This Just In: What is Happening Now

The Latest Legal Updates

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I. House Bill 96 – Operating Budget – (Signed June 30, 2025; appropriations and sections prefixed with number in the 200s, 300s, 400s, 500s are effective immediately, other provisions generally effective September 30, 2025, unless otherwise indicated.)

Note: This summary primarily includes provisions that impact K-12 public school districts. Not all provisions of the budget bill are included.

Note 2: Tax levy provisions (vetoed; veto overridden by the House on July 21, 2025, and by the Senate on October 1, 2025; effective January 1, 2026)

Provisions eliminating the authority of political subdivisions to levy replacement property tax levies; for school districts to levy fixed-sum emergency levies, substitute emergency levies, and combined school district income tax and fixed-sum property tax levies, and to submit question of whether to renew and increase a levy; changing "county auditor's appraised value" to "market value"; requiring notices of election and ballot forms for city, local, and exempted village school districts to show the percentage and amount of general fund carry-over balances; and prohibiting school districts from submitting a current expense levy if the district's carryover balance is 100% or more of prior general fund expenditures (except for renewals) were vetoed by Governor DeWine.

On July 21, 2025, the Ohio House overrode DeWine's veto. The Senate voted to override the veto on October 1, 2025.

A. **School Funding Highlights – FY 2026 and FY 2027**

1. School funding formula – Extends the operation of the school funding system to fiscal years 2026 and 2027, with changes as noted below.

2. Base Cost

   a. **School district and joint vocational base cost** calculation extended to FY 2026 and 2027, except the calculation of building leadership support cost uses the number of buildings for the preceding fiscal year. Continues to use FY 2022 cost inputs. (R.C. 3317.011(G) and 3317.012(G); Section 265.450.)

   b. **Statewide average base cost per pupil and statewide average career-technical base cost per pupil –** For fiscal years 2026 and 2027, the statewide average base cost per pupil for FY 2024 will be used. (R.C. 3317.018.)

3. State operating funds

   a. **Base funding supplement –** Provides a base funding supplement for traditional and joint vocational school districts, community schools, and STEM schools equal to the district's or school's enrolled ADM for the fiscal year multiplied by $27 for FY 2026 and $40 for FY 2027. (Section 265.237(C).)

   b. **Gifted professional development** funding eliminated. (R.C. 3317.022(A)(6).)

c. **Supplemental targeted assistance** funding eliminated beginning in FY 2026. (R.C. 3317.0218 repealed; conforming change to R.C. 3317.019 and 3317.022.)

d. **General phase-in percentage** is increased from 66.67% to 83.33% for FY 2026 and 100% for FY 2027. (Section 265.220.)

e. **Temporary transitional aid** and temporary transitional transportation aid payment based on the FY 2020 funding base extended for FY 2026 and 2027 (R.C. 3317.019.)

f. **Formula transition supplement –** Extends the formula transition supplement for FY 2026 and FY 2027 based on the FY 2021 funding bases. (Section 265.230.)

g. **ESC funding formula extende**d to FY 2026 and 2027. (R.C. 3317.11.)

h. **The power plant valuation adjustment** is extended for FY 2026 and 2027. (Section 265.540.)

4. Enrollment growth supplement – Provides an enrollment growth supplement for traditional school districts (city, local, or exempted village) whose enrollment change percentage exceeds a certain threshold. (Section 265.237(B).)

   a. **FY 2026 –** If a district's enrollment change percentage from FY 2022 to FY2025 is 5% or higher, a district receives $225 x the district's current FY 2026 enrolled ADM.

   b. **FY 2027 –** If a district's enrollment change percentage from FY 2023 to FY2026 is 3% or higher, a district receives $250 x the district's current FY 2027 enrolled ADM.

5. Performance supplement for traditional school districts (Section 265.239.)

   a. **Eligibility –** Based on the district's report card for the 2024-2025 school year for the FY 2026 payment, or the 2025-2026 report card for FY 2027.

   b. **Performance criteria –** (a) Overall performance rating of 4 or more stars, (b) performance rating of 3 or more stars for the Progress component, or (c) a higher performance rating on the Progress component than the district received for the 2023-2024 report card (for FY 2026 payment), or the 2024-2025 report card (for the FY 2027 payment).

   c. **Payment amount** is enrolled ADM for the fiscal year x $13 x the greater of the number of stars the district received for either the overall performance rating or the Progress component on the 2024-2025 report card (for FY 2026) or the 2025-2026 report card (for FY 2027).

6. JVSD funding – Modifies the base cost and state share percentage formula to align with the format used for school districts. (R.C. 3317.02 and 3317.16 amended; R.C. 3317.165 enacted.)

7. Career-Tech funding – Additional FY 2026 and 2027 changes:

    a. **Career awareness and exploration funding –** The payment to a lead district is reduced from $10 to $3 x the sum of enrolled ADM. Expands the list of purposes for which lead districts may spend the funds to include the provision of mentorship opportunities through which students may learn about careers and workforce skills. Lead district must report on the use of the funds to DEW. (R.C. 3317.014(E) and (H).)

    b. **Career-tech associated services funding –** Expressly authorizes funds to be spent for the following purposes: engaging and collaboration with education and workforce stakeholders; developing and maintaining a comprehensive plan to increase career-focused activities; ensuring plans are informed by quality data and using data to expand access to career-focuses activities for all students; planning and allocating resources for the growth, sustainability, and enhancement of career-focuses activities in the long term; and establishing continuous improvement and program approval processes. Removes express authorization to spend funds on apprenticeship and career-tech education services coordinators, and career-tech evaluation. (R.C. 3317.014(G)).

8. Transportation funding –

    a. **Regular transportation funding –** The minimum state share percentage is increased from 41.67% to 45.83% in FY26 and 50% in FY27. To establish the target number of qualifying riders per bus, DEW must use data from the previous fiscal year, rather than the most recently available data. (R.C. 3317.0212.)

    b. **Special education transportation funding –** The state share percentage used in the formula for school districts, ESCs, and DD boards is increased from 41.67% to 45.83% in FY26 and 50% in FY27. (R.C. 3317.024.)

9. Special education

    a. **Catastrophic cost pool –** A separate catastrophic cost pool is created for community and STEM schools. The withholding amount for school districts remains at 10%. The withholding percentage for community and STEM schools is reduced to 5%, and DEW must redistribute unused funds in the same proportion that the funds were originally contributed. (R.C. 3317.0215.)

10. DPIA

a. **DPIA phase-in percentage** increased from 66.67% to 83.33% for FY26 and 100% for FY27. (Section 265.220.)

b. **Economically disadvantaged student ADM** – DEW must calculate DPIA funding by using a weighted count of economically disadvantaged students. This weighted count is the sum of a qualifying public school's FY25 economically disadvantaged student ADM multiplied by 75% for FY26 (and 65% for FY27), plus directly certified ADM multiplied by 25% for FY26 (35% for FY27). Directly certified ADM (the ADM of students certified as categorically eligible for free meals) is used for newly opened community schools. (Qualifying public schools are traditional and joint vocational school districts, community schools (site-based), and STEM schools.) (Section 265.215.)

c. **Fund utilization plan** – Continues the requirement to develop a plan to utilize DPIA with certain community partners. One of the partners now listed is a "community mental health prevention or treatment provider" rather than a "community-based mental health treatment provider." (R.C. 3317.25.)

11. Tax commissioner information – For school funding computations, the tax commissioner must certify the median federal adjusted gross income of district residents, rather than the total federal adjusted gross income. (R.C. 3317.021.)

12. Auxiliary services funding

a. Funds paid to school districts under R.C. 3317.024(E)(1) can be used to provide mental health diagnostic and therapeutic services to pupils attending nonpublic schools, in addition to psychological services. (R.C. 3317.06.)

b. Funds can also be used to procure security services from a retired Ohio peace officer, in addition to other sources listed in continuing law. (R.C. 3317.06(P).)

13. Scholarship program funding – The maximum scholarship amount for the autism scholarship and the Jon Peterson special needs scholarship is increased from $32,445 to $34,000. Categorical amounts for the Jon Peterson scholarship calculation are also increased. (R.C. 3317.022(A)(12) and (13).)

14. Community and STEM school funding

a. **Equity supplement funding** codified. Funding amounts are $500 (FY 2026) and $400 (FY 2027) per student. (Does not apply to internet- or computer-based community schools. (R.C. 3317.022(A)(14) and 3317.026.)

b. **Quality community and independent STEM school support programs** codified. The payment is $3,000 per economically disadvantaged student, and $2,250 per pupil for all other students. Modifies the qualifying criteria for community schools. Community schools will maintain such designation for two years after initially qualifying, although certain schools will maintain the designation for four years, and, in some cases, through the 2029-2030 school year). STEM schools will maintain such designation for two years. (R.C. 3317.27, 3317.28, and 3317.29 enacted.)

c. **Facilities funding payment** is $25 per full-time equivalent (FTE) student in an internet- or computer-based community school and $1,000 per FTE student in all other community or STEM schools. (R.C. 3317.31 enacted.)

B. **State Board of Education**

1. <u>State Board of Education size and elimination of elected members</u> – Reduces the size of the state board of education to five members appointed by the governor, with one member each to represent a rural, a suburban, and an urban district, and one each to represent a community school and a chartered nonpublic school. Elected offices are abolished. Members elected or appointed prior to the section's effective date will remain in office until their current term expires. When offices are vacated or terms expire, elected offices and the first three appointed offices will not be replaced. Representation requirements for appointed members and criteria for absences that lead to a vacancy are modified. (R.C. 3301.01, -02, -03, and -06; R.C. 3513.259 repealed.)[1]

2. <u>State Board of Education funding</u> – See licensure fees under Teachers section.

