee. In addition, it provided that no more than one-quarter of the members may consist of employees of the school district or their spouses or members of the school board or their spouses.

As a result of those changes, section 118.019 (5), Wis. Stats., currently provides that:

School boards offering a human growth and development curriculum must appoint an *ad hoc* advisory committee to: (1) advise the school board on the design and implementation of the human growth and development curriculum and (2) review the curriculum. The advisory committee must be comprised of parents, teachers, school administrators, students, health care professionals, members of the clergy, and other residents of the school district. No one category of member shall constitute more than one-fifth of the membership of the committee, except that parents may comprise more than one-fifth of the membership of the committee. No more than one quarter of the members of the committee may be made up of employees of the school district or their spouses or members of the school board or their spouses.



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## **Testimony on Assembly Bill 246**

**Assembly Committee on Education**

**May 25, 2023**

Chairman Kitchens and members of the Assembly Committee on Education:

Thank you for the opportunity to testify today on Assembly Bill 246. My name is Cory Brewer and I am an attorney at the Wisconsin Institute for Law & Liberty (WILL). I am here to testify for information only regarding the residency aspect of this bill.

If a school district decides to provide a human growth and development instructional program to its students, Wisconsin law requires districts to meet certain criteria. One of those requirements is for the school board to appoint an advisory committee to review the curriculum and make recommendations to the school board.

Wisconsin Statute section 118.019(5) indicates categories of members that must be on the advisory committee. As to the issue of residency, the relevant sentence in the statute currently states: "Parents, teachers, school administrators, pupils, health care professionals, members of the clergy, and other residents of the school district shall comprise the committee."

Committee members should be residents of the school district. One of the reasons this is important is because the human growth and development statute requires that if a district adopts a human growth and development curriculum, then the information presented must be "medically accurate" and "age-appropriate." Wis. Stat. sec. 118.019(2)(a). "Medically accurate" and "age-appropriate" are defined in the statute. Relevant to AB 246, "age-appropriate" is defined as "suitable to a particular age group of pupils based on their developing cognitive and emotional capacity and consistent with adolescent development and community standards." (Emphasis added.) Community standards in the context of what is age-appropriate unsurprisingly vary across the state. Including non-residents on the committee could conflict with this requirement for age-appropriateness to comport with community standards.

An additional reason residency in the district is important is because the human growth and development statute explicitly includes that the purpose of the section is to "foster a partnership between parents of pupils attending schools in the district and the schools in the school district to promote the optimal health and well-being of the pupils." (Emphasis added.) Wis. Stat. sec. 118.019(1). In other words, our legislature acknowledged the importance of a partnership between parents and their children's schools with regard to student health and well being.



Both community standards and parent partnership are important not only because they are explicitly included in our state, but also because community members value transparency and involvement. WILL has been contacted by parents across the state who have been members of human growth and development committees in their districts and who have either felt that they had no voice because of how the committee was operated or have been frustrated by a lack of community values in discussions about human growth and development curricula.

Our current law arguably already requires that all committee members be residents of the school district, but at least one district that WILL is aware of has taken the position that residency is not required, at least for some categories of committee members. Through an open records request, WILL was able to confirm that an individual who resided in Milwaukee was on the human growth and development advisory committee for a school district an hour away.

In order for the human growth and development advisory committee to comply with the intent of the statute, the committee should reflect community standards and parent partnership by being comprised of parents of students and residents of the school district. Otherwise, what would be the purpose of having such a committee at the local level at all? If school boards could appoint committee members from anywhere in the state, would it not be more efficient to have only one such committee for the state of Wisconsin?

Regarding AB 246, clarification would be useful at subsection (5)(a) as to the modifier “of the school district” and whether it applies to the *entire* committee or only to certain categories of committee members. While this is included later in the bill, to eliminate any ambiguity, subsection (5)(a) could be revised to explicitly state which categories of members must reside in the school district.

Finally, considering families using open enrollment to attend a public school district other than their assigned district, this committee might consider an amendment to indicate that the residency requirement apply only to, for instance, the membership categories of health care professionals, members of the clergy, and other residents. WILL supports the exception to this allowing the board to appoint an individual to the committee who is *not* a resident if there is not a resident available to fill positions, for instance, a health care professional for a school district in a rural area of the state.

I respectfully ask that you consider an amendment to AB 246. Thank you for your time today. I would be happy to answer any questions.

