

Legal Update

April 2020

School Closings & Distance Learning

Ohio has extended the order prohibiting students' physical attendance in school facilities through May 1st. During the closure, House Bill 197 permits school districts, including community schools, to make up missed learning hours by way of distance learning for the 2019-2020 school year.

Prior to HB 197, schools were only permitted to make up the number of hours that was equivalent to three school days.

Under the new law schools can amend or create a plan for any number of days or hours necessary due to school closures as a result of the Director of Health's school closure order, local board of health order, or any extension of an order regarding COVID-19.



Coronavirus Edition

HB 197

Teleconference Meetings

Ohio House Bill 197 permits, during the period of the emergency declared by Governor DeWine's March 9th Executive Order, members of a public body to hold and attend meetings by teleconference, video conference, or other similar electronic technology.

This means, despite Ohio's Open Meetings Act usual requirement that board members be present in-person, a community school board may currently hold its meetings and take action (deliberate, pass resolutions) by telephone or video conference.

Board members participating in the call or conference will be considered present for purposes of quorum and voting. Presumably, this means board members will be considered present for purposes of properly receiving stipends as well.

The temporary law does not suspend other aspects of Open Meetings Act requirements, such as notice, public access, and minutes.

Boards will still be required to provide notice of meetings including the time, location, and the manner by which the meeting will be conducted. Boards must still provide the public "access" to meetings, ensuring that the public can observe and hear the discussions and deliberations of all the members of the public body. Such access can be in the form internet live-streaming, local radio, television, cable, or public access channels, call-in information for a teleconference, or other widely available electronic technology.

Boards must also take and maintain minutes of meetings as usual.

This unique method for holding board meetings is effective until the period of the emergency ends or until December 1, 2020, whichever comes first.



Special Education

While schools are providing education via alternative means such as distance learning, they are obligated to continue providing services to special education students pursuant to their Individual Education Plans (IEP).

In recognition of social distancing orders, HB 197 permits professionals licensed by the Ohio Speech and Hearing Board, the Ohio Occupational Therapy, Physical Therapy and Athletic Trainers Board, the State Board of Psychology, Counselor, Social Worker and Marriage and Family Therapist Board and the Department of Education licensed intervention specialists to provide services to students electronically or via telehealth communication.

Like many other HB 197 provisions, the electronic delivery of special education services is only valid during the health order to close schools or any extension of an order due to the implications of COVID-19, or until December 1, 2020, whichever is first.

HB 197 Education Provisions

Recognizing the constraints of the COVID-19 school closures and social distancing requirements, HB 197 provided the following for the 2019-2020 school year:

- Waives requirement to administer state assessments
- Prohibits ODE from subtracting from a district's state aid account students who did not complete required assessments
- Prohibits ODE from issuing local report cards, ratings or measures for schools
- Exempts schools from retaining students in 3rd grade under the Third-Grade Reading Guarantee, unless the school determines the student is not reading at grade level.

•Establishes safe harbor from penalties and sanctions for schools based on the absence of state report card grades including:

- Restructuring under state law based on poor performance
- Determination of "challenged school districts" where new start-up community schools may be located
- Community school closure requirements
- Provisions that determine the conditions under which community schools may change sponsors
- Provisions prescribing new buildings where students are eligible for the Educational Choice Scholarships

•Permits schools to issue diplomas to students who the principal, in consultation with teachers and counselors, determines has successfully completed the high school curriculum or IEP. Permits schools whose graduation requirements exceed current law to elect to require only the minimum legal requirements

•For community school sponsor ratings: (a) prohibits ODE from issuing a rating for the academic performance component; (b) prohibits the use of that rating for the overall rating; & (c) prohibits ODE from finding a sponsor out of compliance with laws and rules for any requirement for action that should have occurred while schools were closed.

Q & A

Q: Many of our school's students depend on the school for food. How are the students receiving food during the pandemic and school closings?

A: During the ordered school-building closure period, schools are continuing to provide meals to their students and in some cases to all children ages 1-18 whether students or not. Schools are eligible to continue to receive reimbursement for meals by participating in the Seamless Summer Option or

Summer Food Service Program.

House Bill 197 permitted the state Director of Agriculture to exempt schools from certain food processing and service provisions, allowing schools to continue to operate their lunch and breakfast programs without having to have inspections typically required.

Ask your school's leadership how they specifically are providing meals to students in a consistent and social-distancing compliant manner.

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