

Legal Update

September 2022

Transportation Problems

Unfortunately, as in years past, the start of the 2022-2023 school year has already seen community schools struggle with districts failing to provide bussing as required by Ohio law.

School districts are required to transport all eligible students to charter schools in which they are enrolled.

Building an open, communicative, and friendly relationship with district transportation staff has proven to be the most effective way for charters to receive reliable bussing.

However, sometimes making a formal complaint to ODE becomes necessary. If ODE determines a district has demonstrated a consistent or prolonged period of noncompliance in its responsibilities, ODE will deduct payment from the district's transportation funding.

Additional Information on complaints can be found [Here](#)



This Edition

Start of the 2022-2023 School Year

Health Concerns in 2022 School Opening

The 2022-2023 school year marks the start of the second full school year with COVID concerns factoring into school policies. While many counties across the state are still categorized as having high transmission rates, most schools and districts have loosened protocols from last school year. Most are not requiring masks and have relaxed requirements for sick students to stay home.

This change of protocols is aligned with the Ohio Department of Health's updates to its COVID guidance for schools. ODH is no longer recommending its mask-to-stay, test-to-play guidance. Meaning, ODH no longer recommends widespread masking and COVID testing for schools. Instead, state health officials simply suggest that students and staff who feel ill stay home and away from others in a manner people would for other illnesses. ODH recommend students stay home from school for five days when they are ill and test positive for COVID.

The Centers for Disease Control and Prevention also updated its guidelines as schools head back to session. The CDC no longer recommends quarantining if a person comes into close contact with someone with the virus regardless of vaccination status.

In addition to lingering COVID concerns, parents and other stakeholders have been inquiring about monkeypox concerns and protocols.

In August the Biden administration declared the monkeypox virus a public health emergency. Shortly thereafter reports surfaced of one of the first instances of a daycare worker potentially exposing children to the virus.

Medical professionals across Ohio have recently been saying that families of school-aged children should be aware, but not necessarily worried about monkeypox at this time. Currently it is not widely spreading in Ohio, generally and specifically not in schools. Very few school-aged children have contracted the virus, and as of the date of this publication there have not been reports of any child-to-child transmission in the United States.

Experts say schools can help prevent both COVID and monkeypox spread by sanitizing classrooms and encouraging frequent handwashing.



Updated AOS Bulletin 2021-007: Sunshine Law Training

As reported previously in this publication, in the fall of 2021 the Ohio Auditor of State issued a Bulletin 2021-007 stating the annual public records and open meetings laws training for community school officers and certain employees must be training that is certified by the Ohio Attorney General. The Bulletin initially stated that auditors would audit for compliance with this “requirement” beginning this fiscal year - FY2023.

Our firm collaborated with other charter school

attorneys across Ohio to request that the AOS not implement this auditing “requirement” this year.

We explained that the Bulletin’s interpretation of the law is erroneous (or at least highly confusing). We argued that the law referenced in the Bulletin pertains to “elected” officials, which community school board members are not. We explained that Ohio law has a separate training requirement applicable to community school officials which includes the identical topics

and actually is more demanding in nature as it requires training annually, as opposed to merely “once per term”.

The collaborative efforts paid off. In late August the AOS revised the Bulletin to delay implementation of the new interpretation until fiscal year 2024 (July 1, 2023 – June 30, 2024).

In the meantime, stakeholders will work to change the law to clarify what training is required of community school officials.

Q & A

Q: Were the new CSP grant regulations updated?

A: As reported previously in this publication, the U.S. Department of Education had proposed new regulations for the federal Charter Schools Program (CSP), which provides funding to and support of charter schools across the country. Some of the provisions of the regulations would have a detrimental effect on the growth of charters. While comments made by charter proponents resulted in some improvement, many unfavorable

aspects remain. For example, one element would require traditional district schools to be over-enrolled in order for a charter to be entitled to receive funds for opening in that district. This restriction would eliminate charter schools from being established in the highest needs areas in Ohio as many school districts are experiencing a decline in enrollment, while parents desire charter options in their communities. Lawsuits have been filed to challenge the restrictive regulations. This publication will continue to provide updates.

Religious Charters?

The school choice community has been discussing the impact of a recent U.S. Supreme Court ruling and its possible impact on allowing publicly-funded religious charter schools. The high court recently issued a ruling in *Carson v. Makin* regarding school funding legislation in Maine. The Maine law required the state to pay for students to attend a private high school if the town in which they resided did not have a public high school. The intent being to assist rural families who live far from public schools to attend a private school instead (at public expense). The legislation did not permit the state funding to be used to attend a religious school. The Supreme Court ruled that this prohibition was “discrimination against religion.” While the decision is only applicable currently in states with this limited type of state-aid, the ruling may indicate broader legal interpretations for states to fund religious based charter schools.

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