

**DISCRIMINATION DISGUISED AS PARENTAL
EMPOWERMENT: A TITLE IX CHALLENGE TO
NORTH CAROLINA’S PARENTS’ BILL OF
RIGHTS***

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INTRODUCTION

In August 2023, the North Carolina General Assembly passed Senate Bill 49, coined the “Parents’ Bill of Rights.”¹ The law, generally, aims to expand parents’ access to information regarding their children in public schools.² However, two sections of the new

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1. Parents’ Bill of Rights, ch. 114A, 2023 N.C. Sess. Laws 106 (codified as amended at N.C. GEN. STAT. § 114A).

2. Emily Walkenhorst, *New NC Law on Parents and Schools Begins Shaky Rollout*, WRAL NEWS, <https://www.wral.com/story/new-controversial-law-on-parents-and-schools-begins-its-shaky-rollout-both-opponents-and-supporters-arent-happy/21207821/> (last updated Jan. 8, 2024).

bill have received the most attention. Section 115C-76.45(a)(5) requires schools to notify parents if their child asks school personnel to refer to them using a different name or pronoun.³ Section 115C-76.55 prohibits instruction on gender identity, sexual activity, or sexuality to students in kindergarten through fourth grade.⁴ Proponents of the bill have advocated that these sections advance the rights of parents to raise their children without government interference, while skeptics argue that the overbroad language stigmatizes LGBTQ+ students and creates a chilling effect within public school systems.⁵ The first challenger of the law was the Campaign for Southern Equality, a non-profit advocacy group that works across the South to promote support, research, and political activism for LGBTQ+ individuals.⁶ The organization filed a Title IX complaint with the U.S. Department of Education's Office of Civil Rights.⁷ The decision from the Department is still outstanding but other states who have already enacted similar laws to North Carolina's may offer a window into what is to come.

This Article will argue that the Campaign for Southern Equality's complaint filed with the U.S. Department of Education's OCR should be successful because of the ways in which the two specific provisions of North Carolina's Parents' Bill of Rights discriminate against LGBTQ+ students. Specifically, the laws signal intolerance of LGBTQ+ identities, marginalizing a particular group of students. Moreover, it will be suggested that the two problematic provisions of the law are against public policy because the provisions, ironically, do not advance parental rights. The bill creates blanket exclusions on LGTBQ+ curriculum, rather than using an opt-out approach that has become commonplace in our public-school systems.⁸ Wholly advancing one agenda while giving no space for

3. N.C. GEN. STAT. § 115C-76.45(a)(5).

4. N.C. GEN. STAT. § 115C-76.55.

5. See Walkenhorst, *supra* note 2.

6. *Id.*; CAMPAIGN FOR S. EQUAL., <https://southernequality.org/about/> (last visited Sep. 26, 2025).

7. See Campaign for S. Equal., Title IX Compl. to the U.S. Dep't of Educ.'s Off. for C.R. and C.R. Div. Re: Hostile Env't for LGBTQ Students in N.C. Pub. Schs. (Jan. 30, 2024), <https://southernequality.org/wp-content/uploads/2024/01/Southern-Equality-Title-IX-Allegation-vs-NC-SBE-and-NC-DPI.pdf>.

8. See James D. Kirylo, *The Opt-Out Movement and the Power of Parents*, KAPPAN (May 1, 2018), <https://kappanonline.org/kirylo-opt-movement-power-parents/>.

parents to exercise their constitutional right to direct the upbringing of their children creates tension that effaces public policy and the strong notion of parental rights in the United States.

Part I discusses North Carolina's Parents' Bill of Rights in greater detail and discusses the parental rights movement that precipitated the bill and similar legislation across the United States. This part looks at the public's response to the bill as well as the tangible changes that have been made in public school districts across the state to comply with the law. Part II describes the main legal challenge to the bill thus far, the Campaign for Southern Equality's OCR complaint, its arguments, and potential outcomes. Part III uses Florida's similar law, enacted two years prior to North Carolina's, as a case study to examine the legal challenges it has faced regarding the law and where the law stands now as a way of predicting what may be next for North Carolina. Lastly, Part IV assesses the strengths of the Campaign for Southern Equality's complaint and why the provisions of the North Carolina law are ultimately discriminatory in nature against LGBTQ+ students in public schools.

