

SB 272-FN - AS INTRODUCED

2023 SESSION

23-1062  
07/05

SENATE BILL            **272-FN**

AN ACT                establishing a parents' bill of rights in education.

SPONSORS:            Sen. Carson, Dist 14; Sen. Avard, Dist 12; Sen. Gannon, Dist 23; Sen. Gray, Dist 6; Sen. Birdsell, Dist 19; Sen. Bradley, Dist 3; Sen. Ward, Dist 8; Sen. Innis, Dist 7; Sen. Murphy, Dist 16; Sen. Ricciardi, Dist 9; Sen. Lang, Dist 2; Sen. Abbas, Dist 22; Sen. Gendreau, Dist 1; Sen. Pearl, Dist 17

COMMITTEE:          Education

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ANALYSIS

This bill establishes a parents' bill of rights, what constitutes a violation of such rights, and a mechanism to notify parents of their rights.

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Explanation:          Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Three*

AN ACT establishing a parents' bill of rights in education.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Declaration of Purpose.

2 I. The general court finds and reaffirms that parents have a fundamental right and  
3 responsibility to direct the upbringing, education, and care of their minor children and that in order  
4 to meaningfully and effectively exercise this right, no educational institution may withhold  
5 information about a child, the child's health, the child's school environment, or the child's in-school  
6 behavior from the child's parent or parents absent a compelling government interest.

7 II. The general court further finds that it is a child's parents who have the responsibility,  
8 means, and resources to ensure that a child receives appropriate health care, social support,  
9 religious guidance, and moral inculcation to develop into happy and productive members of society.

10 III. Accordingly, the general court further finds that it is necessary to establish a consistent  
11 mechanism for parents to be notified of information relating to the health, well-being, and  
12 educational progress of their minor children while those children are in the custody and control of  
13 the public schools.

14 2 New Chapter; Parents' Bill of Rights in Education. Amend RSA by inserting after chapter  
15 189-A the following new chapter:

16 CHAPTER 189-B

17 PARENTS' BILL OF RIGHTS IN EDUCATION

18 189-B:1 Short Title. This chapter may be cited as the Parent's Bill of Rights in Education.

19 189-B:2 Definitions. In this chapter:

20 I. "Parent" means a person who has legal custody of a minor child as a natural or adoptive  
21 parent or a legal guardian, but such term shall not include a parent as to whom the parent-child  
22 relationship has been terminated by judicial decree or voluntary relinquishment.

23 II. "Minor" means a person under the age of 18 years.

24 III. "Compelling state interest" shall include a circumstance in which the school or school  
25 personnel have an actual and objectively reasonable belief, supported by clear and convincing  
26 evidence, to believe that any action or inaction that impinges upon any of the rights identified in  
27 RSA 189-B:3 is likely to cause a child to be abused or neglected as defined in RSA 169-C:3, except  
28 that a compelling state interest shall not be found to exist solely because the school or school  
29 personnel believe that the child's best interest is served by impinging upon parental rights.

30 IV. "School" shall include, without limitation, any school board, school district, school  
31 administrative unit, or public charter school.

1           V. “School personnel” shall include any teacher, administrator, employer, or other individual  
2 acting in furtherance of or on behalf of any school.

3           VI.(a) “Infringement” for the purposes of this chapter shall include:

4                   (1) The violation or infringement of any of the rights described in this chapter;

5                   (2) The knowing withholding of truthful information required to be disclosed to a  
6 child’s parent pursuant to this chapter;

7                   (3) The knowing provision of misleading or intentionally inaccurate information  
8 required to be disclosed to or forbidden to be withheld from a child’s parent pursuant to this chapter;

9 or

10                  (4) The denial of the existence of information required to be disclosed to a child’s  
11 parent pursuant to this chapter when the information is known to the school or school personnel  
12 inquired of by a parent.

13           (b) “Infringement” for the purposes of this chapter shall not include:

14                   (1) The development and implementation of school curricula and/or programming as  
15 authorized by New Hampshire law when the disclosures required by this chapter are made.

16                   (2) The denial of requests by parents that the school district adopt requested  
17 curricula and/or programming for a child that is not consistent with properly adopted curricula  
18 and/or programming.

19                   (3) The denial of one or more requests by a parent that the school district permit his  
20 or her child to engage in a course of study not approved by the school district, except as specifically  
21 permitted by this chapter or required by New Hampshire law.

