

Legal Update

November 2023

Testing Limitations

Pursuant to Ohio Revised Code Section 3301.0729, schools must ensure that students are not spending more than 2% of the school year taking school-wide or state assessments and not more than 1% of the school year preparing for the same, which includes taking practice or diagnostic tests.

The law does allow the board of directors to consider exceeding these limitations by holding a public hearing and allowing for public input on exceeding the limitations. After holding the hearing, the board may pass a resolution allowing the school to exceed the limitations.

This public hearing and resolution must occur each school year for which the school desires to exceed the limitations.

So if your school administration would like to exceed the limits for 2023-2024, your board should include the hearing and resolution on an upcoming meeting agenda.



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Local Report Cards

In mid-September ODE released the 2022-2023 school report cards. This is the first year since implementation of the star rating system (which replaced letter grades several years ago) that schools will receive an overall rating of 1-5 stars, including half-star increments. An overall rating of 2 stars means the school needs support to meet state standards, at least 3 stars means a school met state standards, 4 exceeds expectations.

Five individually rated components comprise the overall rating. Achievement and Progress each are weighted at 28.601%, while Graduation Rate, Gap Closing, and Early Literacy each comprise 14.266% of a school's overall rating. When one or more components are not rated (for example, an elementary school that does not have a graduation area) the remaining components contribute proportionally.

Achievement: represents whether student performance on state tests met established thresholds.

Progress: tracks how students are doing year over year. This component demonstrates that even if a student is below grade-level expectations, growth during the year could exceed a year's worth of learning.

Early Literacy: measures reading improvement and proficiency for K – 3 students.

Gap Closing: measures the reduction in educational gaps for student subgroups such as Black, Hispanic, economically disadvantaged, English language learner, and students with disabilities.

Graduation: looks at the 4-year adjusted cohort graduation rate and 5-year adjusted cohort graduation rate. 1 star means a grad rate of less than 84%, 2 stars 84% - 89%, 3 stars 90% - 93.4%, 4 stars 93.5 - 96.4%, and 5 stars 96.5% and higher.

Information on College, Career, Workforce and Military Readiness is reported on this year's report cards, but is not rated.

Dropout recovery schools' report cards still use the "expectations" system instead of stars.

Local report cards can be accessed at:
<https://reportcard.education.ohio.gov/>



Suspension & Expulsion

Questions related to suspension and expulsion are among the most commonly asked. That is for good reason as suspending or expelling a student is a complicated matter which involves distinct legal procedures.

Schools must issue students an initial notice of intent to suspend, then also issue parents written notice of an out-of-school suspension, including the reason for the suspension, the right to have an informal hearing, and the length of the suspension, which cannot be longer than 10 days.

A disciplinary removal for more than 10 days becomes an expulsion which requires additional written notice, opportunity to be heard, and right to appeal.

Expulsions can be for up to 80 days for serious behavior or up to one year if the student brings a gun or knife to school, makes a bomb threat or commits a crime that results in serious physical harm to another person or property.

Students ages 16 years or older can be permanently excluded if they are convicted in court of a serious criminal offense.

On the other end, students in 3rd grade or below can only be suspended or expelled if they make a bomb threat, bring a knife or firearm to school, or do something that would be a crime if an adult did it and they cause serious physical injury to someone.

If a student has a disability or is suspected of having one, additional steps are required in the discipline process. Failure to do so can have serious legal consequences.

School leaders should seek legal counsel.

Q & A

Q: I heard a public records request was recently made of our school regarding insurance coverage. Was our school required to respond?

A: In October many schools statewide received a public records request regarding general liability coverage and costs and employee benefits. This request is an important reminder of schools' obligations under Ohio's Public Records Act, including responding within a reasonable period of time.

In addition to promptly providing responsive records (subject to any legally permissible redactions), schools should be documenting their responses. In the past several years, auditors have been requesting information about public records requests. Auditors look for request forms, logs of requests, the response, and the legal basis for any redactions.

Schools should consult the school's public records policy which include sample forms and logs. Legal counsel is also available to assist in responses.

DEW Update

The temporary restraining order that was halting the implementation of the new Department of Education and Workforce (DEW) has ended. The lawsuit filed by seven State Board of Education members against the state of Ohio and Governor DeWine alleging the unconstitutional "takeover of the state's public education" continues. However, in the meantime DEW's replacement of the Ohio Department of Education is underway.

Governor DeWine recently appointed Jessica Voltolini to serve as the interim director of DEW. Voltolini will lead the department during the search for the director and deputy director positions.

Voltolini previously served in various roles at ODE including director of policy and legislative affairs and assistant legal counsel and most recently as chief of staff.

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