C. **Teachers**

1. <u>In-service training</u> (R.C. 3319.073; referenced in R.C. 3314.03, 3326.11, and 3328.24.)

a. **Child sexual abuse education –** The bill eliminates language authorizing training to be presented by law enforcement officers or prosecutors at their discretion. Instead, requires a school board to develop its own curriculum in consultation with public or private agencies or persons involved in child sexual abuse prevention or child sexual violence prevention. (R.C. 3319.073(E).)

b. **Youth suicide awareness and prevention** – Eliminates the option for school boards to adopt or adapt curriculum developed by DEW under R.C. 3301.221 for this training. Instead, boards must develop

[1] Note: On September 16, 2025, the 10th District Court of Appeals dismissed a complaint challenging reforms to the State Board of Education enacted by House Bill 33, the 2023 budget bill. (*Collins v. State*, 2025-Ohio-4347.)

their own curriculum for this purpose. Training can no longer be accomplished through self-review of suitable suicide prevention materials approved by a board. (R.C. 3319.073(D).)

2. Science of Reading professional development (R.C. 3319.2310 enacted.)

   a. **Competency-based course**: Formerly, uncodified law required districts and schools to ensure that all teachers and administrators completed a science of reading course provided by DEW not later than June 30, 2025. House Bill 96 enacts R.C. 3319.2310 to continue this requirement. The new law requires teachers and administrators hired prior to July 1, 2025, to complete a competency-based training course developed by DEW that updates and reinforces knowledge and skills in the science of reading by June 30, 2030, and every five years thereafter.

   b. **Introduction course for new hires –** Teachers and administrators hired on or after July 1, 2025, must complete an introduction to the science of reading course within one year after the date of hire unless the superintendent or head administrator verifies that they completed the training (or similar training as determined by DEW) within five years prior to the date of hire, or that they completed appropriate coursework in the science of reading as part of an educator or licensure preparation program. Thereafter, teachers and administrators must complete the competency-based training course every five years.

   c. **School psychologists and speech-language pathologists** employed by a district or school must complete the introduction course by June 30, 2027, and the competency-based training course every five years thereafter.

   d. **Local professional development committees** must count this training towards professional development requirements for licensure renewal, and must permit individuals to roll over hours above the minimum hours required for renewal.

3. Teacher assignments (R.C. 3319.173 enacted.)

   a. Requires district superintendents to assign teachers to positions based on the best interests of the students enrolled in the district.

   b. When assigning, reassigning, or transferring a teacher—whether voluntary or involuntary on the part of the teacher—the superintendent is prohibited from using seniority or continuing contract status as the primary factor in determining the teacher's assignment.

   c. Specifies that these requirements prevail over any conflicting provisions of collective bargaining agreements entered into on or after the effective date of this section.

4. Ohio teacher residency program (R.C. 3319.223; conforming change in R.C. 3319.111

   a. The Resident Educator Summative Assessment (RESA) is eliminated from the teacher residency program. (See https://sboe.ohio.gov/educator-standards-and-programs/resident-educator-program/resident-educators for additional information.)

   b. The state superintendent must continue to provide participants and mentors with access to online professional development resources, but is no longer required to provide sample videos of classroom lessons submitted for RESA or instructional coaches.

   c. The Ohio teacher residency program will continue to include mentoring by teachers, counseling (as determined necessary by the district or school) to ensure participants receive needed professional development, and measures of appropriate progression through the program.

   d. Specifies that the teacher evaluation system adopted under R.C. 3319.111 may be used to assess an individual participating in the teacher residency program.

   e. A conforming change to R.C. 3319.111 removes a provision permitting school boards to elect not to evaluate a teacher for the year during which the teacher takes the RESA performance-based assessment. (R.C. 3319.111.)

5. Licensure

   a. **Computer science teaching license exception** – Codifies and makes permanent an exception to the computer science licensure requirement in R.C. 3319.236. Notwithstanding R.C. 3319.236, a school district or other public school may permit an individual who holds a valid license in any of grades K-12 to teach a computer science course if, in the last five years, the individual completed a professional development program approved by the superintendent or school principal. To continue teaching computer science under this section, the teacher must complete the professional development program every five years in accordance with the licensure recertification process. As under the former temporary law, the teacher can only teach a computer science course in the district or school that employed the teacher at the time professional development was completed. (Section 107.10 of H.B. 96, codifying as R.C. 3313.6033 former Section 733.61 of H.B. 166 (133rd GA); conforming change to R.C. 3319.236.)

   b. **Alternative Resident Educator License** – Removes the July 1, 2028 sunset date from R.C. 3319.263 that prohibits the state board of education from limiting the subject areas for which an individual may receive an alternative educator license. (R.C. 3319.263.)

6. Licensure Fees (R.C. 3319.51 and 4743.05; Section 263.20 and 207.40. Conforming changes to R.C. 3301.071, 3301.074, 3319.088, 3319.29, and 3319.311.)

   a. Requires the state board of education to establish license, certificate, and permit fee amounts that, along with any appropriation made by the general assembly, will be sufficient to cover the annual estimated operating costs of the state board. (R.C. 3319.51, effective immediately per Section 820.20.)

   b. Specifies that operating expenses of the state board must be paid primarily from fees received by the state board and must be deposited in the state treasury to the credit of the occupational licensing and regulatory fund.

D. **Employment conditions for school employees**

1. School district administrative expenses limit – Prohibits boards of education from spending more than 15% of the board's annual operating budget on "administrative salaries and benefits and other costs associated with the district's administrative offices." (R.C. 3315.063 enacted.)

2. Retirement contributions (STRS and SERS) – Provisions prohibiting pick up of retirement contributions for superintendents, principals, and treasurers were vetoed by Gov. DeWine. (R.C. 3307.27 and 3309.47)

3. Vacancy data (R.C. 3301.82 enacted.)

   a. Beginning one year after the effective date of this section, DEW must collect employment and vacancy data for school districts (including JVSD's), community schools, and STEM schools. DEW must annually publish and summarize data collected and post the report on its website. To the extent possible, the DEW must report the data at the state, district, and school level.

   b. Data must be collected for teachers, related services providers and other providers of specialized services, principals, assistant principals, paraprofessionals, bus drivers, and any other position as determined by DEW.

   c. DEW must report the number of vacant positions aggregated by position type, subject area, and geographic area. Aggregated data must also be reported on positions filled by long-term substitute teachers, unlicensed individuals, or educators with emergency credentials; the reasons why a position was vacant; methods used to fill vacant positions; and positions that remain unfilled.

   d. DEW must also collect and report statewide educator data on educator preparation program enrollment and completion data, the number of new licenses issued by the state board of education, educator retention, and educator demographic data.

E. Transportation

1. Multifunction school activity buses (R.C. 3327.08, 3327.10, 4511.01, 4511.75, 4511.76, 4511.77, 4511.771, and 4511.78.)

   a. Defines a "multifunction school activity bus" as "a school bus whose purposes do not include transporting children to and from home or school bus stops." (R.C. 4511.01.)

   b. Permits a school district, chartered nonpublic school, or community school to own and operate, or contract with a vendor that supplies, a multifunction school activity bus to transport students between school and school functions or activities. Prohibits using a multifunction bus to transport students between school and home or between school and designated school bus stops. (R.C. 4511.76(H).)

   c. Permits school districts and ESCs to purchase multifunction school activity buses in accordance with purchase requirements applicable to school buses. (R.C. 3327.08.)

   d. Multifunction school bus drivers are subject to the same qualification requirements that apply to school bus drivers. (R.C. 3327.10(M).)

   e. Specifies that a multifunction school activity bus is not a "school bus" for purposes R.C. 4511.75 (stopping for stopped school bus) or a "bus" for purposes of R.C. 4511.78 (mass transit system student transportation). Also specifies that R.C. 4511.77 (school bus painting and marking) and 4511.771 (signal lamps) do not apply to a multifunction buses. (R.C. 4511.75, 4511.77, and 4511.771.)

2. Use of mass transit system for school transportation (R.C. 3327.017.)

   a. Continuing law provides that if a school district elects to use a mass transit system to transport eligible students in grades 9-12 in a community or chartered nonpublic, the district must ensure the student is assigned to a route that does not require more than one transfer.

   b. H.B. 96 expands upon this provision with respect to a mass transit system with a central transfer hub located in a county that has a population between 530,000 and 540,000 according to the most recent federal decennial census. In such cases, a school district must ensure that any transfer does not occur at the central transfer hub for the mass transit system. (Currently, only Montgomery has a population between 530,000 and 540,000.) (R.C. 3327.017.)

3. Pupil Transportation Pilot Program – Extends the Montgomery County pupil transportation pilot program through the 2026-2027 school year, and extends the deadline for DEW to evaluate the program to Sept. 15, 2027. (The central Ohio program evaluation deadline is still Sept. 15, 2025.) (Section 620.10 amending Section 265.550 of the 135th General Assembly.)

4. School bus safety grant program created – Specific safety features must be informed by Governor's working group report, and DEW must develop guidelines and create an application. DEW must apply a local capacity measure for grant allocations, and may also apply minimum or maximum funding amounts. Eligible applicants must use the grant funds only for repair, replacement, or addition of school bus safety features to buses in active service or for safety enhancements to the purchase of a new bus. May not use funds to enhance buses not owned by the applicant. (Eligible applicants are school districts, other public schools, chartered nonpublic schools, county DD boards, and ESCs. (Section 265.320.)

5. Student transportation workgroup – DEW must establish a workgroup to monitor and review student transportation during the 2025-2026 school year and develop recommendations to better meet student transportation needs. The workgroup must also develop recommendations on the feasibility of school districts providing transportation to community and nonpublic schools on days the school district is not open. A report must be submitted by June 30, 2026. (Section 733.80.)