22           189-B:3 Parental Rights.

23           I. All parental rights are reserved to the parents of minor children in this state without  
24 obstruction or interference from any school or school personnel. The rights of a parent regarding his  
25 or her child or children include, but are not limited to, the following:

26                   (a) The right to direct the upbringing and the moral or religious training of a parent’s  
27 minor child.

28                   (b) The right to direct the education of a parent’s minor child. This right includes the  
29 right to choose to enroll the child in an assigned resident public school, a public charter school, an  
30 approved nonpublic school, a home education program, or an Education Freedom Account program,  
31 as set forth in RSA 193:1 and RSA 194:F:1, et seq.

32                   (c) The right to request that a child be enrolled in a public school other than the public  
33 school assigned to them by their residence to avoid a manifest educational hardship, as set forth in  
34 RSA 193:3.

35                   (d) The right to enroll a child in a private school, including a religious school, a home  
36 education program, or other available options, as authorized by law, as an alternative to public  
37 education, as set forth in RSA 193:1 and RSA 194:F-1, et seq.

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1 (e) The right to obtain access for a child to public curricular courses and co-curricular  
2 programs offered by the local school district where the student resides while choosing to enroll their  
3 child in a non-public public chartered, home education or EFA program, as set forth in RSA 193:1-c  
4 and RSA 194-F:2(d).

5 (f) The right to inspect any instructional material used as part of the educational  
6 curriculum for a child within a reasonable period following a request, as set forth in 20 U.S.C.  
7 section 1232h(c)(1)(C).

8 (g) The right to exempt a minor child from immunizations if, in the opinion of a  
9 physician, the immunization is detrimental to the child or because of religious beliefs, as set forth  
10 RSA 141-C:20-a and RSA 141-C:20-c.

11 (h) The right to exempt a public-school student from participating in required statewide  
12 assessments in English, language arts, mathematics, and/or science, as set forth in RSA 193-C:6.

13 (i) The right to receive information regarding the level of achievement and academic  
14 growth of a child in the state academic assessments in English, language arts, mathematics, and/or  
15 science, as set forth in the Every Student Succeeds Act, 20 U.S.C. section 1112 (e)(1)(B)(i).

16 (j) The right to opt out of health or sex education and any other objectionable material,  
17 as set forth in RSA 186:11, IX-b and IX-c.

18 (k) The right to access and review all education records relating to a minor child within  
19 14 days after the day the school receives a request for access as set forth in RSA 189:66, IV, and 34  
20 C.F.R. 99.5.

21 (l) The right to be promptly notified if a criminal offense has been committed against a  
22 minor child, as set forth in RSA 193-D:4.

23 (m) The right to be notified whenever seclusion or restraint has been used on the child  
24 as set forth in RSA 126-U:7.

25 (n) The right to be informed of the school district's policy regarding discipline policies  
26 and procedures, as set forth in RSA 193:13.

27 (o) The right to be advised of any non-academic survey or questionnaire to be  
28 administered to a child and the requirement that the parent consent to a child completing such a  
29 survey or questionnaire, as well as the right to opt the child out of the Youth Risk Behavior Survey  
30 developed by the Centers for Disease Control and Prevention, as set forth in RSA 186:11, IX-d.

31 (p) The right to access and review all medical records of a child maintained by a school  
32 or school personnel, except:

33 (1) As restricted by RSA 132:32-132:36, RSA 141-C:18, RSA 141-F:7, RSA 135-C:19-  
34 A; or

35 (2) If the parent has been convicted of any crime of violence against the minor child;  
36 or

1 (3) If the parent is the subject of an investigation of a crime committed against the  
2 minor child and a law enforcement agency has requested of the applicable court that the information  
3 not be released to the parent in order to protect the integrity of an ongoing investigation.

4 (q) The right to consent in writing before a biometric scan of a child is made, shared, or  
5 stored, as set forth in RSA 189:65 and RSA 189:68.

6 (r) The right to consent in writing before any record of a child's blood or deoxyribonucleic  
7 acid (DNA) is created, stored, or shared, except as required by general law or authorized pursuant to  
8 a court order.

9 (s) The right to be informed of, and provide consent to, any medical procedure or  
10 treatment to be performed on a child, except pursuant to RSA 132:34, RSA 141-C:18, or for the  
11 provision of emergency medical treatment.

12 (t) The right to inquire of the school or school personnel and to be truthfully and  
13 completely informed if their child is being identified by any name other than the name under which  
14 the child was enrolled in the school or any nickname that a reasonable person would understand to  
15 be commonly derived from such name, including under circumstances which a reasonable person  
16 would understand to be for the purpose of facilitating a change of gender or gender transition.

17 (u) The right to inquire of the school or school personnel and to be truthfully and  
18 completely informed if the child is being identified or referred to by school district staff, as being of a  
19 gender other than that of which the child was identified or referred when enrolled.

20 (v) The right to inquire of the school or school personnel and to be truthfully and  
21 completely informed if any school or school personnel are proceeding with any intervention to affirm  
22 or to provide an accommodation of a child's asserted gender identity when the student's gender  
23 identity is other than that of which the child was identified or referred when enrolled.

24 (w) The right to know what extracurricular activities, clubs, or organizations their child  
25 is participating in.

26 II. Federal law provides for additional parent and family involvement for schools that are  
27 receiving Title I, Part A; Title I, Part C (migrant); Title III, Part A (EL) funds, including:

28 (a) The right to receive information, including student reports, in an understandable and  
29 uniform format and to the extent practicable, in a language that parents can understand, as set forth  
30 in 20 U.S.C. sections 1112(e)(4); 1114(b)(4); 1116(e)(5); and 1116(f).

31 (b) Upon request of the parent, the right to receive information regarding state  
32 qualifications of the student's classroom teachers and paraprofessionals providing services to the  
33 child, as set forth in 20 U.S.C. section 1112(e)(1)(A)(i-ii).

34 (c) The right to receive an annual local educational agency report card that includes  
35 information on such agency as a whole and each school served by the agency, as set forth in 20  
36 U.S.C. section 1111(h)(2)(A-B)(i-iii).

37 III. Nothing in this chapter shall:

1 (a) Authorize a parent of a minor child in this state to engage in conduct that is unlawful  
2 or to abuse or neglect his or her minor child in violation of general law.

3 (b) Prohibit a court of competent jurisdiction, law enforcement officer, or employees of a  
4 government agency that is responsible for child welfare from acting in their official capacity,  
5 pursuant to RSA 186:11, IX-c.

6 189-B:4 Violations.

7 I. No school or school personnel, shall infringe upon any of the parental rights set forth in  
8 RSA 189-B:3, unless the infringement is supported by clear and convincing evidence and is narrowly  
9 tailored to address the compelling state interest.

10 II. Any parent claiming violation of any provision of this chapter may bring an action for  
11 declaratory and/or injunctive relief and monetary damages against the school or school personnel. If  
12 a parent prevails in any such court action, the court shall award to the parent his or her reasonable  
13 attorneys' fees and court costs, including any such attorneys' fees and court costs incurred in an  
14 appeal to the supreme court.

15 189-B:5 Procedure Upon Determination of The Existence of a Compelling State Interest  
16 Warranting Infringement Upon Parental Rights. Upon determining that a compelling state interest  
17 requires a school or school personnel to infringe upon any of the parental rights described in this  
18 chapter, such school personnel shall immediately notify his or her superior of his or her intent to  
19 infringe upon parental rights in a written report that identifies each of the articulable facts that the  
20 person believes justifies the infringement of parental rights. Such report shall identify the  
21 individual parental rights that the school or school personnel proposes to infringe upon and the basis  
22 for such infringement. The report shall also state the anticipated duration for the continued  
23 impingement of parental rights and all steps the school or school personnel proposes to take to  
24 address the compelling state interest. The infringement of parental rights shall continue for no  
25 longer than is necessary to address the compelling state interest.

26 189-B:6 School Board Notification of Parent's Rights. Every school board shall annually provide  
27 a written notice to all parents of minors in the district of their rights as set forth in RSA 189-B:3.

28 189-B:7 Severability. If any provision of this chapter or its application to any person or  
29 circumstance is held invalid, the invalidity does not affect other provisions or applications of this  
30 chapter which can be given effect without the invalid provision or application, and to this end the  
31 provisions of this chapter are severable.

32 3 Effective Date. This act shall take effect September 1, 2023.

LBA  
23-1062  
2/15/23

**SB 272-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT                    establishing a parents' bill of rights in education.

**FISCAL IMPACT:**

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill, **as introduced**, at this time. When completed, the fiscal note will be forwarded to the Senate Clerk's Office.

**AGENCIES CONTACTED:**

Department of Education