

ORDINANCE NO. 4326

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH
ADDING CHAPTER 1.23 OF THE HUNTINGTON BEACH MUNICIPAL
CODE RELATING TO PARENTS RIGHT TO KNOW CITY

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. The Huntington Beach Municipal Code is amended by adding Chapter 1.23 to read as follows:

CHAPTER 1.23
HUNTINGTON BEACH PARENTS RIGHT TO KNOW CITY

1.23.010 **Findings.**

- A. State Assembly Bill (“AB”) 1955, signed into law by Governor Newsom on July 15, 2024, prohibits public schools from adopting or enforcing any policy, rule, or administrative regulation requiring an employee to disclose any information related to a student’s sexual orientation, gender identity, or gender expression to any other person without the minor student’s consent.
- B. Numerous studies assert that transgender and gender nonconforming students suffer from increased psychological, emotional, and physical harassment and abuse, and that transgender youth experience an abnormally high number of suicidal thoughts and make an abnormally high number of suicide attempts.
- C. The matters of “student sexual orientation, gender identity, or gender expression” contained in the prohibitions of AB 1955 are not related to “education.” but instead are subject matters that are extremely “private” and highly “personal” for the parent and child.
- D. The State may not claim control over education as a pretext or a guise to invade or regulate the “private” and highly “personal” matters that naturally belong to and should remain within the parent/child relationship. Accordingly, as the State’s attempt to legislate the parent/child relationship by way of AB 1955 is an illegal violation of the California and United States constitutions and not “education,” as such, AB 1955 does not preempt local regulation and may be subject to legal challenges of local authorities, parents, and/or children.
- E. Although the State may regulate “education,” AB 1955 exceeds the State Legislature’s authority to regulate public schools under the California and United States Constitutions and infringes on parents’ constitutional rights by prohibiting schools from adopting policies that would require notifying parents of “private” and highly “personal” matters such as when a parents’ child may be at increased risk of psychological, emotional, and

physical harassment and abuse, and extremely high rates of suicide and suicide attempts, no matter how young the child is, without the child's consent and is not a matter of statewide concern.

- F. The Fourteenth Amendment to the U.S. Constitution provides that no State shall “deprive any person of life, liberty, or property, without due process of law.” (U.S. Const. amend. XIV.) The United States Supreme Court has repeatedly recognized parents’ constitutional right to make decisions concerning the care, custody, and control of their children. (*Troxel v. Granville*, 530 U.S. 57, 65 (2000).) This includes the right to direct their children’s upbringing and education. (*Meyer v. Nebraska*, 262 U.S. 390, 400 (1923); *Pierce v. Society of Sisters*, 268 U.S. 510, 534-535 (1925).)
- G. Parental rights are not secondary to the desires of government agencies. In *Parham v. J.R.*, 442 U.S. 584, 602-603 (1979), the United States Supreme Court declared, “our constitutional system long ago rejected any notion that a child is ‘the mere creature of the State’ and, on the contrary, asserted that parents generally ‘have the right, coupled with the high duty, to recognize and prepare their children for additional obligations’ ...[t]he statist notion that governmental power should supersede parental authority in all cases because some parents abuse and neglect children is repugnant to American tradition.”
- H. In *David v. Kaulukukui*, 38 F.4th 792, 799 (2022), the United States Court of Appeals for the Ninth Circuit observed, “[t]he interest of parents in the care, custody, and control of their children – is perhaps the oldest of the fundamental liberty interests recognized by the Supreme Court. Our case law has long recognized this right for parents and children under the Fourth and Fourteenth Amendments.”
- I. The City of Huntington Beach has nearly 200,000 residents comprised of parents and children. There are 35 elementary schools and five high schools located in the City. By population, Huntington Beach is the 23rd largest city, or is within the top 4% largest cities, among a total of 482 cities in the State of California.
- J. The City of Huntington Beach was constituted by its people and incorporated on February 17, 1909. Since adoption of its Charter on May 17, 1937, the City of Huntington Beach is a Charter City created by the consent of the people within its jurisdiction and authorized by Article XI, Section 5 of the California Constitution to exclusively govern municipal affairs.
- K. Charter Cities “are distinct individual entities and are not connected political subdivisions of the state.” (*Haytasingh v. City of San Diego*, 66 Cal.App.5th 429, 459 (2021)). “It is the free consent of the persons composing them that brings into existence municipal corporations.” (*Id.*) Charter Cities are creatures of the state constitution, formed by the authority of the people. “Charter Cities are specifically authorized by our state constitution to govern themselves, free of state legislative intrusion, as to those matters deemed municipal affairs.” (*City of Redondo Beach v. Padilla*, 46 Cal.App.5th. 902, 909

(2020).) As a Charter City, Huntington Beach is a city of and by the people. Its people, including parents and children, are directly affected by AB 1955.

- L. The protection of parents and children in the City from interference by the State over “a student’s sexual orientation, gender identity, or gender expression” is a municipal affair, not a statewide concern. There can be no greater example of a municipal affair than the regulation of Huntington Beach citizens private and highly personal subject of “a student’s sexual orientation, gender identity, or gender expression” that should be, and remain, between a parent and a child. The people of Huntington Beach have a right to govern Huntington Beach municipal affairs and challenge the State’s attempt to assert authority of municipal affairs.
- M. As a Charter City, that derives its power from the consent of the people, the City of Huntington Beach has a direct interest in protecting the rights of parents of minor children residing within its jurisdiction, and it has a direct interest in challenging the State’s actions that are demonstrably driving large economic producers out of California.

1.23.020 Huntington Beach is a “Parents’ Right to Know” City.

- A. For the purposes of this Chapter, “Parents” shall refer to parents and/or legal guardians.
- B. Parents have a right to know about their child’s “sexual orientation, gender identity, or gender expression” without the interference, prohibition, and/or inhibition presented by AB 1955.
- C. Based on the findings in Section 1.23.010 above, the City of Huntington Beach, California is hereby declared a “Parents’ Right to Know” city.
- D. No educators in the City of Huntington Beach, including but not limited to instructors, counselors, or other adults entrusted with the teaching or caring of children, who work in the City’s Libraries, Parks, City Recreational Facilities, Community Services Facilities, or other City facilities or City sponsored programming shall withhold any information related to a child’s sexual orientation, gender identity, or gender expression to Parents of said children with or without the child’s consent.

1.23.030 Legal Challenge.

- A. Based on the findings in Section 1.23.010 above, the City of Huntington Beach has a direct interest in protecting its Parents, children, and the City’s economy by the impact of this State legislation, and therefore the City of Huntington Beach has legal standing, as claimed, emphasized, and asserted herein, to challenge AB 1955.
- B. Upon a majority vote of the City Council, the City Attorney may initiate a legal action on behalf of the City of Huntington Beach against the State to challenge AB 1955.

- C. Alternatively, upon majority vote of the City Council, the City Attorney may join the City to other legal actions of other jurisdictions, agencies, or individuals challenging AB 1955, and the City Attorney may initiate legal action against the State on behalf of a City resident who is a Parent of a minor student in a public school in Huntington Beach alleging violations of their rights as a result of AB 1955.

- D. Per Resolution No. 2015-61, The City Attorney may immediately engage in defense of the City in any legal challenge brought by the State or other agency for the City's adoption of this Ordinance.

SECTION 2. This ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2024.

ATTEST:

 City Clerk

 Mayor

APPROVED AS TO FORM:

REVIEWED AND APPROVED:

 City Manager

 City Attorney *pel*