I. WHAT IS NORTH CAROLINA'S PARENTS' BILL OF RIGHTS AND WHERE DID IT COME FROM?

A. *The Surge of the Parental Rights Movement*

The North Carolina Parents' Bill of Rights, in its broadest description, was enacted to increase parental involvement and empowerment in schools by requiring public schools to give more information to parents about their children's education and health.⁹ Most fundamentally, the notion of parental rights comes from the federal Constitutional right to direct the upbringing of one's children, which the bill references at the beginning of the chapter.¹⁰ However, this bill is preceded by a recent surge in "parental rights" advocacy across the country.¹¹

9. Walkenhorst, *supra* note 2.

10. N.C. GEN. STAT. § 114A-10(1) ("A parent has the right to the following: To direct the education and care of his or her child.").

11. See Sarah Szilagy, *Parental Rights is a Movement with Deep Roots. It's Spreading Nationwide.*, MOTHER JONES (June 13, 2025), <https://www.motherjones.com/politics/2025/06/parental-rights-is-a-movement-with-deep-roots-its-spreading-nationwide/>.

Professor Maxine Eichner, in her article “Free-Market Family Policy and the New Parental Rights Laws,” argues that the push for parental rights has been “orchestrated by a network of elite right-wing actors.”¹² In entangling highly emotional and reactive responses to policies affecting people’s children along with the weaponizing of political hot topics like “critical race theory” and vaccination requirements, right wing think tanks motivate their base to get to the ballot box.¹³ Many “parental rights” organizations formed during the pandemic to fight COVID-19 restrictions in schools and after the diminishment of the disease, took up other agendas such as school curriculums focused on race, gender, and sexuality.¹⁴ States began to match these movements with legislation, with Florida becoming the first state to enact a law banning the discussion of sexual orientation and gender identity in the classroom.¹⁵

Florida’s law—dubbed by opponents as the “Don’t Say Gay” law—was enacted in 2022 and prohibits instruction on sexual orientation and gender identity in public primary schools.¹⁶ Since its enactment, six other states have enacted similar statutes banning the discussion of LGBTQ+ content in public schools.¹⁷ North Carolina’s Parents’ Bill of Rights law goes even further than Florida’s, with more specific requirements for teachers and greater enforcement mechanisms.¹⁸

12. Maxine Eichner, *Free-Market Family Policy and the New Parental Rights Laws*, 101 N.C. L. REV. 1305, 1325 (2023).

13. *Id.* at 1323-24, 1326.

14. Elizabeth A. Harris & Alexandra Alter, *A Fast-Growing Network of Conservative Groups Is Fueling a Surge in Book Bans*, N.Y. TIMES (last updated Jan. 10, 2023), <https://www.nytimes.com/2022/12/12/books/book-bans-libraries.html#:~:text=The%20growth%20comes%2C%20in%20part,books%20they%20regard%20as%20inappropriate.>

15. *Florida Teachers can Discuss LGTBQ Topics Under “Don’t Say Gay” Law, Settlement Says*, NAT’L PUB. RADIO (Mar. 11, 2024 at 7:16 ET), <https://www.npr.org/2024/03/11/1237730819/florida-dont-say-gay-law-settlement-lgbtq>.

16. *Id.*

17. *Id.* (“Other states used the Florida law as a template to pass prohibitions on classroom instruction on gender identity or sexual orientation. Alabama, Arkansas, Indiana, Iowa, Kentucky and North Carolina are among the states with versions of the law.”).

18. Parents’ Bill of Rights, S. 49, 2022 Gen. Assemb., Reg. Sess. (N.C. 2023) (enacted); Parental Rights in Education, H.B. 1557, 2022 Gen. Assemb., Reg. Sess. (Fla. 2022) (enacted).

