

Legal Update

November 2020

New Study Released on Benefits of Ohio Charters

A recently released report by the Fordham Institute shows numerous positive impacts of Ohio's brick-and-mortar charter schools.

The study found that students in grades 4–8 in brick-and-mortar charters made significantly greater gains on state math and language arts exams when compared to students of similar backgrounds who attended traditional public districts.

Also noted in the report is that students attending brick-and-mortar general education high schools scored higher on state English end-of-course exams than those who attended district schools.

Access the full report at: <https://fordhaminstitute.org/ohio/research/impact-ohio-charter-schools-student-outcomes-2016-19>



This Issue

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COVID Legal Immunity for Schools and other Entities

House Bill 606 dubbed the “Good Samaritan Expansion Bill” will go into effect December 16th providing temporary legal immunity from Coronavirus-related civil claims to certain business and non-profit entities.

As thousands of lawsuits have been filed nationwide, Ohio's new law is intended to help ensure that school officials and employers will not be hesitant to open for operations out of fear of liability for the unintentional role they might play in spreading the virus.

Proponents of the new law state that immunity is needed to help Ohio's economy by allowing business owners to feel protected in re-opening their businesses. Employers protected from liability for injury, death, or loss that was caused by the transmission of the Coronavirus include, amongst others, schools, healthcare facilities, grocers, and churches.

Critics of the bill argued that Ohio law already protects against frivolous lawsuits and that the bill will encourage businesses to do only the bare minimum to protect people from the dangers of the virus.

HB 606 does not prevent all lawsuits against schools, business, and governmental entities. Still permitted are legal claims in which an entity is accused of intentional or wanton misconduct or reckless disregard in spreading COVID-19.

The law is a temporary measure. It applies to acts, omissions, conduct, decisions, or compliance from March 9, 2020, the date of the Governor's Executive Order declaring a state of emergency, through September 2021.



Title IX – Sexual Harassment

New Title IX regulations went into effect August 14, 2020 and accordingly your school will need to adopt new policies and procedures governing sexual harassment.

Title IX is the federal law aimed at protecting against sex-based discrimination in schools that receive federal funding. Ohio community schools are recipients of various federal funds such as poverty aid, meal reimbursements, and special education funds.

The new regulations change the definition of sexual harassment by requiring that the determination of “unwelcome conduct” be so severe, and pervasive, and objectively offensive that it effectively denies a person equal access to the School’s education program or activity.

The regulations also require separate individuals to serve in the various roles in the sexual harassment complaint process, such as Title IX coordinator, investigator, decision-maker, & appeal designee.

The regulations require that Title IX personnel including faculty, staff, and all mandatory reporters of child abuse receive training on the definitions, procedures, investigations and grievance processes.

In addition to adopting an updated Title IX policy, community school boards should ensure that staff are properly trained in the new procedures and that individuals have been identified to fulfill each of the required roles. Ask your school’s leadership about these matters.

End of the Calendar Year Reminders

Though your school’s fiscal year runs from July 1st through June 30th, some calendar year end dates are worth noting.

If your board’s sponsor contract is due to expire June 30, 2021 and you do not wish to renew with that sponsor, you must notify your sponsor by December 31st. Your sponsor should be notifying you soon whether they have elected to renew. By law, they must notify you by January 15th.

Similarly, if your board’s management agreement is due to expire June 30, 2021 your agreement may require 180 days or 6 months’ advance notice of your intent to non-renew so that automatic renewal provisions do not take effect. If that is the case for your board, you may wish to notify your current operator by December 31st of your intent to non-renew so that you preserve your right to at least negotiate new terms.

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For more information about the contents of this publication or for legal services contact:

amy@amygoodsonlaw.com

330.962.6776

www.amygoodsonlaw.com

Q: Is there any update on testing waivers for this school year?

A: Yes. Bi-partisan legislation (SB 358) was introduced in the Ohio General Assembly to address school accountability issues in light of the continuation of the COVID-19 pandemic. The bill proposes to extend the current exemption from administering state achievement assessments for the 2020-2021 school year and would prevent ODE from publishing report card grades for 2020-2021 and 2021-2022.

Additionally, SB 358 would extend several earlier enacted COVID laws regarding funding, high school graduation, and sponsor evaluations.

However, as for testing waivers, even if SB 358 is enacted in Ohio, the Ohio Department of Education will still need to seek permission from the US Department of Education in order to not administer the state assessments. Currently, the federal position still seems to be that they will not be granting any such waivers for this school year.