6. Bus purchasing grants program eliminated (R.C. 3317.071 repealed.)

7. Community school transportation consortium – Two or more community schools may establish a consortium to provide or arrange transportation. The consortium can enter into an agreement with a school district under R.C. 3314.091(A), and can unilaterally accept responsibility for transportation of students enrolled in the participating schools under R.C. 3314.091(B). (R.C. 3314.093 enacted.)

8. Community school rural transportation grant program created for FY 2026 and 2027. Requires DEW to award grants to certain dropout prevention and recovery community schools. (Section 265.600.)

F. **Reading**

1. Third-grade reading guarantee

   a. **High-dosage tutoring for students on reading improvement and monitoring plans** – Permits high-dosage tutoring to be incorporated into a student's regular classroom instruction. Locally approved programs must be aligned with high-dosage tutoring best practices identified by DEW. (R.C. 3313.608(C)(7).)

   b. Students with significant cognitive disabilities can no longer be exempted from reading diagnostic assessments. (R.C. 3313.608(B)(1).)

2. Science of reading (R.C. 3313.6028)

   a. **Core curriculum and evidence-based reading intervention programs** – Limits the requirement that school districts and other public schools must use core curriculum and instructional materials in English language arts from the list developed by DEW to grades preK-5. Schools must use evidence-based reading intervention programs in grades preK-12.

3. Professional development in the science of reading (see Teachers section).

4. Early Literacy component – The promotion to 4th grade component on state report cards must be based on students who attain a promotion score on the third grade English Language Arts assessment or alternative assessment, rather than any students who attains a promotion score or who otherwise qualifies for a retention exemption. Kindergarten readiness assessment is no longer included. (R.C. 3302.03, effective immediately per Section 820.20.)

5. Tutoring program providers – DEW must remove from the list of tutoring program providers in the area of English language arts any program that DEW determines is not aligned to the science of reading or that uses a three-cueing approach. Qualifications of tutoring program providers must include efficacy data. DEW must provide an opportunity for entities to submit qualifications for inclusion on the list at least every 3 years. (R.C. 3301.136.)

G. **Student attendance**

1. Absence intervention policy[2] (R.C. 3321.191 repealed and reenacted; conforming changes in R.C. 2151.27, 3320.04, 3321.16, and 3321.19.)

   a. Repeals the current process set forth in R.C. 3321.191 that school districts and other public schools must follow to address student absences, and reenacts R.C. 3321.191 to establish a new procedure.

   b. **Chronically absent students** – Officially defines "chronically absent" as missing at least 10% of the minimum number of hours required in the school year under R.C. 3313.48 for the school a student attends. (R.C. 3321.191(A).)

   c. **Board policy to address student absences** – As re-enacted, R.C. 3321.191 requires a board of education to adopt a policy by August 1, 2026, to address student absences. As under former R.C. 3321.191, a board must consult with the juvenile court of the county/counties in which the district is located; parents, guardians, or other persons having care of a student attending school in the district; and appropriate state and local agencies when developing the policy. The policy must align with any other district or school improvement plan. The policy must do the following:

      i. Acknowledge that student absences for any reason, whether excused or unexcused, take away from instructional time and have an adverse effect on student learning.

[2] The Ohio Department of Education and Workforce issued guidance on the updates to attendance laws in August 2025. See https://education.ohio.gov/getattachment/Topics/Student-Supports/Attendance-Support/Attendance-Guidance-2025.pdf.aspx?lang=en-US.

ii. Identify strategies to prevent students from becoming chronically absent.

iii. Include procedures for notifying a student's parent, guardian, or custodian when a student is absent for a number of hours determined by the board, which cannot exceed 5% of the minimum number of hours required under R.C. 3313.48 for the school the student attends. (Note: R.C. 3320.04 prohibits considering excused religious expression days for purposes of parental notification.)

iv. Establish a tiered system that provides more intensive interventions and supports for students with greater numbers of absences and resources to help students and families address the root causes of the absences.

v. Provide for one or more absence intervention teams to work with students at risk of becoming "chronically absent" and their families to improve the students' attendance.

vi. Prohibit suspending, expelling, or otherwise preventing a student from attending school based on the student's absences as prescribed by R.C. 3313.668.

d. Permits districts and schools to consult or partner with public, nonprofit, or private entities to provide assistance as appropriate to students and their families in reducing absences. (R.C. 3321.191(E).)

2. <u>Habitual truancy</u> (R.C. 3321.16 and 3321.19.)

a. **Habitual truant** – The definition of "habitual truant" in R.C. 2151.011 is unchanged—absent without legitimate excuse for absence from the public school the child is supposed to attend for 30 or more consecutive hours, 42 or more hours in one school month, or 72 or more hours in a school year. (R.C. 3321.19.)

3. <u>Investigation of nonattendance; complaint</u> (R.C. 3321.16.)

a. **Complaints –** Modifies the circumstances under which an attendance officer shall file a complaint in juvenile court against a student.

b. **Attendance thresholds** for filing a complaint are unchanged: an attendance officer must still file a complaint if a student is absent without legitimate excuse for 30 or more consecutive hours, 42 or more hours in one school month, or 72 or more hours in a school year.

c. **Conditions for filing a complaint** – Prior to amendment by H.B. 96, R.C. 3321.16 required the attendance officer to file a complaint on the 61st day after the implementation of an absence intervention plan. As amended, whether a complaint must be filed depends on whether a student and the student's family are making satisfactory progress in improving the student's attendance at school.

i. If the district or school determines satisfactory progress is being made, the attendance officer shall not file a complaint.

ii. If no determination of progress is made, or if the student or family cease to continue making progress in improving the student's attendance, the attendance officer shall file a complaint.

d. A complaint filed in the juvenile court must allege that the child is an unruly child for being a habitual truant and that the parent, guardian, or other person having care of the child has violated R.C. 3321.38. (Relocated from R.C. 3321.19(D)(2).)

4. <u>Examination into cases of truancy</u> (R.C. 3321.19; conforming change to R.C. 3321.22.)

a. Conforming amendments are made to this section in accordance with changes made to R.C. 3321.191 and 3321.16. Specifically, the bill removes division (D)(1) (requiring boards to assign a student considered to be an habitual truant to an absence intervention team) and (D)(2) (requiring the attendance officer to file a complaint in accordance with R.C. 3321.16(B) (on the 61st day after implementation of an absence intervention plan).) (R.C. 3321.19.)

b. Also eliminates division E from R.C. 3321.19 (the exemption from intervention plan requirements for school districts with a chronic absenteeism percentage that is less than 5%). (R.C. 3321.19.)

c. Retains language that a board of education may require a parent or guardian to attend an educational program if a student has been truant. Provisions addressing warnings of the legal consequences of truancy and non-attendance notices and complaints are retained. (R.C. 3321.19(A) to (C).)

5. <u>Grade level promotion policies</u> – Eliminates the requirement that grade promotion and retention policies adopted by boards of education and community schools must prohibit promoting a student to the next grade level if the student has been truant for more than 10% of the required attendance days for the school year. (R.C. 3313.609.)

6. <u>Religious instruction released time</u> (R.C. 3313.6022.)

a. School board religious released time policies must authorize a student to be excused from school for at least one period per week. Policies must not exceed two periods in total per week for students in elementary or middle school. For high school, must not exceed the amount of time that is equivalent to attending two units of high school credit per week.

b. A school board's policy must not prohibit students from bringing external educational and program materials into school.

7. Driver education course – Requires schools districts to count a student absent from school to attend a driver education course as an excused absence. A "driver education course" is defined as a private driver training course approved by the director of public safety. Prohibits a student from being released from a core curriculum subject, and limits the amount of time that may be excused for this reason to 8 hours per student (consisting of up to 2 hours per day for no more than 4 days.) Students must complete any missed classroom assignments. (R.C. 3321.043 enacted.)

H. **Students and services**

1. Diabetes informational materials –Public and chartered nonpublic schools that serve elementary students must provide an electronic or paper copy of informational materials on type I diabetes to each student's parent or guardian upon the student's enrollment in elementary school. The informational materials are to be developed by the Department of Health. (R.C. 3313.7118 and 3707.61 enacted; R.C. 3314.03 and 3326.11 amended.)

2. Advanced math placement (R.C. 3313.6032 enacted.)

a. Requires school districts to provide each student that achieves an advanced level of skill on a mathematics achievement assessment or end-of-course examination with advanced learning opportunities in math, including advanced math courses in the following school year. If a student takes an advanced math course, the student must take any corresponding required achievement assessment or end-of-course examination that course.

b. "Advanced learning opportunities" or "advanced mathematics course" means opportunities or courses that provide academic content or rigor that exceeds the standard math curriculum for the student's grade level, including a math course that is two grade levels above the student's grade level, as determined by the district.

c. Exempts a district from the requirement if it does not offer advanced learning opportunities in mathematics or an advanced mathematics course for the grade level in which the student is enrolled for the next school year.

d. Schools district must notify the parent or guardian of a student who qualifies for advanced learning opportunities in math of that determination. The parent or guardian may submit a written request to opt their student out from the advanced learning opportunities.

3. Graduation

a. **Industry recognized credentials to qualify for a high school diploma** – Removes the requirement that the committee for industry-recognized credentials must assign a point value for each credential. Instead, the committee must establish the criteria under which a student may use industry-recognized credentials to help qualify for a high school diploma. (R.C. 3313.6113; conforming changes to 3301.17, 3313.618, and 3313.6114.)

4. Financial literacy instruction exemption (R.C. 3313.603(O).)

   a. Permits boards of education to adopt a policy to excuse a student from the financial literacy instruction graduation requirement if the student, while in high school, participates in a financial literacy program offered through a student branch of a credit union or by a bank. (Also applies to chartered nonpublic schools; per the LSC, applies to other public schools as well.)

   b. The financial literacy program must meet or exceed the academic content standards and model curriculum for financial literacy and entrepreneurship adopted under R.C. 3301.079, and students must participate in the program for the equivalent of at least one-half unit of instruction to qualify for an exemption.

   c. DEW must develop and post a model policy and guidelines for districts and schools to use in developing a policy.

