

Legal Update

July 2021

Virtual Meetings End

The final version of HB 110 did not include a provision to extend virtual meetings for public bodies such as community school boards. While the original House version of the bill proposed an extension, the Senate removed that provision and the final version omitted such an extension. Therefore, beginning July 1st, community school boards must return to in-person meetings.

As a reminder of pre-Covid times, Ohio's Open Meetings Act requires that a quorum (a majority of a board - i.e., 3 of 5 board members) must be physically present together in a location open to the public in order for a valid meeting to be held. (Other stakeholders such as fiscal officers, legal counsel, employees, sponsor representatives, principals, teachers, etc. may participate by phone or video conference.)



This Edition

State Budget
Report Card Changes

State Biennial Budget – School Funding

Ohio's General Assembly passed the \$74.1 billion state biennial budget in late June with broad bipartisan support (82-13 in the Ohio House and 32-1 in the Senate) with the Governor vetoing 14 substantive items before signing.

The debate regarding how to address school funding was settled by returning almost entirely to the House's version of the revived Cupp-Patterson Plan, also known as the School Fair Funding Plan. One of the significant changes is the way schools will receive money from the state. Under the new law, the state will look at both local incomes and property values to determine how much a district should be able to afford. Instead of the current statewide average basis, the base state funding amount per student will be based on local costs for teachers, student support, administration, operations, and co-curricular activities.

The new funding formula allocates \$10.9 billion to education. This reflects a \$226 million increase for K-12 education in 2022 and an

additional \$141 million increase in 2023. The base per student state allocation is an average of \$7,202 per pupil.

Charter schools and private school vouchers will be directly funded by the state, rather than through a deduction from a school district's share of funding.

The governor's requested funds for student wellness were excluded from the final budget. DeWine had asked for approximately \$1 billion for wraparound services like school counselors. Rather than designating the funds as such, the General Assembly included those funds into the increase in the overall funding formula.

HB 110 also included substantive education law changes which will be covered in futures editions of this publication.



Report Card Changes

House Bill 82 makes sweeping changes to Local Report Cards issued to most Ohio K-12 schools. The new law, which was a compromise of two competing report card reform bills passed both the House and Senate with broad bipartisan support. (Senate 32-1; House 89-3)

The primary goal of the change is to simplify the report cards for families. Instead of the current 16 rated areas, the new report cards will only include 5 component scores: progress achievement, gap closing, graduation, and early literacy. The Achievement and Progress components will be

weighted double of the other three components.

A 6th component on the report cards will include information on college, career, workforce and military readiness (called “prepared for success” in the current system), but will not receive a component grade.

The report cards will also include an “opportunity profile” about each school. This will report 22 different metrics, including staff-to-student ratios, percentage of students participating in co-curricular activities; percentage of students able to take computers home.

Additionally, in place of the current A-F rating, the new report cards will include 1 – 5 stars, including half stars. One star equates to “needs significant support to meet state standards,” three stars means “meets state standards,” and five stars is “significantly exceeds state standards.”

For the 2021-2022 school year no overall star rating will be issued. Rather the 5 components will be scored individually. Overall star ratings will first appear on the 2022-2023 report cards.

These changes do not apply to Dropout Prevention and Recovery Schools.

Student Free Speech

The U.S. Supreme Court last month issued its much-anticipated ruling in the student free speech case *Mahony Area School District v. B.L.* The Court held that suspending a high school student from the cheerleading squad for her obscenity-laden rant on Snapchat off school property and not on school time violated her First Amendment rights.

The Court ruled 8 to 1 that while the special characteristics allowing schools to regulate speech do not necessarily disappear when the speech takes place off campus, the speech involved here was outside the reach of the school.

The high court’s opinion did not provide a bright-line rule governing schools’ abilities to regulate off-campus speech. However, the opinion did provide considerations to guide decision-making over such speech. The opinion gave examples of off-campus speech that schools may have a substantial interest in regulating such as severe bullying, threats aimed at teachers or students, participation in online school activities or hacking into school computers.

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Q & A

Q: Are teachers allowed to carry guns in schools?

A: In June the Ohio Supreme Court ruled that Ohio school teachers and staff can’t carry firearms while on school duty without extensive training or experience.

The case stems from a policy of the Madison Local School District which allowed up to 10 employees with concealed handgun licenses and training to carry weapons in school.

The state’s high court ruled 4-3 that Ohio law “prohibits a school from

employing a person who goes armed while on duty in his or her job unless the employee has satisfactorily completed an approved basic peace-officer-training program or has 20 years of experience as a peace officer.”

The dissenting justices don’t believe the law requiring the training and experience is applicable to teachers, rather to school safety officers, etc. The ruling and the split may prompt Ohio law makers to propose new legislation to redefine what training teachers and staff need in order to carry weapons at school.