Cory Brewer

[cbrewer@will-law.org](mailto:cbrewer@will-law.org)

Wisconsin Institute for Law & Liberty

Hello, my name is Jon Paul, and I am here to speak about Assembly Bill 246 that has been brought forth to the Education Committee this morning. I would like to thank the assembly members that have gathered today, especially my assembly representative Amy Binsfeld, for their work on this bill.

I am a resident of the Sheboygan Area School District, a member of the Sheboygan Area School District Human Growth and Development Citizens' Advisory Committee, and most importantly a proud father to my thirteen-month-old daughter.

I joined the Human Growth and Development Citizens' Advisory Committee in July of 2022. I wanted to be part of the group that was created with the intent to advise the school board regarding the designing and implementation of the human growth and development curriculum. Our committee meets every other month and for the past ten months our main goal has been updating the current sexual education curriculum for the middle schools within our district.

After a few meetings I had reason to believe that at least one member and perhaps as many as three members of our committee were not residents of the Sheboygan Area School District. I found it highly suspicious and particularly concerning that someone who is not a resident of our school district be allowed to guide the Sheboygan Area School District's Board of Education regarding our school's sexual education curriculum.

On November 11 of 2022, I sent the following email to Eric Spielman, Coordinator of Instructional Services and the chair running our committee at that time:

Hello Eric, I was looking up the State Statute 118.019 and it appears that we have some violations of the statute according to info that I have been given. I have been told that we have members of our committee that do not reside in the SASD district. As you can see in the attached copy of the statute it says "other residents of the school district". I am asking for 3 things to be clarified before our meeting on Monday so that we have clear info and are transparent with the public.

1. If you know of any member or members of the committee that are not residents of the SASD district, that they are informed that they do not meet the requirements for the committee thus not allowing them to be on the committee any longer.
2. If you do not know the address of any member of the committee, that you get the address for each member.

# The Human Growth and Development Citizens' Advisory Committee for the Sheboygan Area School District



## *Committee Procedural Rules*

- B. The Committee shall reorganize annually in May, at which time planning for the year's activities of the Human Growth and Development Citizens' Advisory Committee for the Sheboygan Area School District shall take place.
- C. The Committee shall approve all recommendations to the Board of Education by a majority vote of the quorum present before submitting them in writing to the Board of Education.
- D. The human growth and development coordinator shall be responsible for providing needed information and services to the Committee.

#### ARTICLE VII – Officers

- A. The officers of the Human Growth and Development Citizens' Advisory Committee shall be a chair, a chair-elect, and a secretary, elected by the Committee from its voting membership at its May meeting. Officers shall serve for one year in their designated position and may be re-elected once. Officers who miss two consecutive meetings without just cause shall be relieved of their office and a replacement shall occur by a majority vote of the quorum present.
- B. The chair shall preside at all meetings; shall assist in the preparation of the agenda; and shall assist in the presentation of reports to the Board of Education and the community. The chair-elect shall serve in the absence of the chair; shall assure the maintenance of the membership list; shall assist with the orientation of new members; and with staff assistance, shall assure the notification to the members of all meetings. The secretary shall review the minutes of the meetings; shall, in the absence of staff, record the minutes; and with the chair, shall prepare the reports with the Committee.

#### ARTICLE VIII – Meetings

- A. The Committee shall hold a minimum of one annual meeting. Additional meetings will be held on an "as-needed" basis. The date, time, and place of all meetings shall be determined by the Committee and public notice shall be provided in accordance with the Wisconsin Open Meetings Law.
- B. Whenever necessary, special meetings shall be called by the chair or by a majority of the Committee, or by the human growth and development coordinator, or at the request of the Board of Education of the school district.
- C. All meetings shall be open to the public except if a closed session is warranted under §19.85 (1) Wis. Stats. However, the responsibilities of making motions and voting will be limited to voting members of the Committee. Any member of the Committee may propose an item for the agenda of any regular meeting and may speak to any issue before the Committee.

#### ARTICLE IX – Rules of Order

- A. The Committee procedural rules shall be approved by the Board of Education.
- B. Suggested amendments to the *Committee Procedural Rules* of the Human Growth and Development Citizens' Advisory Committee shall be approved by a majority of the quorum present and shall be transmitted to the Board of Education for their approval.
- C. A quorum shall consist of a majority of the voting members of the Committee.
- D. Robert's Rules of Order Newly Revised shall be the parliamentary authority for the Human Growth and Development Citizens' Advisory Committee. The human growth and development coordinator to serve as the parliamentarian.