5. Online learning model – Permits districts operating a school using an online learning model to employ teachers and nonteaching employees necessary to carry out its duties and responsibilities; or to contract with a nonprofit or for-profit entity to operate the online learning school, including the provision of personnel, related services, curriculum, supplies, equipment, or facilities. (R.C. 3302.42.)

6. Payment of tuition for students receiving education in residential treatment facilities (R.C. 3313.64(B)(4) and (C)(5).)

   a. A child who does not reside in the district where the child's parent resides is not required to be admitted to the district in which the child resides if the child resides in a home or a similarly licensed facility in another state, and the child was placed in the home by his or her parent in consultation with, and upon the recommendation of, the OhioRISE program. The home must provide education services that meet certain minimum education standards.

   b. When a child is admitted to the home or facility, the home must notify the district where the child's parent resides and the district where the home is located (if in Ohio) that the home is providing educational services to the child. The district where the child's parent resides must continue to enroll the student and must excuse the child from attendance until the student is discharged.

   c. When the child is discharged, the home or facility must notify the district where the child's parent resides and must collaborate with the district on a supportive reentry plan into school for the child. The home must also notify DEW, and must provide a certified transcript of coursework completed. The district where the child's parent resides must award credit for the coursework in accordance with district policy. High school students must not be required to meet requirements for graduation that are more stringent than those that apply to students who enroll into high school after receiving home education.

d. Tuition must be paid by the school district in which the child's parent resides (by deduction from the district's basic state aid payment) according to a formula set forth in R.C. 3313.64(C)(5)(a). The district responsible for paying tuition shall continue to report the child in its enrollment. DEW may redetermine the district responsible for tuition if the parent moves to a different school district. If the child receives education from chartered nonpublic school while residing in a home and has been awarded a scholarship under a state scholarship program (Ed Choice, autism, or Jon Peterson special needs), no school district is responsible for paying tuition.

I. **Athletics**

1. Ice hockey participation – Allows a district superintendent to afford a student enrolled in another district the opportunity to participate in ice hockey as an interscholastic athletic activity at a school of the superintendent's district if the district in which the student is enrolled does not offer ice hockey as an interscholastic athletic activity, the student's district is less than twenty miles away, and the superintendents of both districts enter into an agreement approving the student's participation. The student must not be required to enroll in or be a resident of the district that offers ice hockey. The student must be of the appropriate age and grade level and fulfill the same academic, nonacademic, and financial requirements as any other participant, including trying out for a position on the team. (R.C. 3313.536 enacted.)

2. Interscholastic athletic participation by nonresident victims of harassment – H.B. 147, effective Oct. 24, 2024, permitted school superintendents (or chief administrative officers of public or nonpublic schools) to allow victims of harassment, intimidation, bullying, or other qualifying offenses to participate in interscholastic athletics at a school of the superintendent's district, even if the student is not a resident of the district. The provision applied to home-educated students, as well as students enrolled in a public or nonpublic school or another school district. H.B. 96 amends this provision so that it only applies to home-educated students. (R.C. 3313.5313.)

J. **Policies**

1. Artificial Intelligence policy – Districts and other public schools must adopt a policy on the use of artificial intelligence by July 1, 2026. Districts and

schools may adopt a model policy to be developed by DEW by December 31, 2025. The model policy must address AI use by students and staff for educational purposes. (R.C. 3301.24 enacted; R.C. 3314.03 and 3326.11 amended.) **Note**: DEW's model policy is available at https://education.ohio.gov/Topics/AI-in-Ohio-s-Education/Model-Policy.

2. Cybersecurity and ransomware (R.C. 9.64 enacted.)

a. **Note**: On August 27, 2025, the Ohio Auditor of State issued Technical Bulletin 2025-007 concerning the adoption of a cybersecurity program as required by R.C. 9.64. The bulletin states that for political subdivisions other than counties and cities, the cybersecurity program must be implemented by July 1, 2026. See https://ohioauditor.gov/publications/bulletins/2025/2025-007.pdf for more information.

b. **Cybersecurity program –** Requires legislative authorities of political subdivisions to adopt a cybersecurity program that safeguards the political subdivision's data, information technology, and information technology resources to ensure availability, confidentiality, and integrity. The program must be consistent with generally accepted best practices, such as the National Institute of Standards and Technology cybersecurity framework, and the Center for Internet Security cybersecurity best practices. Provisions that may be included in the program are specified, including establishing cybersecurity training requirements for employees.

c. **Ransomware –** Prohibits a political subdivision experiencing a ransomware incident from paying or otherwise complying with a ransom demand unless the subdivision's legislative authority formally approves the payment or compliance. The resolution must specifically state why the payment or compliance with the ransom demand is in the political subdivision's best interest.

d. **Notifying homeland security and auditor of state –** Requires a political subdivision to notify the executive director of the division of homeland security with the department of public safety, as soon as possible but not later than seven days after the political subdivision discovers the incident. The auditor of state must be notified as soon as possible, but not later than 30 days after the incident is discovered.

e. **Public records exemption –** Specifies that records, documents, or reports related to the cybersecurity program and framework, and reports of cybersecurity or ransomware incident to homeland security or auditor, are not public records. Specifies that a record identifying cybersecurity-related software, hardware, goods, and services, that are being considered for procurement, have been procured, or are being used by a political subdivision, including the vendor name, product name, project name, or project description, is a security record under section 149.433 of the Revised Code.

f. **Schools** – Section 265.60 appropriates $1,650,000 in each fiscal year to support cybersecurity initiatives in public and nonpublic schools led by MCOECN.

3. <u>Cellular telephones policy</u> (R.C. 3313.753 and 5502.262.)

a. Boards of education must adopt a policy by January 1, 2026, that prohibits all cellular telephone use by students during the instructional day with the following exceptions:

i. As under continuing law, if determined appropriate by the district board, or if included in a student’s IEP or 504 plan, students may use cellular telephones or other electronic communications devices for student learning or to monitor or address a health concern.

ii. (New) A district shall permit a student to use a cellular telephone or other electronic communications device to monitor or address a health concern if the board receives a written statement from the student's physician requiring such use.

iii. (New) If permitted under the building’s comprehensive emergency management plan.

b. An amendment to R.C. 5502.262 requires administrators to incorporate into emergency management plans a protocol that addresses student use of cellular telephones during an active threat or emergency.

4. <u>Interdistrict open enrollment</u> (R.C. 3313.98.)

a. School districts are prohibited from requiring a student to comply with any application deadline established in board policy if the student’s parent is an active-duty member of the armed forces stationed in this state.

b. Removes the ability of impact aid districts to adopt a resolution objecting to the enrollment of its native students in adjacent or other districts if at least 10% of the district’s students meet the requirements to be included in the calculation of that aid.

K. **State testing program**

1. <u>Public release of state test questions</u> –Eliminates the requirement that a minimum percentage of state assessment questions be made a public record. Instead, beginning with assessments administered in the spring of 2025-2026, DEW will determine which questions, if any, are a public record. (R.C. 3301.0711(O)(4).)

2. Diagnostic assessments (R.C. 3301.079(D), 3301.0715, and 3313.608; Section 733.30.)

   a. Requires DEW to adopt a diagnostic assessment in reading for each of grades kindergarten to three. DEW must also approve a list of up to five diagnostic assessments for grades K-3 for reading and math. Districts and schools must administer the diagnostic assessments adopted or approved by DEW in reading and math beginning in the 2026-2027 school year. A provision stating that DEW must make diagnostic assessments available to districts at no cost is eliminated. The bill also eliminates the writing diagnostic assessment in grades 1-3. (R.C. 3301.079(D); Section 733.30.)

   b. DEW's list of approved diagnostic assessments for reading must include the three reading diagnostic assessments it approved for use as comparable tools for the Third Grade Reading Guarantee. (R.C. 3301.079.)

   c. Districts and schools must administer the K-3 reading and math diagnostic assessments to all students in the appropriate grade level at least once per year by September 30. Assessments must be administered to students with a significant cognitive disability in accordance with DEW guidelines. The ability of high-performing districts and schools to use different diagnostic assessments is eliminated. (R.C. 3301.0715 and 3313.608; Section 733.30.)

   d. **Diagnostic assessment changes effective date**: For the 2025-2026 school year, districts and schools must administer each diagnostic assessment in accordance with R.C. 3301.079 and 3301.0715 as they existed prior to amendment by H.B. 96. (Section 733.30).

   e. **Third-grade reading guarantee** – Students with significant cognitive disabilities can no longer be exempted from reading diagnostic assessments. (R.C. 3313.608(B)(1).)

3. Kindergarten readiness assessment – Districts must utilize and score the kindergarten readiness assessment in accordance with rules established by the Department of Children Youth (DCY). The requirement that DEW must include KRA data on the state report card is eliminated. DEW is removed from KRA data collection and reporting so that DCY alone is responsible. (R.C. 3301.0714, 3301.0715, and 3302.03.)

L. **Career-Technical Education**

1. Middle school career-technical education waiver eliminated – Beginning July 1, 2026, school districts may no longer receive a waiver from the requirement to provide career-technical education to seventh- and eighth-grade students. (R.C. 3313.90.)

2. Career-technical education programs approval deadlines removed. Includes the deadlines for a lead district of a CTPD to approve or disapprove of a school's program, for a school to appeal a disapproval, and for DEW to

approve or disapprove the lead district's decision. Eliminates DEW's authority to adopt guidelines identifying circumstances in which it may approve or disapprove a program after the deadline has passed. (R.C. 3317.161.)

3. <u>Aim Higher Pilot Program</u> – Requires DEW to establish a pilot program to provide additional funding to JVSDs that operate a dropout prevention and recovery program in FY 2026. (Section 265.560.)

