

# DrummondWoodsum

ATTORNEYS AT LAW

## Staff Training:

**HB 1312 and the New Laws regarding  
objectionable course material and  
parental notice**

*Bradley F. Kidder Law Conference*

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# What we will cover:

- ▣ Notice of Objectionable Course Materials Law
  - RSA 186:11, IX-c
- ▣ Parental Notification of “Changes in Student Well-Being”
  - RSA 186:11, IX-e

**\* Both from NH House Bill 1312**

# Objectionable Course Materials

- “[The Objectionable Course Materials Policy] shall also require the school district or classroom teacher to provide parents and legal guardians not less than 2 weeks advance notice of **any** curriculum course material used for instruction **or program** of human sexuality, ~~[or]~~ human sexual education, **sexual orientation, gender, gender identity, or gender expression**. The policy shall address the method of delivering notification to a parent or legal guardian. **The policy shall also acknowledge that no notice is required if a school employee is responding to a question from a student during class.** ~~[To the extent practicable,]~~ A school district shall make curriculum course materials available to parents or legal guardians for review upon request.”

# Objectionable Course Materials: what has changed #1

## ▣ Expands the scope of TOPICS requiring notice:

1. Human sexuality and sexual education;
2. Sexual orientation;
3. Gender;
4. Gender identity;
5. Gender expression.

# Objectionable Course Materials: what has changed #2

- Instruction “**or program**”
- Disclosure of materials upon request no longer has to be “practicable” to trigger disclosure duty.
  - ▣ Translation – have your curriculum materials ready to share ... or an even better practice is to provide them in advance.

# Objectionable Course Materials: what has stayed the same

- Still only requires notice/disclosure of *curriculum course materials*.
  - When used for instruction “**or program**” of one of the identified topics
- No notice required if a school employee “is responding to a question from a student during class”

# Further analysis...

- ❑ The statute only applies to curriculum course material that is specifically “used for” instruction on those topics.
- ❑ The law does not encompass curriculum material that merely “includes” information on “human sexuality, human sexual education, **sexual orientation, gender, gender identity, or gender expression.**”
- ❑ Thus, notice is not required for materials that are, for example, used in an English or Social Studies class that merely include information about those topics.

# Take Aways...

- ❑ The list of covered objectionable “topics” has expanded.
- ❑ The law does not prevent you from providing instruction on those topics, as long as you provide 2 weeks notice.
- ❑ The law does not require you to provide notice unless you are providing actual instruction in those specific topics ... which most of you are not doing



# Parental Notification

- “A school district may not adopt policies, procedures or student support forms that prohibit school district personnel from answering questions from a parent about his or her student's mental, emotional, or physical health or well-being, sexuality, or a change in related services or monitoring, or that encourage or have the effect of encouraging a student to withhold from a parent such information. School district personnel may not discourage or prohibit parental notification of and involvement in critical decisions affecting a student's mental, emotional, or physical health or well-being. This paragraph does not prohibit a school district from adopting procedures that permit school personnel to withhold such information from a parent if a reasonably prudent person would believe that disclosure would result in abuse, abandonment, or neglect pursuant to RSA 169-C:3.”

# Part 1 – Prohibition against Prohibitions

- Policies cannot prohibit/discourage school staff from withholding information or answering questions from a parent about a student's:
  - mental, emotional, or physical health or well-being
  - sexuality, or a change in related services or monitoring
- Does not **obligate** staff/the district to answer

# Part 2: Staff Cannot Discourage Parental Notification

- School staff cannot discourage or prohibit parental notification of and involvement in critical decisions affecting a student's:
  - mental, emotional, or physical health or well-being.
- The meaning is unclear. But this paragraph does **not** prohibit a school district from adopting procedures that permit school personnel to withhold such information from a parent if a reasonably prudent person would believe that disclosure would result in abuse, abandonment, or neglect pursuant to RSA 169-C:3.”

# Part 3: Student Safety Exception to Parental Notification

- This paragraph does not prohibit a school district from adopting procedures that permit school personnel to withhold such information from a parent if a reasonably prudent person would believe that disclosure would result in abuse, abandonment, or neglect pursuant to RSA 169-C:3.

# Take Aways #1 – Actual Knowledge

- What staff members have actual knowledge or information about students':
  - mental, emotional, or physical health or well-being
  - sexuality, or a change in related services or monitoring
- Staff who have this information need to be prepared to field questions from parents.

# Take Aways #2 – Maintain Boundaries

- ❑ Maintain appropriate Teacher/Student relationships...
- ❑ Unless it is your job as a teacher to become involved in or have conversations with students about their personal mental, emotional, or physical health or well-being, sexuality, or a change in related services or monitoring...
- ❑ Please send them to a Counselor, School Social Worker or Administrator

# Take Aways #3 – Student Safety

- ❑ If you ever have a safety concern about a student, you must immediately speak with an Administrator.
- ❑ If you have reason to suspect that a student has been abused or neglected, you have a duty to report that suspicion directly to DCYF.
- ❑ The Administration is responsible for determining whether a reasonably prudent person would conclude that a covered disclosure may result in abuse, abandonment, or neglect.

 Questions?

**Thank you!**