B. *North Carolina's Parents' Bill of Rights and Public Response*

The two most controversial provisions in North Carolina's Parents' Bill of Rights are Section 115C-76.45(a)(5) and Section 115C-76.55. The first provision is titled "Notifications of student physical and mental health."¹⁹ It states: "The governing body of a public-school unit shall adopt procedures to notify a parent of the following: Prior to any changes in the name or pronoun used for a student in school records or by school personnel, notice to the parent of the change."²⁰

The second provision, titled "Age-appropriate instruction for grades kindergarten through fourth grade" states:

Instruction on gender identity, sexual activity, or sexuality shall not be included in the curriculum provided in grades kindergarten through fourth grade, regardless of whether the information is provided by school personnel or third parties. For the purposes of this section, curriculum includes the standard course of study and support materials, locally developed curriculum, supplemental instruction, and textbooks and other supplementary materials, but does not include responses to student-initiated questions.²¹

The bill has sparked significant public reaction.²² The vague aspects of the law, such as what is included in "curriculum," has frustrated schools and educators across the state attempting to comply.²³ Local school boards have traditionally had the authority to set their own policies based around state law.²⁴ However, such policies often grant individual schools and teachers much discretion.²⁵ This discretion, while potentially significant for teacher autonomy and localized issues, also has stirred confusion and in some instances over-cautious compliance—a phenomenon known as the "chilling

19. N.C. GEN. STAT. § 115C-76.45(a)(5).

20. *Id.*

21. N.C. GEN. STAT. § 115C-76.55.

22. *See* Greg Childress, Advocates File Federal Complaint Over 'Parents' Bill of Rights Law, NC NEWLINE (Jan. 31, 2024, 5:00 AM), <https://ncnewline.com/2024/01/31/advocates-file-federal-complaint-over-parents-bill-of-rights-law/>.

23. Walkenhorst, *supra* note 2.

24. *Id.*

25. *Id.*

effect.”²⁶ For example, in an abundance of caution, some elementary school teachers have removed books off of their classroom library shelves that include anything politicians might consider controversial, whether or not such books are indeed targeted by the statute.²⁷ Charlotte Mecklenburg County Schools (CMS) officials emailed all elementary school principals advising teachers “to remove any books from classroom libraries that have content related to gender identity, sexual activity or sexuality that students may access as part of independent reading tasks.”²⁸ The CMS director of digital learning and library services followed up saying that “she screened books for ‘alternative use of pronouns, same-sex couples, etc.’”²⁹ A sexual abuse prevention program in Orange County Schools and Chapel Hill-Carrboro City Schools was temporarily suspended after the law came out but has since been reinstated after getting approval from local officials.³⁰ Regarding the pronoun or name change notification provision, LGBTQ+ advocates suggest that queer youth “being kicked out of their homes for coming out is well documented,” and this bill could put many students in dangerous situations or hyper stressful environments.³¹ Opponents of the bill argue that the vagueness of the policies prompts a chilling effect because people, wanting to be law-abiding, will more often than not err on the side of conservatism.³² This increased conservatism has prevented teachers from offering queer kids support, and has signaled an intolerance towards LGBTQ+ students, which opponents argue increases bullying and creates a hostile learning environment.³³

Proponents of the bill argue that it isn’t intended to target the LGBTQ+ community, but rather a parent’s right to information about

26. *See id.*; *In the Documents: North Carolina Educators Scramble to Comply with State’s ‘Don’t Say Gay’ Law*, AM. OVERSIGHT (Apr. 11, 2024), <https://americanoversight.org/in-the-documents-north-carolina-educators-scramble-to-comply-with-states-dont-say-gay-law/>.

27. Walkenhorst, *supra* note 2.

28. AM. OVERSIGHT, *supra* note 26.

29. *Id.*

30. Walkenhorst, *supra* note 2.

31. *Id.*

32. AM. OVERSIGHT, *supra* note 26.

33. Maura Barrett & Matt Laviertes, *LGBTQ Students Reflect on First School Year Under North Carolina’s ‘Don’t Say Gay’ Law*, NBC NEWS (last updated June 20, 2024), <https://www.nbcnews.com/nbc-out/out-politics-and-policy/north-carolina-sb-49-law-lgbtq-students-rcna157177>.

