

Legal Update

December 2021

Remote Learning Senate Bill 229

In addition to a blended learning option, SB 229 proposes to offer schools an option to implement a remote learning plan for the 2021-2022 school year. The option to do so had not initially been extended to community schools as it had been last school year.

However, the General Assembly now recognizes the need for schools to have additional flexibility as the COVID pandemic continues.

If the law is enacted, governing boards may pass a resolution and submit to ODE December 15th notice of intent to allow a remote learning option for students whose parents submit a written request for fully remote learning. Sponsors must approve this.

ODE will issue guidance for submission and implementation when the bill is passed. Passage is expected in the second week of December.



This Edition

Senate Bill 229

House Bill 467

Blended Learning Option – Senate Bill 229

If passed into law, SB 229 introduced in September will offer a blended learning option to Ohio community schools this school year while presumptively meeting the requirements to receive full funding.

Recognizing that schools need options to keep students learning while balancing safety needs, SB 229 would allow boards to declare and implement a blended learning model for 2021-2022. In addition to sponsor approval, implementation would require that schools:

1. Ensure that students have access to the internet and to devices students may use to participate in online learning. If a school determines that a student does not have appropriate access to the internet or a device, the school must provide one at no cost to the student. Schools would also be required to provide internet filtering devices or software to protect students from harmful content.
2. Monitor and assess student achievement and progress and provide additional support services.

3. Periodically communicate with parents or guardians regarding student progress.

4. Report monthly to ODE the number of students participating in blended learning and the duration of such participation.

5. By May 15, 2022, report ODE the total number of students engaged in blended learning during the 2021-2022 school year by grade level and the total number of students with disabilities engaged in blended learning during 2021-2021.

Upon compliance with these items, a community school that would implement a blended learning model during this school year would be considered as having met any requirements to receive state funds.

At the beginning of this month the bill was still working its way through the legislative process but is expected to pass soon with immediate effectivity.



Prohibition on For-Profit Operators

Ohio House Bill 467 proposes to prohibit community schools from utilizing for-profit operators (management companies). The bill provides that in 2023 a community school with a for-profit operator would no longer qualify as a public school under Ohio law.

By January 1, 2023 for-profit operators in the state would be required to notify the governing board of each school they manage whether they intend to convert to a non-profit organization by July 1, 2024. If a board's operator does not indicate they will so convert, the board would

be required to identify an educational service center (that is not the school's sponsor) to act as the new operator no later than July 1, 2023.

If a governing board were to fail to identify an ESC as the new operator, the school would be required to close by the end of the 2023-2024 school year.

The bill is a reintroduction of the original which was presented in March 2020 just before the COVID pandemic .

Lawmakers that support the bill say their goal is to remove the profit-making motive from charter operations.

Approximately half of Ohio's charter schools are currently run by for-profit management companies. So, if enacted, the bill would have wide effect.

Other provisions of HB 467 include complete audits of operators and treatment of operators' records as public records.

Additionally, HB 467 proposes that any profit realized through payments from a community school to an operator not exceed five per cent of the total amount of payments that the school receives from the state.

Q & A

Q: Does the new federal vaccination requirement apply to our school?

A: President Biden mandated that employers with 100+ employees require employees to be vaccinated. The mandate is being enforced via the Occupational Health and Safety Administration (OSHA). OSHA does not have jurisdiction over public employers. Charter schools in Ohio are public employers because Ohio charters are political subdivisions and hence not subject to the emergency temporary standard (ETS).

However, if your school engages a management company who employs the personnel at the school; it's possible the ETS could be applicable to those private employers who have 100 or more employees. Though, that remains questionable as well, because Ohio charter school teachers and staff pay into the state retirement systems and are treated as public employees for most other laws.

The implementation of the ETS is currently being challenged in numerous courts.

Happy Holidays!

The team at Amy Goodson Co. wishes you very happy holidays!

It has been our pleasure to work for and with you this past year.

We thank you for the opportunity to have done so.

We look forward to our continued work together in 2022.

Our best,
Rebecca
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