M. **Advanced Standing Programs**

1. <u>College-level examination program (CLEP)</u>

   a. A passing score on a CLEP exam is added as a qualifier for the post-secondary readiness measure on the state report card. A passing score is also a qualification for the college-ready, citizenship, science, and technology diploma seals. (R.C. 3302.03 and 3313.6114.)

   b. The college-level examination program is also added to the list of advanced standing programs. (R.C. 3313.6013.)

2. <u>Career Technical Assurance Guide (CTAG) courses</u> (R.C. 3313.6013; R.C. 3313.6031 enacted.)

   a. Advanced standing programs may include courses that comply with the career-technical education credit transfer criteria, policies, and procedures established under R.C. 3333.162 (CTAG). (R.C. 3313.6013.)

   b. Requires school districts (as well as other public and nonpublic schools that offer any of grades 9-12) that have students enrolled in CTAG courses to adopt and implement a policy for awarding grades and calculating class standing for those courses. A district's or school's policy must be equivalent to its policy for courses taken under the college credit plus program, advanced placement courses, IB courses, or honors courses, including procedures for awarding a weighted grade or enhancing a student's class standing. (R.C. 3313.6031 enacted; R.C. 3314.03, 3326.11, and 3328.24 amended.)

3. <u>College Credit Plus</u> – Eliminates the sunset provision of December 2023 so that the chancellor of higher education and DEW must continue to prepare an annual report on CCP program outcomes. (R.C. 3365.15(C).)

4. <u>Accelerated College and Career Pathways Program (model CCP pathways required)</u> (R.C. 3333.97 and 3345.89 enacted.)

   a. Requires state universities to establish at least one accelerated 90-hour degree program aligned to an in-demand career area by the 2027-2028 academic year. The chancellor must identify how students can count credit earned in high school and other sources and state universities are required to accept credit that meet established criteria. (R.C. 3333.97 and 3345.89 enacted.)

b. **Model College Credit Plus pathways required –** Includes a requirement that each state university must develop model college credit plus pathways aligned to the accelerated degree programs and state workforce needs in consultation with local and regional primary and secondary education partners. Public and participating nonpublic secondary schools must include the model pathways developed in the information required to be provided to students and parents under R.C. 3365.04. (R.C. 3345.89 enacted.)

5. <u>Direct admissions pilot program</u> – Requires the chancellor of higher education to establish a direct admissions pilot program to notify students enrolled in participating high schools about whether they meet the admissions criteria for participating postsecondary institutions. The chancellor must endeavor to implement the program for students graduating in the 2026-2027 school year. A participating school governing body may adopt a written policy authorizing any high school it operates to participate in the program and transmit the policy to the chancellor and DEW, and must develop a procedure to determine whether a student who wants to participate meets eligibility requirements. (Section 381.770.)

N. **Competency-based adult education programs** (R.C. 3313.902, 3314.38, and 3345.86 repealed and reenacted effective July 1, 2026; R.C. 3317.036, 3317.23, 3317.231, and 3317.24 repealed effective July 1, 2026; conforming changes in R.C. 3317.01; Sections 105.05, 105.80, 733.20 and 820.120.)

1. <u>The existing Adult Diploma Program and the 22+ Adult High School</u> Diploma Program are eliminated effective July 1, 2026. (Uncodified law (Section 733.20) permits individuals currently enrolled in these programs to complete the program (provided it is completed by June 30, 2027), or complete a new program described in R.C. 3313.902, 3314.38, or 3345.86.)

2. <u>Competency-based education program established</u> – Effective July 1, 2026, establishes a new competency-based education program for individuals at least eighteen years of age who have officially withdrawn from school and who do not have a diploma or certificate of high school equivalence.

a. An "eligible provider" includes a city, local, or exempted village school district that operates a dropout prevention and recovery program, a joint vocational school district that operates an adult education program, and other specified entities. (R.C. 3313.902 enacted.)

b. Eligible providers may establish a program and enroll individuals in the program for up to three consecutive school years (except in cases of hardship). Providers must establish a career plan for each enrolled individual. Individuals must not be assigned to classes or settings with individuals under age 18. The bill sets forth standards under which DEW will award a diploma to an individual enrolled in the program and reporting requirements. (R.C. 3313.902 enacted.)

3. Community school competency-based education programs – Provisions similar to those applicable to school districts apply to community schools. A community school is an eligible provider if it operates a dropout prevention and recovery program. (R.C. 3314.38 enacted.)

4. A community college, university branch, technical college, state community college, or Ohio technical center are also eligible providers. (R.C. 3345.86 enacted.)

O. **Gender issues**

1. Menstrual products – Prohibits a government entity from placing menstrual products in the men's restroom of a public building. (R.C. 9.561 enacted.)

2. State gender policy – Enacts R.C. 9.05 to declare that is the policy of the state of Ohio to recognize two sexes, male and female. States that these sexes are not changeable and are grounded in fundamental and incontrovertible reality. Defines boy, girl, female, male, man, woman, sex, and gender identity, as used in the Ohio Revised Code. (R.C. 9.05 enacted.)

3. Public library materials – Governor DeWine vetoed a provision that would have required public libraries created under R.C. Chapter 3375 to place materials related to sexual orientation or gender identity or expression in a portion of the library not primarily open to the view of persons under age 18. (R.C. 3375.47.)

P. **School district property disposal and territory transfers**

1. High-performing community school definition (R.C. 3313.413) – Changes the definition of a "high-performing community school" for purposes of priority consideration when a school board decides to dispose of real property. A community school is "high performing" if:

   a. It has a higher performance index score than the school district in which it is located on the two most recent report cards; and it has a performance rating of four stars or higher for progress on its most recent report or is a dropout prevention and recovery school and did not receive a rating for progress on the most recent report card.

   b. If the community school serves only grades K-3, it received a performance rating of four stars or higher for early literacy on its most recent report card.

   c. If the school has not commenced operations or has been in operation for less than one school year, the school is replicating an operational and instructional model used by a high-performing community school, and either: 1) has an operator that received an overall rating of three stars or higher, or a "C" or higher, on its most recent performance report; or (2) does not have an operator and is sponsored by a sponsor rated "exemplary" or "effective" on its most recent evaluation.

2. <u>School district territory transfers</u> – Requires the state board of education to approve a proposed transfer of school district territory under R.C. 3311.24 if 1) the territory is being transferred to an adjacent school district; 2) the district from which the territory is being transferred received an overall performance rating of less than two stars for two or more consecutive years; and 3) no party opposing the transfer has presented to the state board clear and convincing evidence that any information used to facilitate the transfer is incorrect or inaccurate. (R.C. 3311.242 enacted.)

3. <u>Public and school lands</u> – Custodian responsibility for public land records transferred from the auditor of state to the Ohio history connection. The Ohio history connection must furnish to boards of education copies of deeds, leases, field notes, records, and other papers relating to lands appropriated by congress for the support of schools. The department of administrative services must prepare deeds for property originally appropriated by congress for school purposes. (R.C. 149.30(Q) and (R), 501.09, 501.11 amended; R.C. 117.51 and 501.03 repealed.)

Q. **School forecasts**

1. <u>Five-year forecast</u> (R.C. 5705.391; conforming changes in R.C. 3313.489, 3316.031, 3316.043, 3316.08, 3316.16, and 5705.412; Section 265.660)

    a. Eliminates the requirement that boards of education submit five-year projections of operational revenues and expenditures. Instead, school boards must submit to DEW appropriations, revenue, and fund balance assumptions contained in the budget adopted by the board for that fiscal year and projections of expenditures, revenues, and fund balance for the three succeeding fiscal years.

    b. School boards must submit current budget information and projections by August 31 of each fiscal year, and updated budget information and projections by the last day of February of each fiscal year. (For fiscal year 2026, current budget information and three-year projections must be submitted by October 15, 2025, in accordance with rules existing as of July 1, 2025.)

    c. Rules adopted by DEW and the auditor of state (AOS) must specify the information required for current budget information and three-year forecast submissions, and any additional school district financial and operating information necessary for the audits and analyses conducted by AOS or DEW, including special and federal funds expenditures, revenues, and balances. The AOS or DEW must determine whether a district may incur deficit during the first two years of the three-year period, rather than the first three years of the five-year period.

    d. Beginning with submissions for fiscal year 2026 and thereafter, property tax allocation projections must be labeled "state reimbursement for property tax credits" rather than "state share of local property taxes."

e. Permits a school district to submit its most recent projections to the county budget commission with its tax budget as required by R.C. 5705.28 or other information as allowed by 5705.281.

f. Conforming changes elsewhere to reference "current budget information and three-year projections" in place of "five-year projections." [R.C. 3313.489 (determining whether district may be unable to operate during entire school year), 3316.031 (identifying unsafe fiscal practices and budgetary conditions), 3316.043 (fiscal watch and financial recovery plans), 3316.08 (fiscal emergency tax levy proposal), 3316.16 (termination of financial planning and supervision commission), and 5705.412 (certificate of revenue for qualifying contracts).]

R. **Property taxes** - *Note: See also H.B. 129, H.B. 186, H.B. 335, and H.B. 309, infra*.

1. "Piggy-back" homestead exemption and 2.5% rollback – Authorizes counties to offer a homestead exemption and 2.5% owner-occupied property tax rollback that applies concurrently with the state-level exemption and rollback. These credits are not reimbursed by the state so could result in a revenue loss to local taxing authorities. (R.C. 319.304 enacted; R.C. 323.152 amended; conforming changes to R.C. 323.153, 323.155, 323.156, 323.158, 4503.06, and 4503.0610; Section 757.160 and 757.170.)

