
From: Deborah Tillinghast [REDACTED]
Sent: Wednesday, April 02, 2025 7:38 PM
To: House Finance
Subject: HB 105

Members of House Finance Committee:

I am writing in strong support of HB 105, which adds the critical component of mental health to Alaska's K-12 school health curriculum.

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From: Susan A [REDACTED]
Sent: Tuesday, March 25, 2025 11:36 PM
To: House Education; House Finance
Subject: Public Testimony on HB 105

Public Testimony on HB 105: "An Act Relating to Mental Health Education" with Expanded Concerns Regarding Religious Involvement

Members of the legislative body,

I respectfully submit this testimony regarding HB 105, an act aiming to enhance mental health education in public schools by requiring the Alaska Department of Education and Early Development (EED) to establish mental health education guidelines, in consultation with various stakeholders, including tribal health organizations. While the bill's goals are commendable, there are critical legal and constitutional concerns that need to be addressed, especially regarding the involvement of chaplains and religious leaders in taxpayer-funded educational institutions. This involvement may directly violate the Establishment Clause of the First Amendment, which prohibits the government from establishing or endorsing religion in public institutions.

Legal Concerns:

1. Loopholes and Implementation Ambiguities:

HB 105 outlines a broad mandate for the creation of mental health education guidelines, but it lacks specific language regarding how schools will ensure equitable and comprehensive access to mental health resources, particularly for marginalized groups. Moreover, while the bill suggests consultation with tribal health organizations, it does not include clear, enforceable processes for ensuring full, equitable participation by these communities in the development and implementation of mental health education.

2. Overlaps with Existing Law:

The bill overlaps with existing health education statutes, such as AS 14.30.360, which requires public schools to provide health education. Without clarifying how HB 105 integrates or supersedes these existing laws, there is potential for conflicting regulations and duplicative efforts, leading to confusion and inefficiencies.

3. Parental Rights and First Amendment Concerns:

HB 105 includes a provision allowing parents to withdraw their children from mental health education activities, which may trigger First Amendment concerns. The *Pierce v. Society of Sisters* (1925) and *Troxel v. Granville* (2000) decisions affirm parental rights to direct their children's education. However, the breadth of this provision could hinder the state's compelling interest in providing comprehensive mental health education, particularly in public institutions. This could result in large groups of students being excluded from important mental health content, potentially exacerbating existing inequalities.

4. Alaska Native Sovereignty and Tribal Rights:

The bill provides for consultation with tribal health organizations, but it fails to grant these organizations decision-making authority, which undermines Alaska Native sovereignty. Under the Indian Self-Determination and Education Assistance Act (ISDEAA), tribes are entitled to greater involvement in educational decisions affecting their communities. The bill should include stronger provisions for meaningful tribal input, ensuring that Alaska Native communities are fully engaged in shaping mental health education that respects their cultural perspectives.

5. Equal Protection and Educational Disparities:

The bill's provision allowing parental opt-out could disproportionately affect marginalized communities, particularly in rural Alaska, where mental health education could be vital to addressing longstanding issues such as trauma, suicide, and substance abuse. The Equal Protection Clause of the Fourteenth Amendment mandates that all students have access to a comprehensive, equitable education. Any provision that leads to unequal access to mental health education could violate this principle.

Additional Concerns Regarding Religious Involvement in Public Education:

A critical issue that must be addressed is the inclusion of chaplains and religious leaders in taxpayer-funded educational institutions. Allowing religious figures to have any role in the creation or delivery of educational curricula, including mental health education, constitutes a clear violation of the Establishment Clause of the First Amendment of the United States Constitution, which prohibits government entities from endorsing or promoting religious activities.

1. Violation of the Establishment Clause of the First Amendment:

The Establishment Clause of the First Amendment prohibits government entities, including public schools, from establishing religion or endorsing religious practices. By permitting chaplains or religious leaders to play a role in the educational process in taxpayer-funded schools, HB 105 would violate this constitutional prohibition. This is clearly reflected in *Engel v. Vitale* (1962), where the Supreme Court held that the establishment of a state-sponsored prayer in public schools violated the Establishment Clause. Furthermore, in *Lee v. Weisman* (1992), the Court ruled that even a non-coercive prayer led by a religious leader at a public school event could violate the Establishment Clause, emphasizing that public institutions must remain secular to avoid the appearance of government-endorsed religion.

2. Precedents from U.S. Supreme Court Cases:

Engel v. Vitale, 370 U.S. 421 (1962): The U.S. Supreme Court ruled that it is unconstitutional for public schools to compose official prayers, affirming that prayer and religious activity cannot be a part of state-sponsored school programs.

Lee v. Weisman, 505 U.S. 577 (1992): The Court ruled that a school-sponsored prayer by a religious leader at a public school graduation violated the Establishment Clause because it represented an endorsement of religion by the state.

Santa Fe Independent School District v. Doe, 530 U.S. 290 (2000): The Court struck down a policy allowing student-led prayers at school events, noting that even voluntary prayers in public schools violate the principle of government neutrality toward religion.

3. Violation of Alaska's State Constitutional Law:

Alaska's constitution further enshrines the separation of church and state in Article I, Section 4, which states, "No money shall be drawn from the treasury for the benefit of any religious or other private educational institution." Allowing religious leaders or chaplains to be involved in the mental health education of public school students would directly violate this provision, as it would constitute a use of public funds to promote religious views within public schools.

While the intention behind HB 105 is noble in its effort to improve mental health education in Alaska's public schools, the bill's provisions pose significant constitutional, legal, and practical challenges. Most notably, the involvement of chaplains or religious leaders in any capacity within taxpayer-funded educational institutions violates both the Establishment Clause of the First Amendment and Alaska's own constitution, which mandates a clear separation between church and state. Additionally, there are concerns regarding the adequacy of funding, the scope of parental rights, and the protection of Alaska Native sovereignty that need to be addressed.

It is imperative that this legislation be amended to ensure it complies with constitutional protections, respects the rights of all students, and upholds the principle of government neutrality on matters of religion. I urge the legislature to carefully reconsider the bill's provisions and make the necessary changes to safeguard Alaska's public education system from any unconstitutional overreach.

References:

U.S. Constitution, First Amendment – Establishment Clause.

Pierce v. Society of Sisters, 268 U.S. 510 (1925).

Troxel v. Granville, 530 U.S. 57 (2000).

Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. § 5301 et seq.

Engel v. Vitale, 370 U.S. 421 (1962).

Lee v. Weisman, 505 U.S. 577 (1992).

Santa Fe Independent School District v. Doe, 530 U.S. 290 (2000).

Alaska State Constitution, Article I, Section 4.

AS 14.30.360 – Health Education in Public Schools.

U.S. Department of Education, Family Educational Rights and Privacy Act (FERPA).

Thank you for your time and attention.

Susan Allmeroth
Two Rivers
Myself