

Legal Update

August 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

Ohio Budget Bill
Report Card Changes

House Bill 110 – Good News for Charter Schools

The recent state biennial budget bill allocates an average of \$7,200 per pupil, an increase from \$6,020. But rather than a straight dollar amount of funding as in the past, under the new school funding system, the state will consider numerous factors to determine exactly how much each school will receive. The base state funding amount per student will be based on local costs for teachers, student support, administration, operations, and co-curricular activities and take into consideration how much a district can locally provide based on the area's wealth.

The bill increased facility funding from \$250 to \$500 per student for charter schools.

Also notable for charters is the fact that funds will no longer be paid through students' home districts. Rather, the state will pay charter schools directly for each enrolled student.

The Community School Quality grant fund was increased from \$30 to \$54 million in each of the two fiscal years. (Important because the fund ran short last budget cycle.)

In substantive provisions, HB 110 removed the requirement that community schools only be opened in "challenged" school districts. This means that charters can open anywhere in the state now, rather than just in the 8 largest cities and in poor performing districts.

In another big win for charters, the bill prohibits the automatic closure of community schools on the basis of any report card rating issued prior to the 2022-2023 report card.

The bill also provided that when a charter school is open for instruction, school districts are required to provide transportation to charter students it is otherwise required to transport under current law even if the district's schools are not open for instruction. The bill extends the deadline to August 1st for charters to notify districts that they are assuming responsibility for transportation.





Local Report Cards

Beginning with the 2021-2022 school year most Ohio K-12 schools' local report cards will look very different. House Bill 82 was a compromise of 2 competing report card reform bills passed this summer in both the House and Senate with broad bi-partisan support.

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.

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."

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

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.

The 2020-2021 school year report cards, scheduled to be released in October, will be different from recent years' report cards due to short-term changes in law due to COVID. At Ohio's request the U.S. Department of Education waived several federal requirements. For 20-21, the state will not assign letter grades or issue rankings, and the data will not factor into any graded measures or components.

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: Will masks be mandated in schools this year?

A: As of the date of this publication, the determination of whether a school will require students and staff to wear masks remains each school's individual decision.

As COVID cases increased recently, the Ohio Department of Health, the Centers for Disease Control & Prevention, and the American Academy of Pediatrics are all currently highly recommending mask wearing in schools.

However, SB 209 introduced in the Ohio Senate last month aims to prevent schools from requiring masks.

While that bill is only still pending, HB 244 passed into law and prohibits schools from discriminating against an individual who has not received a vaccine, including by requiring the individual to engage in or refrain from engaging in activities or precautions that differ from unvaccinated individuals. HB 244, which goes into effect October 13th, seems to state that a school could not have a policy requiring masks of only unvaccinated individuals.