2. Property tax complaints (R.C. 5715.19, 5717.01; Section 757.90.)

a. Further limits the ability of a political subdivision to file an original property tax complaint with respect to property it does not own by adding the condition that a sale must be evidenced by a conveyance fee statement that declares the value of the property and that was filed during the two years preceding the tax lien data for which the complaint is to be filed; or the sale must otherwise be recorded during those two years. (Applies to original complaints filed on or after the bill's effective date.) (R.C. 5715.19(A)(6).)

b. The check box on the complaint form must include an indication of whether the complaint is being filed by a third party complainant acting on behalf of a legislative authority or mayor. A third party complainant must also submit a sworn affidavit stating whether the complainant is or is not acting on behalf of legislative authority or mayor. A person is considered to be acting on a legislative authority's behalf if the person is an official or employee of the political subdivision or has been hired, contracted, or directed by an official or employee to file a complaint or counter-complaint on behalf of the political subdivision. (Applies to original complaints filed on or after the bill's effective date.) (R.C. 5715.19(A)(1) and (8); Section 757.90.)

c. Specifies that a board of education may only file a counter-complaint if the original complaint was filed by the owner of the property, a tenant, or person acting on behalf of a tenant or owner. (Applies to countercomplaints filed with respect to tax year 2022 and subsequent years.) (R.C. 5715.19(B)(2); Section 757.90.)

d. H.B. 96 limits the ability of a subdivision or legislative authority to appeal a BOR decision by stating it can only file an appeal if the subdivision owns or leases the property at issue. (Applies to appeals of BOR decisions issued on or after July 21, 2022.) No appeal may be taken by a third party complainant (applies to any appeal taken from a BOR decision rendered on or after the bill's effective date). (RC. 5717.01; Section 757.90.)

3. <u>School district income tax on estates</u> – Eliminates the ability of school districts to levy an income tax on estates. Applies to a levy in effect, levied, or renewed on or after Jan. 1, 2026. Must send a copy of the board's resolution proposing an income tax levy that is certified to the board of elections to the tax commissioner (applies to resolutions and petitions filed on or after the bill's effective date). (R.C. 5747.021, 5748.01, 5748.02, 5748.021, 5748.03, 5748.04, 5748.08, 5748.081, and 5748.09; Sections 801.70 and 801.100.)

4. <u>County budget commission authority</u> – Makes various changes to the authority of a county budget commission. (R.C. 3317.01, 5705.01, 5705.13, 5705.131, 5705.222, 5705.27, 5705.29, 5705.31, 5705.314, 5705.32, 5705.35-5705.37, 5705.391, and 5705.40 (some sections partially vetoed); R.C. 5705.60 (enactment vetoed entirely).)

a. <u>Inside millage</u> – If a board of education proposes to change a levy within the 10-mill limitation in a manner that will result in a property tax increase, in addition to holding a hearing, the school board must obtain approval from the county budget commission in each county in which the district has territory. (R.C. 5705.314.)

b. <u>Tax budgets</u> must include a statement of estimated expenses to the end of the current fiscal year, and comparative statements of all funds in control of the subdivision for the current and two preceding fiscal years that are not already included in the tax budget. If a board of education has elected to include projections of expenditures, revenues, and fund balance with its tax budget, the budget commission must consider them when reviewing the district's tax budget. If a taxing unit estimates it will collect more revenue in the succeeding fiscal year than in the current fiscal year from any tax levied within the ten-mill limitation or due to the operation of R.C. 319.301(E), it must include a declaration of the taxing unit's intent to collect the additional revenue or to forgo all or a portion of the additional revenue. (R.C. 5705.29 and 5705.31.)

c. Forgoing tax collections – If a taxing unit declares its intent to forgo all or a portion of collections, the budget commission must adjust the rate of each levy as required to result in that reduction. Allows a subdivision to request an amount requiring a lower rate for a levy, which only applies to the next succeeding fiscal year unless the subdivision expressly states the request is permanent. (R.C. 5705.29, 5705.31 and 5705.32 (partially vetoed).)

5. Tax levy provisions (vetoed; veto overridden by the House on July 21, 2025, and by the Senate on October 1, 2025)

a. Provisions eliminating the authority of political subdivisions to levy replacement property tax levies; for school districts to levy fixed-sum emergency levies, substitute emergency levies, and combined school district income tax and fixed-sum property tax levies, and to submit question of whether to renew and increase a levy; changing "county auditor's appraised value" to "market value"; requiring notices of election and ballot forms for city, local, and exempted village school districts to show the percentage and amount of general fund carry-over balances; and prohibiting school districts from submitting a current expense levy if the district's carryover balance is 100% or more of prior general fund expenditures (except for renewals) were vetoed by Governor DeWine.

b. On July 21, 2025, the Ohio House overrode DeWine's veto. The Senate voted to override the veto on October 1, 2025. Effective Jan. 1, 2026.

c. Numerous sections of the Revised Code, including but not limited to: R.C. 5705.192, 5705.195, 5705.196, and 5705.197 repealed; R.C. 5705.17 enacted; R.C. 133.18, 5705.03, 5705.194, 5705.199, 5705.21, 5705.212, 5705.213, 5705.215, 5705.217, 5705.218, 5705.219, 5705.2111, 5705.2114, 5705.251, 5705.261, 5748.09, and 5748.02 amended; Section 801.310.

6. 20-mill and 2-mill floor calculation (vetoed) – Gov. DeWine vetoed a provision that would have required current-expense fixed-sum levies to be included in the calculation of the 20-mill floor. (R.C. 319.301; Section 801.280.)

7. Carry-over balances (vetoed) – Property tax reductions for districts with a carry-over balance if the district's general operating budget from the previous fiscal year exceeds 40% of the district's general fund expenditures made in the previous fiscal year. (R.C. 5705.316 enacted; R.C. 323.131, 3317.01, 4503.06, 5705.27, and 5705.31 amended; Section 757.110.)

S. **School facilities**

1. Contracts for school district construction projects – Continuing law establishes bidding requirements for contracts to build, repair, enlarge, improve, or demolish any school building that exceed the threshold amount[3] in R.C. 9.17. H.B. 96 modifies this requirement so that is applies to "any building or other property," rather than "any school building." (R.C. 3313.46.)

Note: The Ohio Auditor issued bulletin 2025-009 concerning this change. See https://ohioauditor.gov/publications/bulletins/2025/2025-009.pdf.

2. School portion of basic project cost – Modifies the calculation of the portion of the basic project cost supplied by the school district for classroom facilities assistance program projects. (R.C. 3318.032.)

3. Vocational school facilities assistance program – The OFCC may set aside a portion of its aggregate school facilities assistance funds to provide assistance to at least two joint vocational school district per biennium (rather than 2% of its aggregate funds). (R.C. 3318.40; conforming change to 3318.12.)

4. Public improvement notices, advertisements, and filings – Changes are made to various requirements as set forth in R.C. 9.312 (competitive bidding notices), 9.331 (construction manager advertisement), 153.07 (publishing notice of bids), 153.09 (new proposals when necessary), 153.54 (bid guaranty), and 1311.252 (notice of commencement – removes affidavit requirement).

5. Other construction-related changes are made to R.C. 153.01 (architect plans – public authority may require use of a building information model system); contractor payments for public improvement contracts (R.C. 153.12, 153.13, 153.14, and 153.63); construction manager at risk contracts (R.C. 9.334); and expedited process (R.C. 9.334, 153.501, 153.693).

6. Affirmative action programs – Repeals a requirement that a person desiring to bid on a public improvement or transportation construction contract must receive a certificate of compliance with affirmative action programs. Prohibits a public authority from eliminating a bidder as unqualified on the basis that the bidder has not complied with an affirmative action program or a diversity, equity, and inclusion program. (Does not apply to set-aside programs for minority businesses or EDGE business enterprises.) (R.C. 125.111, 153.502, and 153.59; R.C. 9.47 repealed.)

T. **Public records**

1. Personal notes – Specifies that for purposes of Chapter 149 of the Revised Code, "records" does not include personal notes or any document, device, or item, regardless of physical form or whether an assistive device or

[3] See https://com.ohio.gov/divisions-and-programs/industrial-compliance/competitive-bidding-threshold/competitive-bidding-threshold for the current threshold amount.

application was used, of a public official, or of the official's attorney, employee, or agent, that is used, maintained, and accessed solely by the individual who creates it or causes its creation. (R.C. 149.011(G).)

2. Attorney work product record – Excludes from the definition of "public record" an "attorney work product record" as defined in division (A)(18). (R.C. 149.43(A)(1)(zz) and (A)(18).)

3. Trial preparation record – Clarifies the period during which trial preparation records are exempt from the public records law. Defines a trial preparation record as a record created by or for another party or by or for that party's representative, in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, that is not a confidential law enforcement investigatory record or attorney work product record and that contains factual information specifically compiled for that civil or criminal action or proceeding. (R.C. 149.43(A)(1)(g) and (A)(4).

4. Procurement law – Clarifies that documents related to a competitive selection are not public records until after the award of the contract. Removes language that specifies such documents are public records after the cancellation of the competitive selection. (Applies to competitive sealed bidding, competitive sealed proposals, reverse auctions, and electronic procurement.) (R.C. 9.28; also R.C. 125.071, and 125.11.)

5. Calendar entries – Excludes from the definition of public record any entry on the public calendar of an elected official that is for any date that is after the date the record is requested. (R.C. 149.43(A)(1)(aaa), (A)(19), and (A)(20).)

6. Cybersecurity records – See R.C. 9.64 above.

U. **Department of Children and Youth (DCY)**

1. Preschool and school child programs oversight obligations transferred from the joint responsibility of DEW and DCY to DCY alone. Responsibilities transferred to DCY alone include consultation and technical assistance, in-service training, program inspections, and annual inspection reports. (R.C. 3301.57.)

2. Preschool programs criminal records checks – DCY (rather than DEW) must adopt rules to implement criminal records check requirements and rehabilitation standards. (R.C. 3301.54.)