their children.³⁴ Parents, not teachers, they contend, should determine when it is appropriate to discuss topics of gender identity and sexual orientation with their kids.³⁵ Moreover, advocates of the bill suggest that the concerns opponents of the bill have about children facing backlash at home for name or pronoun changes should not be a central concern because there are state laws already in place designed to assist children who are abused or neglected.³⁶

II. CAMPAIGN FOR SOUTHERN EQUALITY’S TITLE IX COMPLAINT WITH THE U.S. DEPARTMENT OF EDUCATION’S OFFICE OF CIVIL RIGHTS

A. *Campaign for Southern Equality’s Title IX Complaint*

Campaign for Southern Equality (CSE) is a non-profit based in North Carolina that works to advocate for and build support networks across the South for LGBTQ+ individuals.³⁷ On January 30, 2024, five months after North Carolina’s enactment of the Parents’ Bill of Rights, CSE filed a federal Title IX complaint with the U.S. Department of Education’s Office for Civil Rights (OCR), arguing that the law marginalizes and discriminates against LGBTQ+ students.³⁸ Title IX “protects people from discrimination based on sex in education programs or activities that receive federal financial assistance.”³⁹ The OCR enforces Title IX by evaluating, investigating, and resolving complaints.⁴⁰ CSE’s complaint is the first legal action challenging the North Carolina bill.⁴¹

34. Walkenhorst, *supra* note 2.

35. Barrett & Lavietes, *supra* note 33.

36. Walkenhorst, *supra* note 2.

37. *About*, THE CAMPAIGN FOR S. EQUAL., <https://southernequality.org/about/>.

38. See Greg Childress, *Advocates File Federal Complaint Over “Parents’ Bill of Rights” Law*, N.C. NEWSLINE (Jan. 31, 2024), <https://ncnewsline.com/2024/01/31/advocates-file-federal-complaint-over-parents-bill-of-rights-law/>.

39. *Title IX and Sex Discrimination*, U.S. DEPT. OF EDU. (last reviewed Apr. 11, 2025), <https://www.ed.gov/laws-and-policy/civil-rights-laws/title-ix-and-sex-discrimination>.

40. See *About OCR*, U.S. DEPT. EDU. (last reviewed Mar. 4, 2026), <https://www.ed.gov/about/ed-offices/ocr/about-ocr>.

41. Laura Browne, *Complaint Alleges New Legislation Creates Discriminatory Environment for LGBTQ+ Students*, EDNC (Mar. 5, 2024),

The 113-page complaint by CSE was brought “on behalf of the LGBTQ+ students, families, staff and faculty who are subjected to sex-based discrimination in North Carolina’s public schools.”⁴² It alleges that, based on Title IX, the North Carolina State Board of Education (SBE) and the North Carolina Department of Public Instruction (DPI) are discriminating against LGBTQ+ students and creating a hostile learning environment.⁴³ CSE seeks OCR to enforce a “safe, supportive, and welcoming school environment for LGBTQ students, families, and staff that complies with Title IX.”⁴⁴

The CSE complaint first argues that North Carolina schools are implementing policies, that discriminate against LGBTQ+ students.⁴⁵ Their first example of these policies is the Parents’ Bill of Rights provision that prohibits curriculum about gender identity, sexuality, or sexual orientation.⁴⁶ The ban sweeps broadly, yet, CSE argues, there is only hyper surveillance over LGBTQ⁴⁷-affirming content.⁴⁸ For example, *strict* compliance with the law would “bar reading stories about opposite-sex-led families, as surely heterosexuality is a sexual orientation and, hence, implicates sexuality.”⁴⁹ Yet avoiding a total ban and interpreting the rule as one only banning LGBTQ+ content creates a target on LGBTQ+ communities, allowing, for example “a book with a mother and a father [to] be read in classrooms, while a book with two moms, two dads, or two male penguins raising a chick together [to be] out of bounds.”⁵⁰

CSE’s next example of discriminatory policy is the Parents’ Bill of Rights provision that requires schools to notify parents prior to any name or pronoun changes.⁵¹ This policy has placed some students in untenable situations at home and has resulted in differing interpretations of the law.⁵² Some schools have interpreted the

<https://www.ednc.org/03-05-2024-complaint-alleges-legislation-creates-discriminatory-environment-for-students/>; see Childress, *supra* note 38.

