

# Legal Update

June 2020

## Sunshine Law Training – Deadline June 30<sup>th</sup>!

Each community school board member, fiscal officer, chief administrative officer, other administrative employees, and all individuals performing supervisory or administrative services for the school must complete training on public records and open meetings laws every year.

If you or anyone involved in the administration of your school has not yet completed training, please contact our office to arrange training:

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The Ohio Attorney General also offers an on-line training course which is accessible at:

<https://sunshinelaw.ohioattorneygeneral.gov/>

Note, the AG training requires participation for 3 hours in order for a certificate to be issued.



## This Edition

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## Return to School in Fall???

On June 2<sup>nd</sup> Governor DeWine announced that schools will reopen with in-person attendance this fall. The governor stated that individual districts could determine start dates. He further indicated that the state will issue guidance on how schools can safely reopen. The state-issued recommendations are slated to include daily at-home temperature checks, hand-sanitizing stations in school building, and required face masks for students and teachers. Other suggestions include desks being spaced at least six feet apart, high-touch surfaces such as door handles and stair-rails being sanitized regularly, and strict limitations on visitors. The governor stated that the guidance will be broad starting points for schools with discretion being left to individual districts and charters.

On June 8<sup>th</sup> Ohio Senate Bill 320 was introduced to prohibit state-level officials, such as the governor, from having the authority to make school opening and closing decisions in the 2020-2021 school year and from determining the related safety measures.

SB 320 would require each district board of education, community school, STEM school, and private school governing authority to decide whether its buildings will be open for instruction with in-person student attendance for 2020-2021. The bill further requires that each school determine what health measures and guidelines to implement to address COVID-19.

Perhaps most notably, the bill would give each school governing authority the right to decide to close buildings. While the bill allows each governing authority the ability to adopt a resolution to authorize a superintendent or equivalent official the authority to close buildings; it makes clear that “no other public official shall prohibit a district or school from opening its school buildings for instruction with students in attendance”.





## COVID-19 Funding Impact

State funding for community schools for fiscal year 2020 (school year 2019-2020) will be reduced by \$88.76 per pupil (from \$6,020 to \$5,931.24). The reduction will be taken from each school's June foundation payment with the total amount adjusted based on the final FTE reported for the year. Funding reductions for fiscal year 2021 are unknown at the time of this publication

Federal funds under the CARES Act may offset this loss. Congress set aside approximately \$13.2 billion of the \$30.75 billion allotted to the Education Stabilization Fund for the Elementary and Secondary School Emergency Relief Fund (ESSER). The U.S. Department of Education passes through to each state which passes along to each local educational agency, including charter schools, emergency relief funds to address the impact that COVID-19 has had and will continue to have, on elementary and secondary schools. ESSER funds will be allocated in the same proportion as 2019 Title I funds.

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[www.amygoodsonlaw.com](http://www.amygoodsonlaw.com)

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## Local Report Cards in the Wake of COVID-19

Undoubtedly, Ohio's ordered school-building closures will have substantial impacts on the state's accountability system for the 2019-2020 school year. The General Assembly recognized this in HB 197 and aims to have schools and educators focus on addressing health and safety needs.

The emergency legislation eliminates ODE's publication of this year's local report cards and prohibits the assignment of an overall grade or an individual grade to any local report card component. Correspondingly, schools will not be ranked this year.

ODE will, for informational purposes only, report by September 15, 2020 any data

that it already has collected regarding the performance of schools. This means that data won't represent the full picture of a school's academic performance. However, it can be helpful for planning purposes. Such information may include graduation rates (grad rate always lags by one year, so the data will represent the rate for the 2018-2019 school year), partial data on improving At-Risk K-3 Readers, and Prepared for Success measures.

Dropout Prevention and Recovery report cards may have the 4, 5, 6, 7 and 8 year graduation rates reported, (again, all of which would reflect 2018-2019 school year data lagged.)

The emergency legislation also creates a safe harbor from numerous consequences and carryover of previous requirements based on report card results. Significant safe harbor provisions for community schools include that the 2019-2020 will not count toward permanent closure or restrictions on changing sponsors.

Note, however, that the lack of report card data this year does not create a new starting point for determinations that are based on ratings over multiple years. So, if a school was subject to penalties in the 2019-2020 school year based on its report card from previous years, those penalties remain for 2020-2021.

### Q & A

#### Q: What is COVID's impact on Special Education?

A: While federal and state disability laws allow for flexibility in determining how to meet the individual needs of students with disabilities, no laws have actually been changed or requirements "waived" during the pandemic.

Therefore, schools need to continue to make a good faith effort to meet all of the obligations regarding special education.

The U.S. Department of Education issued guidance specifically stating that schools should not opt to close or decline to provide remote instruction, at the expense of students, to address matters pertaining to services for students with disabilities. The Ohio Department of Education issued guidance stressing the importance of communicating and collaborating with parents of special education students in order to creatively meet the unique challenges COVID has created.