3. Other – Requires DCY, when applicable, to contract with an entity to administer programs and coordinate services for infants, preschool and school-age children, and adults with autism and low incidence disabilities. (Continuing law requires DEW to enter into such contract.) Removes the requirement to give primary consideration to the Ohio Center for Autism and Low Incidence. (R.C. 3323.32.)

4. Recodification – Relocates and recodifies numerous code sections relating to the duties and responsibilities of DCY to Chapter 5180. See

https://www.legislature.ohio.gov/download?key=25726 at page 121 for a list.)

5. Early Childhood Education Grant Program – Establishes the Early Childhood Education Grant Program and criteria for qualifying for same. (R.C. 5104.53 enacted.)

V. **Scholarship programs**

1. Autism and Jon Peterson Special Needs scholarship programs (R.C. 3310.41, 3310.51, 3310.52, 3310.523, 3310.58, and 3310.64; Section 265.670.)

    a. **Eligibility and services** – Specifies that an individual age 3 or older and less than 22 years old is a qualified special education child for the autism and Jon Peterson scholarship programs. Makes other eligibility changes, permits multiple providers to be contracted, and permits virtual services. Requires DEW to post a list of registered private providers. (R.C. 3310.41, 3310.51, 3310.52, and 3310.58.)

    b. Uncodified law (effective immediately) requires DEW to award scholarships under R.C. 3310.41 and 3310.52 for the 2025-2026 school year for a child age 18 or older but less than 22 years old enrolled in a chartered or nonchartered nonpublic school; home educated; or older than compulsory school age and received home education but has not received a diploma, and is still eligible to receive transition services. (Section 265.670.)

    c. **JROTC** – A qualified special education child receiving home education under R.C. 3321.042 who participates in a JROTC maintained by the child's district of residence shall not be considered to be enrolled in that district for purposes of determining eligibility for the autism or special needs scholarship programs. (R.C. 3310.413 and 3310.523 enacted.)

W. **Community schools**

1. Community school facilities – Permits any community school to be located in multiple facilities under the same contract. Under continuing law, community schools with facilities located in more than one school district must designate one of the districts as the school's primary location. If a community school elects to modify its primary location, it must notify DEW. H.B. 96 also eliminates restrictions on which schools may assign students in the same grade level to multiple facilities. (R.C. 3314.05)

2. Dropout prevention and recovery community schools (R.C. 3314.02 amended; R.C. 3314.362 enacted; conforming changes in R.C. 3301.0712, 3301.0727, 3302.03, 3302.034, 3302.20, 3314.013, 3314.016, 3314.017, 3314.034, 3314.261, 3314.29, 3314.35, 3314.351, 3314.36, 3314.361, 3314.381, 3314.382, 3317.163, 3317.22, and 3319.301.)

a. Defines a "dropout prevention community school" (DOPR) as a community school that only enrolls students between the ages of 14 and 21 who, at the time of initial enrollment, are at least one grade level behind their cohort age groups or experience crises that significantly interfere with their academic progress such that they are prevented from continuing their traditional educational programs. (R.C. 3314.02.)

b. Establishes transition requirements for existing community schools. (R.C. 3314.362 enacted.)

c. A community school that operates a DOPR is an "eligible provider" to establish a competency-based educational program. (R.C. 3314.38 repealed and reenacted effective July 1, 2026; Sections 105.05, 105.80, 733.20, and 820.120.)

d. Transition period for 2025-2026 and 2026-2027

3. Community school bond – DEW, rather than the Auditor of State, must require the fiscal officer of a community school or college prep boarding school to execute a bond. (R.C. 3314.011 and 3328.16; R.C. 3314.50 repealed.)

4. Sponsor evaluation – Makes changes to sponsor evaluation requirements. DEW must evaluate each sponsor for the 2025-2026 school year. (R.C. 3314.016; Section 733.70.)

5. Classical community schools may administer assessments in a paper format unless a student's IEP or 504 plan specifies an online format is an appropriate accommodation. (R.C. 3301.0711.)

6. Other changes include sponsor assurances deadline, contract requirements and comprehensive plans, (R.C. 3314.03, 3314.05, 3314.19, 3314.191.)

X. **Miscellaneous**

1. Ohio Code-Scholar Program – Replaces the Ohio code-scholar pilot program with a permanent program to be established by Southern State Community College for students in grades 4-12. (R.C. 3313.905 repealed and reenacted.)

2. Teach CS grant program – In addition to increasing the number of teachers who qualify to teach computer science, expands the purpose to include expanding the knowledge of existing teachers. (R.C. 3333.129.)

3. Fabricated sexual images – Creates the offense of nonconsensual dissemination and nonconsensual creation of fabricated sexual images, a felony of the fourth or third degree. The victim of such offense may bring a civil action against the offender. (R.C. 2307.66 and 2917.211.)

4. Statewide FAFSA support system eliminated. (R.C. 3333.303 repealed.)

5. STEM schools – Continues for FY 2026 and 2026 the requirement that a STEM school must spend funding it receives under R.C. 3317.022(A)(5) only for services for English learners. (R.C. 3326.44.)

6. STRS – H.B. 96 makes changes to the composition of the State Teachers Retirement System Board by reducing the number of contributing members and adding appointed members. Uncodified law establishes various dates on which offices are abolished. Other board changes are also set forth in Chapter 3307. (R.C. 3307.05, 3307.10, and 3307.11; Section 733.90; other changes in R.C. 3307.06, 3307.07, 3307.10, and 3307.11.)

> **Note**: This provision is currently being litigated and a stay is currently in effect. The Court of Common Pleas ruled the changes to R.C. 3307.05 and 3307.11 violated the single subject and three-considerations rule. (*Krause v. State Teachers Retirement Bd.*, 2025 WL 2979241, on appeal at No. 25-AP-845, 10th Dist. Franklin Cty.).

7. Auditor of State Duties – Removes various duties of the auditor of state, including, as relevant to schools, under R.C. 3313.27 (counting money, bonds, or securities at expiration of term of treasurer); 3314.08 (method for auditing computer hardware – only DEW determines now); 3315.18 (capital and maintenance fund deposit amount); 3315.181(revenue sources for capital and maintenance funds); 3318.051; 3318.48 (finding for recovery); 3326.51 (audit of school district serving as the STEM school sponsoring district for compliance with financing requirements); repeals R.C. 117.113 (redundant provision requiring audit of STEM schools); and 117.51 (public land records). Other changes to the auditor's duties include: R.C. 3317.035 (allows discretion in selecting schools for enrollment audits); 3328.16 (college-prep boarding schools); 5705.12 (auditor not required to consult with tax commissioner before approving funds); and others.

8. State school for the blind or deaf

   a. Specifies the superintendent of Ohio deaf and blind education services may grant a student a diploma if the student successfully completes the curriculum in any high school, in lieu of completing an IEP. (R.C. 3325.08.)

   b. Requires investment earnings in the educational program expenses fund for the state school for the deaf or blind to be credited to the fund. (R.C. 3325.16 and 3325.17.)

9. Changes the name of the Department of Mental Health and Addiction Services to the Department of Behavioral Health. (R.C. 121.02, 5119.011, with conforming changes in numerous sections (primarily Chapters 340, 5119, and 5122.)

10. TechCred – Creates a platinum provider program and institutional platinum provider program for institutions to receive advance payment to train individuals to earn a microcredential. (R.C. 122.1710 amended; R.C. 122.1712 and 122.1713 enacted; Sections 259.20 and 701.50.)

11. <u>State programs</u> – Defines "state program" as any program, initiative, or service administered or overseen by an agency. Provides that if the federal government reduces, discontinues, pauses, or otherwise suspends any federal program that provides federal funds for any corresponding state program, such program may be reduced, discontinued, paused, or suspended. This shall include any contract, agreement, memorandum of understanding, or any other covenant entered into by the state that is dependent on federal funding. (R.C. 126.10 enacted.)

12. <u>Partisan elections for school district board members (vetoed)</u> – A provision that would have required candidates for a school district or ESC board of education to appear on the ballot with a political party designation was vetoed by Governor DeWine. (R.C. 3513.254, 3513.255, 3513.256 repealed; R.C. 3311.053, 3501.01, 3505.03-.04, 3513.04-.05, 3513.052 amended; Section 735.10.)

II. Summary of Other Recent Legislation – Note: Not all provisions of new laws are included

A. S.1071 – National Defense Authorization Act for Fiscal Year 2026: Recruiter Access (effective Dec. 18, 2025)

In late 2023, the National Defense Authorization Act for Fiscal Year 2024 made changes to military recruiter access requirements for secondary schools receiving funding under the Elementary and Secondary Education Act of 1965. S.1071, the National Defense Authorization Act (NDAA) for Fiscal Year 2026 (NDAA), again modifies military recruiter access requirements for secondary schools.

The changes specify that schools shall provide a military recruiter access to the <u>campus</u> of a secondary school under the local education agency's jurisdiction (rather than just access) for the purpose of recruiting students who are at least 17 years old. The access provided to a military recruiter must be equivalent to access provided to a prospective employer of such students, an institution of higher education, or another recruiter. Formerly, the law required schools to provide access to career fairs or similar events upon the request of a military recruiter. S.1071 specifies that schools must provide access to <u>at least one in-person recruitment event</u> per academic year (such as a career fair).

The former law set a 60-day deadline for responding to requests for secondary school student names, addresses, electronic mail addresses (which shall be the electronic mail addresses provided by the school, if available), and telephone listings. S.1071 shortens the response deadline to <u>30 days</u>, and, for phone numbers, specifies "telephone listings and mobile phone listings" must be provided. (Sec. 531 of the Act, amending 10 U.S.C. § 503(c).)

