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TO: Members, Assembly Committee on Education
FROM: Dan Rossmiller, Government Relations Director
RE: Assembly Bill 239, relating to allowing a pupil's parent or guardian to opt out of certain statewide examinations and providing information about mandatory pupil examinations
DATE: June 4, 2015

Good morning Chairman Thiesfeldt and members of the committee. Thank you for the opportunity to testify for *information purposes only* on Assembly Bill 239, a bill to clarify Wisconsin statutes relating to parents who wish to opt their children from the state assessments required under the federal No Child Left Behind Act.

Current state statutes explicitly require a school board that receives a request from a pupil's parent or guardian to excuse that pupil from taking state assessments required by state statutes. (See section 118.30(2) (b) 3, Wis. Stats.) These provisions apply to the assessments administered in grades 4, 8, 9, 10 and 11.

State statutes provide no similar directive regarding state assessments that are required by federal law alone. These are the assessments given in grades 3, 5, 6, and 7.

In the absence of a state law provision, local school boards may adopt a policy that permits parents to opt their students out of taking examinations in these grades. Many boards, though certainly not all, have adopted such policies.

Boards adopting opt out policies covering grades 3, 5, 6, and 7 have to be mindful of the absence of any provision in the federal No Child Left Behind Act allowing opting out of assessments by parents, as well as a requirement in that act that schools must test at least 95 percent of students or face a penalty under federal law.

Boards also have to be mindful that failure to test at least 95 percent of students could result in a five-point deduction from their state report card score. We note that the bill before you, Assembly Bill 239, addresses the issue of this deduction from state report card scores, although it does not address the potential penalties under federal law.

It would be easy to rely on arguments about local control to suggest that locally elected school boards should retain the discretion to adopt opt out policies as they see fit. However, we also recognize that from the standpoint of a parent who wishes to opt out his or her child from taking a required examination, it makes little difference to that parent whether the examination is required by state law or federal law.

In taking no position with respect to this bill, we are balancing the interests of respecting parent's wishes against the potential harm to a school district if too many students opt out of required testing and schools are penalized for this or the testing itself becomes an inaccurate or unreliable indicator of school performance for accountability purposes. The fact that Wisconsin historically has a low opt out rate leads us toward a neutral position, although we are concerned about a number of potential ramifications this bill could have, including that small and rural districts could be disproportionately affected by even a relatively small number of students opting out.

Assessments are intended to measure student achievement and progress in essential skills and we hope that parents will continue to see the value in measuring their children's progress and allow their children to be tested.

We encourage legislators to monitor the impact of this bill on parental decisions, particularly whether it may lead to schools or districts facing penalties under federal law.

The WASB has a number of concerns with the written notice provisions in section 3 of this bill, and we have communicated many of these concerns to the author. Our concerns include that providing written notices to all parents on or before the first day of school may be burdensome or costly for many districts and comes on top of a number of new notice requirements that are being added on districts by the proposed state budget bill. These new requirements include that districts provide parents and guardians with notifications about: (a) the academic standards adopted by the school board for that school year; (b) a copy of the school's accountability report (report card) as well as the most recent ranking level assigned to each school within the school district boundaries, including independent "2r" charter schools and private schools participating in a private school choice program; (c) a list of the educational options available to children who reside in the pupil's resident school district, including public schools, private schools participating in a private school choice program, charter schools, virtual schools, full-time open enrollment, youth options, course options, and options for pupils enrolled in a home-based private educational program; and (d) the existence of the special needs voucher program (to be provided to the parents of each child with a disability enrolled in the school district.)

We note that the budget bill, as modified by the Joint Finance Committee specifies that school districts can notify parents of the district's selected academic standards electronically, including on the district's Internet site. We recommend a similar approach be taken with respect to the information required to be communicated to parents and guardians under this bill as well.

Some of the elements of the required notices appear to be redundant (e.g., the requirements set forth in subsections (d) and (f) of proposed section 118.303 (1) appear nearly identical). We recommend that the bill be amended to avoid this duplication. In addition, we recommend that terms such as "instructional

time required to prepare pupils for the examination”—i.e., instructional test preparation time—be more clearly defined if school boards are to be expected to accurately report this information to parents.

We also recommend that the provisions in the bill relating to notice to parents and guardians take effect beginning in the 2016-17 school year.

The bill, as introduced, would require each school board, on or before the first day which a school is operated for the attendance of pupils, to provide the parent or guardian of each pupil enrolled in a public school a written summary of information about certain examinations that will be administered to pupils enrolled in that school and to post that written information on its Internet site.

At present, it would be almost impossible for a school board to comply with this requirement this fall because we have no idea what state assessment is going to be in place next year for grades 3 through 8, or what the schedule for administering that assessment would be.

The budget bill, as modified by the Joint Finance Committee, approves the Governor's recommendation to prohibit state participation in the Smarter Balanced Assessment Consortium and to provide funding for DPI to implement a new statewide assessment. A request for proposals (RFP) has been issued for a new statewide assessment but at present school boards would have no way to determine which test might be selected and when it would be administered. It follows that if there is uncertainty about which test will be administered, it would be difficult if not impossible to determine the other information the bill requires school board to provide, such as: (a) the expected date on which each examination will be administered; (b) the duration of each examination; (c) the instructional time required to prepare pupils for the examinations; or (d) the instructional time dedicated to administering each examination.

Finally, we encourage the committee to clarify whether parents may opt their children out of other required testing such as the existing reading readiness assessments (currently known as PAL tests) or the civics/citizenship test that is being proposed as part of the state budget bill.

We thank you for the opportunity to bring these concerns to your attention.