42. Tile IX Compl., *supra* note 7, at 1.

43. *Id.* at 2.

44. *Id.*

45. *Id.*

46. Parents’ Bill of Rights, ch. 114A, 2023 N.C. Sess. Laws 106 (codified as amended at N.C. GEN. STAT. § 114A).

47. Tile IX Compl., *supra* note 7, at 3.

48. *Id.* at 2-3.

49. *Id.* at 3.

50. *Id.*

51. *Id.* at 8.

52. *Id.* at 9-11.

provision as requiring parental permission before using a name change while others have applied the provision only to “gender nonconforming students and/or refused to honor a child’s name or pronoun change even with parental approval.”⁵³ One personal anecdote in the complaint described a teacher’s policy of requiring the students to go by the name listed in the school records.⁵⁴ Even if students’ parents were aware of their name change, the teacher did not honor it, upsetting several transgender students in the class.⁵⁵

The CSE complaint next argues that North Carolina’s educational establishment has failed to protect LGBTQ+ students following the enactment of the Parents’ Bill of Rights.⁵⁶ North Carolina’s SBE and DPI have failed to issue guidance on how to implement the Parents’ Bill of Rights consistent with Title IX and other anti-bullying laws.⁵⁷ This lack of guidance has allowed for the political, anti-LGBTQ+ rhetoric to influence the bill’s execution, and has created “chaotic, uneven local implementation leaving administrators, educators, parents, and students nowhere to turn.”⁵⁸ In fear of noncompliance, educators have been overly cautious to screen out political hot topics – namely LGBTQ+ content, creating a lack of protection for LGBTQ+ students in North Carolina schools.⁵⁹

Lastly, CSE argues that SBE and DPI have “created a hostile educational environment for LGBTQ+ students in North Carolina’s public schools in violation of Title IX.”⁶⁰ The lack of guidance from both SBE and DPI on the Parents’ Bill of Rights has stripped LGBTQ+ support from schools, involuntarily outed students to their parents, and systemically fostered an intolerance towards their identity.⁶¹ CSE argues that this discriminatory environment increases the risk of school dropouts and suicide.⁶² In alignment with that claim, the Center for Disease Control “has found that inclusive policies lower in-school emotional distress, violence, and harassment for all students.”⁶³

53. *Id.* at 11.

54. *Id.* at 13.

55. *Id.*

56. *Id.* at 24.

57. *Id.* at 30.

58. *Id.*

59. *Id.* at 30-32.

60. *Id.* at 33.

61. *Id.* at 34.

62. *Id.* at 35.

63. *Id.*

The CSE calls on the OCR and federal executive branch to issue a determination on whether the provisions in the Parents' Bill of Rights violates Title IX and take remedial efforts to create a more inclusive, LGBTQ+ friendly environment in North Carolina schools, such as

adopting policies that respect all students' gender identities—such as the use of the name the student goes by and pronouns that respect a student's gender identity—and implementing policies to safeguard students' privacy—such as maintaining the confidentiality of a student's birth name or sex assigned at birth if the student wishes to keep this information private, unless disclosure is legally required.⁶⁴

CSE ends the complaint with 23 pages of testimonials from administrators, staff members, educators, parents and students from the North Carolina public school system sharing their personal experiences and stories with the Parents' Bill of Rights and learning environments in public schools.⁶⁵

B. *What's Next?*

CSE is currently waiting for a decision from the OCR.⁶⁶ Since there are no legal deadlines for decisions to be issued, an investigation and rendered decision from the OCR can take up to a year or more for single schools.⁶⁷ Thus, in CSE's case for an entire state public school system, the process is likely to take much longer.

It is also important to consider the change in the political landscape that has occurred since CSE's filing. While the OCR is still technically enforcing Title IX provisions, the Trump administration's dismantling of the federal Department of Education and its rescission of the 2024 Title IX regulations, which made gender identity a protected class under Title IX, make it very unclear how CSE's

64. *Id.* at 38.

65. *Id.*

66. Browne, *supra* note 41, at 6.

67. *The Title IX Process*, EQUAL RTS. ADVOC., <https://www.equalrights.org/issue/the-title-ix-process/> (last visited May 14, 2026).

complaint will fare.⁶⁸ While considering the potential changes and effects the new administration poses is necessary, because of its lack of clarity and precedent, the Article will proceed with my analysis of CSE's complaint based on more cemented precedent of the past. One way to do this is to look at Florida, a state that enacted a law similar to the "Parents' Bill of Rights" two years before North Carolina.⁶⁹ The trajectory of the Florida law may be useful as a predictor of what is to come for North Carolina as a whole.

Similarly to CSE's complaint filed with the OCR, a group of civil rights attorneys sued Florida education officials claiming that the law was unconstitutional.⁷⁰ It was dismissed by a federal judge in district court, appealed to the Eleventh Circuit, and subsequently settled.⁷¹ The settlement required the government to clarify various aspects of the law, including affirming that students and teachers "can discuss sexual orientation and gender identity in Florida classrooms, provided it's not part of instruction."⁷² It also required the Florida Board of Education to send out explicit instructions to every school district stating that the law "doesn't prohibit discussing LGBTQ+ people," "doesn't apply to library books not being used for instruction in the classroom," and that the law is neutral, "meaning what applies to LGBTQ+ people also applies to heterosexual people."⁷³ The civil rights attorneys justified the settlement by stating that the continuing lawsuit would have delayed meaningful resolution for several more years, outweighing the benefits of a win in the courts.⁷⁴

Ultimately, while not a large-scale win for opponents of the bill, this settlement suggests that a suit or filed complaint could prompt clarity from the North Carolina State Board of Education. This would somewhat reduce the chilling effect seen across the state and also potentially bring the law to more people's attention, promoting further advocacy. However, there is also a strong argument that a settlement

68. *Tuesday Takeaways: The Future of Title IX After Executive Order to Dismantle the Department of Education*, ICS BLOG (Mar. 25, 2025), <https://icslawyer.com/the-future-of-title-ix-after-executive-order-to-dismantle-the-department-of-education/>.

69. Parental Rights in Education, H.B. 1557, 2022 Gen. Assemb., Reg. Sess. (Fla. 2022) (enacted).

70. NAT'L PUB. RADIO, *supra* note 15.

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.*

like this may not be necessary because the North Carolina Parents' Bill of Rights violates Title IX and public policy and therefore cannot remain intact. Part III will examine why the CSE complaint should find success in its argument that the North Carolina bill violates Title IX, and I suggest that the bill is also invalid as a matter of public policy.

III. NORTH CAROLINA'S PARENTS' BILL OF RIGHTS VIOLATES TITLE IX AND IS AGAINST PUBLIC POLICY

A. *The Parents' Bill of Rights Violates Title IX*

Under Title IX, sex-based discrimination can be proved using two different theories: a disparate treatment theory or a disparate impact theory.⁷⁵ Disparate treatment requires a showing of purposefully different treatment on the basis of sex, whereas disparate impact looks “to the consequences of a facially sex-neutral practice or policy, rather than examining intent.”⁷⁶ Because proving specific intent is usually a difficult burden and the law here purports to be neutral on its face, the North Carolina Parents' Bill of Rights law would most likely fall into the category of disparate impact.

There is no doubt the two specific provisions of the North Carolina Parents' Bill of Rights have a disparate impact on LGBTQ+ individuals. Both provisions, while seemingly neutral on their face, target, isolate, and “other” LGBTQ+ groups.⁷⁷ The vague language of the laws place a chilling effect on teachers and administrators, resulting in removal of content deemed “political” or “controversial” which has become synonymous with any sexual orientations *other* than heterosexual.⁷⁸ This perpetuates the “notion that [any sexual orientation other than heterosexual] is taboo and unfit for discussion at any grade level, but that heterosexuality is not, itself imposes

75. Alex J. Snow, “Don't Say Gay”: Florida's Suppression of LGBTQ+ Identities Under the Guise of Parental Empowerment, 37 J. C.R. & ECON. DEV. 85, 93 (2024).

76. *Id.* at 94.