B. S.222 – Whole Milk for Healthy Kids Act of 2025; food allergy training (effective Jan. 14, 2026)

1. <u>Whole Milk</u> – Amends the Richard B. Russell National School Lunch Act to allow schools that participate in the school lunch program to offer

students a variety of fluid milk, including whole milk. Formerly, schools were required to offer milk consistent with the most recent Dietary Guidelines for Americans, and were permitted to offer flavored and unflavored milk and lactose-free milk.

As amended, 42 U.S.C. 1758(a)(2)(A) now requires schools to offer a variety of fluid milk (with no reference to the Dietary Guidelines), and permits schools to offer students options, which may include:

> "flavored and unflavored organic or nonorganic whole, reduced-fat, low-fat, and fat-free fluid milk and lactose-free fluid milk, and nondairy beverages that are nutritionally equivalent to fluid milk and meet the nutritional standards established by the Secretary (which shall, among other requirements to be determined by the Secretary, include fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow's milk)."

2. <u>Milk substitutes</u> – 42 U.S.C. 1758(a)(2)(A)(iii) also requires schools to "provide a substitute for fluid milk for students whose disability restricts their diet, on receipt of a written statement from a licensed physician that identifies the disability that restricts the student's diet and that specifies the substitute for fluid milk." The Act amends this requirement to permit the statement to be provided by a parent or legal guardian, in addition to a licensed physician.

3. <u>Saturated fat</u> – The Act specifies that the milk fat included in any fluid milk shall not be considered saturated fat for purposes of measuring compliance with the allowable average saturated fat content of a meal under 7 CFR § 210.10.

4. <u>Training in food allergies</u> – Amends 42 U.S.C. 1776(g)(2)(B)(iii)) to add food allergy training to the list of required training modules for local food service personnel. The training must include information on the best practices to prevent, recognize, and respond to food-related allergic reactions.

5. <u>USDA Guidance</u> – The USDA. issued a guidance memo on implementation of the updated fluid milk requirements. (Memo SP 01-2026; Jan. 14, 2026 – see https://www.fns.usda.gov/nslp/wmfhka-implementation.)

C. **House Bill 57 – School overdose reversal drugs policy; religious released time** (effective Jan. 19, 2026)

1. <u>School policies on the administration of overdose reversal drugs</u> (R.C. 3313.7119, 3313.7120, 3314.148, 3326.62, and 3328.40 enacted)

    a. If a school district elects under R.C. 3715.50 to obtain and maintain a supply of an overdose reversal drug, the school board must adopt and implement a policy regarding the supply's maintenance and the drug's use at each school operated by the district.

b. By August 1, 2026, the department of education and workforce (DEW) must develop a model policy in consultation with the department of health. A school board may adopt the model policy to fulfill its requirements under this section.

c. The policy must include: (1) a requirement that each school must conform to the requirements of R.C. 3715.50(C)(1); (2) the amount of the drug's supply to be maintained at each school; (3) a requirement that each school's supply be stored in a secure location that is easily accessible to employees or contractors; and (4) a description of any training regarding the supply's maintenance and drug's use that school employees may be required to complete.

d. Permits school boards to accept donations of money to purchase overdose reversal drugs. Boards must use the donations only for that purpose and must track the expenditure of donated funds.

e. As soon as practicable after using an overdose reversal drug in an emergency situation, the district's superintendent must report its use to the district board of education and the parent or guardian of the student to whom the drug was administered. The superintendent must also annually report the district's use of overdose reversal drugs in emergency situations to DEW.

f. If a superintendent determines that a persistent pattern of overdose has emerged at the district's schools, the superintendent must notify the parent or guardian or each student enrolled in the district.

g. Similar requirements apply to nonpublic schools (R.C. 3313.7120), community schools (R.C. 3314.148), STEM schools (R.C. 3326.62), and college-prep boarding schools (R.C. 3328.40).

2. <u>Religious released time courses</u> (R.C. 3313.6022(E) amended)

a. Currently, Ohio law specifies that a school district's religious released time policy must not exceed two periods per week for elementary or middle school students, or the amount of time equivalent to attending two units of high school credit per week for high school students.

b. H.B. 57 amends this provision to permit a school district to excuse a student to attend a religious release time course for more than two periods/units per week if the district's policy specifies a higher limit.

c. An uncodified provision prohibits a court from awarding monetary damages for a claim brought under or otherwise arising out of R.C. 3313.6022 for alleged violations occurring from September 30, 2025, to the effective date of this section. (Section 3.)

D. **House Bill 10 – Regulate imitation meat and egg products – school policy to prevent purchase of** (effective March 20, 2026)

Provisions of this bill relevant to schools concern imitation meat products.

1. <u>Policy required</u> – Requires school districts to adopt a policy to prevent the purchase of a food that is misbranded as a meat product or an egg product as defined in R.C. 3715.602, or is a cultivated-protein food product as defined in R.C. 3715.601. DEW must also adopt a policy to prevent the purchase of such products. (R.C. 3313.8110 enacted.)

2. Also applicable to community schools, STEM schools, and college-prep boarding schools, and state institutions of higher education. (R.C. 3314.03(A)(11)(d), 3326.11, and 3328.24 amended; R.C. 3345.88 enacted.)

E. **House Bill 114 – Kindergarten admissions** (effective March 20, 2026)

1. <u>Kindergarten admission age</u> (R.C. 3321.01 amended)

   a. Formerly, Ohio law required school districts to admit a child to kindergarten if the child would be five years old by September 30, and also permitted school districts to instead establish August 1 as the date by which a child must be five years old.

   b. H.B. 114 instead requires school districts to admit to kindergarten any student who is five or, for a student who has not completed first grade, six years of age by the first day of instruction of the school year of admittance. (Schools districts can no longer use August 1 or September 30 as the cutoff date for kindergarten.)

   c. The bill does not change a provision in continuing law concerning evaluation for early admittance for a child who will be five or six years old prior to the first day of January. For first grade, a school district may still establish August 1 in lieu of September 30 as the required date by which a student must have attained six years of age.

   d. Also applicable to community and STEM schools per R.C. 3314.03 and 3326.11.

   e. The Legislative Service Commission predicts that approximately 5,000 fewer students will enter kindergarten in FY 2027.

2. <u>Biology exam scoring error</u> – Requires DEW to review the scores of students who took the science end-of-course examinations during the 2024-2025 school year to determine those students affected by an error in the scoring of a single, one-point question on the exam. If a student would have achieved a higher score on the exam had it been scored correctly, DEW must increase the student’s score accordingly. If the score increase qualifies the student for a science seal or an honors diploma seal under R.C. 3313.6114, the school district in which the student was enrolled must award the applicable seal. DEW must not decrease any student’s score due to the scoring error. (Section 3.)

F. **House Bill 184 – Contracts with intercollegiate athletes; budget corrections** (signed Dec. 19, 2025; generally effective March 20, 2026)

This bill addresses NIL contracts with intercollegiate athletes, in addition to various other provisions and budget bill corrections. As relevant to school districts:

1. Administrative expenses cap ESC exclusion – The budget bill (H.B. 96) enacted R.C. 3315.063 to prohibit boards of education from spending more than 15% of the board's annual operating budget on "administrative salaries and benefits and other costs associated with the district's administrative offices." H.B. 184 amends this provision to specify it only applies to city, local, exempted village, or joint vocational school districts. (R.C. 3315.063 amended.)

2. Science of Reading report – Requires DEW to prepare and issue a report regarding implementation of the science of reading requirements set forth in R.C. 3313.6028, including by districts and schools. DEW must prepare and issue the report by June 30 of each year. (R.C. 3313.6028 amended.)

3. Mass transit for school transportation (Montgomery County) – Beginning July 1, 2026, permits a school district located in a county that has a population between 530,000 and 540,000 according to the most recent federal decennial census to use vehicles operated by a mass transit system to transport the following students enrolled in grades 9 through 12 to and from school: eligible students enrolled in a community or chartered nonpublic school, and school district students. The district must ensure each student is assigned to route that does not require the student to make more than one transfer, and that any transfer does not occur at the central transfer hub for the mass transit system. (R.C. 3327.017 amended.)

4. Pupil Transportation Pilot Program – H.B. 96 extended the Montgomery County pupil transportation pilot program through the 2026-2027 school year, and extended the deadline for DEW to evaluate the program to Sept. 15, 2027. H.B. 814 amends this pilot program to permit the ESC to provide transportation to and from a student's workplace learning experiences, in addition to providing transportation to and from a student's place of residence. (Section 5 of H.B. 184, amending Section 265.550 of H.B. 33 of the 135th General Assembly (as amended by H.B. 96 of the 136th General Assembly).)

5. Accelerated College and Career Pathways Program (model CCP pathways required) – H.B. 96 established the Accelerated College and Career Pathways Program. H.B. 184 clarifies the accelerated program is a 90 semester credit hour degree program (rather than 90-hour degree program). (R.C. 3333.97 and 3345.89 amended.)

6. Early childhood education grant program – Clarifies that the award of an early childhood education grant under R.C. 5104.53 shall not be considered publicly funded child care or a family services program. (R.C. 5104.53 amended.)

7. Publicly funded child care payments – Extends the date by which DCY must calculate payments for publicly funded child care based on a child's enrollment, rather than attendance, from July 5, 2026 to July 9, 2028. (R.C. 5104.32 amended.)

8. School Emergency management plans licensing body update – Updates the reference to the licensing body for preschool or school-age child care programs in R.C. 5502.262 from DEW to DCY. (R.C. 5502.262 amended.)

9. Project TIF extension for multinational for-profit entities – Authorizes a county, township, or municipal corporation to extend an exemption from taxation of improvements to parcels designated in the ordinance or resolution for an additional period of not more than 30 years if certain conditions are met, including that the buildings and structures on the parcels are owned by a multinational for-profit entity. (R.C. 5709.511 enacted.)

G. **House Bill 434 – Budget corrections bill** (signed Nov. 25, 2025, effective immediately)

1. