

Chairman and Members of the Senate Education Committee,

I am writing to you today regarding House Bill 236, which proposes significant amendments to the Education Act. While I do not believe the intent of this bill was ill-intended in any way, the restructuring of its format has led to unintended consequences. The rearrangement has created vague and misaligned statements that conflict with various provisions within the Code of Federal Regulations, placing school districts at risk of lawsuits and exposing families and children to potential discrimination.

Specifically, the bill, as currently written, would disproportionately impact children with developmental, physical, cognitive, intellectual, and serious emotional disturbance disabilities across our state who are entitled to a free and appropriate public education under federal law, including the Individuals with Disabilities Education Act (IDEA). A key example of this is the relocation of item (1)(a), which addresses students who are habitually truant. Previously, this provision was included in a section that explicitly cited IDEA, ensuring protections for students with disabilities or suspected disabilities, including those with medical needs. Additionally, item (1)(e), which highlights students displaying behaviors that may pose a safety risk to their peers, disproportionately impacts students with disabilities or suspected disabilities. These behaviors are often a direct manifestation of their disability rather than a reflection of the child themselves, as behavior, at its core, is a form of communication. Under the new format, these protections are now only referenced at the top of page 3 in relation to students who bring weapons, such as firearms, to school. As a result, students impacted by the newly proposed stipulations on page 1 may no longer receive the protections afforded under IDEA and federal law.

These unintended consequences could have a significant and detrimental impact on both Idaho's schools and its students. I urge careful reconsideration of the bill's structure to ensure that all students, particularly those with disabilities, continue to receive the legal protections to which they are entitled.

Denial of Enrollment Due to Truancy

Section (1)(a) of HB236 references habitual truancy as a reason for denying a child enrollment in Idaho schools. This provision fails to account for children with complex medical conditions who, due to frequent hospitalizations or necessary medical treatments, struggle with school attendance. Under this provision, a child undergoing chemotherapy or requiring regular, intensive therapies could be classified as habitually truant and subsequently denied the right to education. This conflicts with federal protections such as Section 504 of the Rehabilitation Act, which mandates that children with disabilities receive reasonable accommodations. By failing to distinguish between willful truancy and medically necessary absences, this bill risks penalizing children for circumstances beyond their control.

Exclusion of Children with Disabilities for Behavior Manifestations

The language in Section (1)(e) of the bill states that children may be denied enrollment due to behavior that is "detrimental to the health and safety of other pupils." While school safety is paramount, this provision is overly broad and fails to account for the legal requirement that schools provide behavioral interventions and accommodations for children with disabilities. Many children with disabilities exhibit behavioral challenges before they are officially diagnosed. Excluding students based on behavioral manifestations without first evaluating whether these behaviors stem from an undiagnosed disability directly violates IDEA and Section 504.

For example, a child in second grade was expelled from multiple schools due to outward-facing behaviors. Despite the parents' persistent requests for special education testing, the school consistently denied the requests, asserting that the child's behaviors were too extreme. Eventually, a different school conducted the necessary testing and identified multiple learning disabilities, qualifying the child for special education services. Under the current language of HB236, this child would have been excluded from all schools before receiving the evaluations and interventions necessary to access education. This bill, therefore, not only discriminates against children with disabilities but also obstructs early identification and intervention, which violates federal law.

Requiring Disclosure of Sealed Juvenile Records

Section (1)(f) mandates the disclosure of juvenile records, even if sealed under the Juvenile Corrections Act. This requirement raises serious concerns regarding privacy and discrimination. The assumption behind this provision appears to be that these records belong to high school students who pose a danger to others. However, charges listed under Idaho Code 20-525A(5) include aggravated battery, assault with intent to commit a serious felony, and assault or battery upon certain personnel—charges that are increasingly applied to elementary school children with disabilities who lack the self-regulation skills necessary to control their actions.

For example, a young child with a disability who kicks a staff member in frustration can receive an aggravated battery charge. Similarly, a child experiencing a psychiatric crisis in a facility may panic, damage property, or inadvertently harm a staff member, leading to a serious charge. I have personally worked with families whose eight-year-old children have received such charges—not because they are inherently dangerous, but because they lack access to the intensive supports that would help them manage their behaviors. The current language of this bill only serves to further ostracize these children, stripping them of their federal protections and placing undue burdens on their families.

Fiscal and Societal Implications

Families residing in rural or frontier areas of Idaho often have no alternative schooling options. Many lack financial means to purchase a computer, access the internet, or facilitate online education without the support of special education services. By preventing these children from attending school, HB236 inadvertently increases the financial burden on the state. Families forced to homeschool due to lack of access will require greater reliance on Medicaid, SNAP, and other government assistance programs. Additionally, the exclusion of children with disabilities

from traditional school settings inhibits their ability to develop critical social skills, which can impact their future ability to transition into adulthood and employment.

The Message We Send Matters

Children with developmental disabilities, mental health conditions, or medical needs are not a burden to society. Their behaviors often serve as a form of communication, especially when they struggle with verbal expression. Instead of penalizing these children for behaviors they may not yet fully understand or control, Idaho should focus on ensuring they receive the support necessary to learn, grow, and succeed.

Alternative Solutions

Rather than implementing exclusionary policies, Idaho should invest in resources that support children with disabilities while ensuring compliance with federal regulations under the IDEA, Section 504, and FAPE. To achieve this, the bill should be revised to:

- **Align its language with federal mandates** to prevent ambiguity and ensure Idaho students can access their right to a Free and Appropriate Public Education (FAPE).
- **Remove any requirement for families to disclose a child's sealed juvenile record.** Sealed records exist to protect a child's future, and mandating their disclosure forces families to expose deeply personal and often misunderstood circumstances that may not reflect the child's current reality.
- **Acknowledge that not all crimes referenced in the bill occur under the same conditions.** Children—ranging from elementary to high school—often receive criminal charges as a direct result of their disability, even when they lack the capacity to understand the extent of their actions. Many of these children do not act with intent to harm but are instead failed by a system that does not provide appropriate supports and interventions.
- **Eliminate vague or conflicting language** that creates unnecessary confusion and concern for Idaho schools, students, and families, ensuring that any policy changes are clear, consistent, and equitable.
- **Require trauma-informed training for educators** to equip them with the tools needed to support students effectively and reduce the likelihood of criminalization.
- **Ensure school districts have adequate resources** for early identification and intervention so that students receive appropriate supports before their behaviors escalate into crisis situations.
- **Encourage collaboration between schools, mental health professionals, and families** to create inclusive educational environments where students can be supported rather than isolated.

I strongly urge this committee to reconsider the language of HB236 and engage in discussions with disability advocates, educators, and families before moving forward with this bill as it currently presents. Idaho's education policies must reflect our commitment to ensuring that all children—regardless of ability—have equitable access to education.

By explicitly incorporating references to federal regulations—such as those found at the top of page 3 of the proposed bill—Idaho can prevent further ambiguity and ensure that any new provisions align with the requirements of the IDEA, Section 504, and FAPE. This will protect students' rights while providing clear guidance for schools, reducing concerns about compliance, and reinforcing Idaho's commitment to an equitable education system.

Moreover, we must recognize that **further isolating children with disabilities who receive charges of this nature will only serve to push them further from society, limiting their ability to ever successfully integrate.** If we truly want to be a part of the solution, we must stop viewing these children solely through the lens of their deficits and instead work to identify and cultivate their strengths and abilities. Schools should be a place for growth and learning, not exclusion and punishment. I urge this committee to take an approach that prioritizes support, intervention, and opportunity over isolation and exclusion.

Thank you for your time and consideration. I welcome any opportunity to further discuss these concerns and potential solutions with the committee.