77. AM. OVERSIGHT, *supra* note 26, at 5 (“The records shows teachers and administrators were confused about whether to remove books or classroom materials but often leaned toward removal of anything politicians might consider controversial.”).

78. Nicholas Serafin, *Born to Equality: Minor Children, Equal Protection, and State Laws Targeting LGBTQ+ Youth*, 75 U. CAL. L. J. 411, 426 (2024).

dignitary harm upon LGBTQ+ students.”⁷⁹ The defenders of the bill, nonetheless, utilize pretext to justify the bill on parental rights and “child first” grounds.⁸⁰

North Carolina Senate Member Amy Galey, when arguing for the bill, advanced the parental rights argument, stating that some parents “wanted to have their rights firmly established, that there can be no secrets kept from the parents by the school . . . [a]nd this law is a first step.”⁸¹ This argument has been used most consistently by the bill’s supporters, but it is pretextual because the law does not in fact advance parents’ rights and the law is modeled after its Florida predecessor, which has had more explicit commentary on its discriminatory reasoning.⁸² Moreover, absent pretext, the law still harms and discriminates against children, meaning that it violates Title IX regardless of its intent.⁸³

North Carolina’s Parents’ Bill of Rights does not advance parental rights. Currently, the public school system has adopted an opt-out approach to curriculums.⁸⁴ If a parent does not want their child to, for example, partake in sexual health education, they can opt to remove them from the classroom during that instruction.⁸⁵ This is a workable system, it allows a parent to direct the upbringing of their own child, but places the burden on the parent so as not to intrude on the rights of other children (and thus the rights of *other* parents). North Carolina’s law does something different. North Carolina’s law creates a blanket opt-out approach to an extremely overbroad category of education, which could inhibit children’s learning on a wide spectrum, ranging from not being able to access library books to not being able to go by the name they feel most comfortable with at school. By placing a blanket prohibition on an extremely vague and broad category of education, the law encroaches on the rights of parents who want their children to be able to learn and discuss sexual identity. Therefore, advocates of the bill who advance that the bill is about parental rights are misguided.

79. *Id.*

80. *See* Walkenhorst, *supra* note 2, at 1.

81. *Id.*

82. *See* Parental Rights in Education, H.B. 1557, 2022 Gen. Assemb., Reg. Sess. (Fla. 2022) (enacted).

83. 20 U.S.C. § 1681.

84. Serafin, *supra* note 78, at 422.

85. *Id.*

The bill is also pretextual as to its underlying goals. As suggested by the commentators of the Florida “Don’t Say Gay” bill, the North Carolina bill is undoubtedly based their own on. While defending the “Don’t Say Gay” law, Florida’s Governor Ron DeSantis public stated that parents “should be protected from schools using classroom instruction to sexualize their kids as young as 5 years old.”⁸⁶ Using “sexualize” in this way is deeply problematic and “exploits an ambiguity in the word,” suggesting that “discussions of non-traditional human sexual orientations or gender identities are inherently erotic, and proponents of discussing LGBTQ+ identity thus must be attempting to introduce children to erotic materials.”⁸⁷ The dissonance between heterosexuality and other sexual orientations and the othering of LGBTQ+ identities shows the bills true objective—to minimize and marginalize a specific group.

CONCLUSION

The North Carolina’s Parents’ Bill of Rights, while framed as a measure to empower parents, in reality codifies state-sanctioned discrimination against LGBTQ+ students. By requiring the forced outing of students and restricting inclusive instruction, the law creates a hostile educational environment that disproportionately harms LGBTQ+ youth. These provisions are not only harmful—they are unlawful under Title IX, which prohibits discrimination on the basis of sex, including gender identity and sexual orientation.⁸⁸ The Campaign for Southern Equality’s Title IX complaint rightly challenges the bill for its failure to respect the rights of *all* students and parents, not just those whose values align with the state’s current political leadership. Upholding federal protections and ensuring schools remain safe, affirming spaces for LGBTQ+ youth is a necessity. The Department of Education should find that the North Carolina Parents’ Bill of Rights violates Title IX and act swiftly to prevent further harm to North Carolina youth.

86. *Id.* at 426.

87. *Id.* at 427.

88. 20 U.S.C. § 1681.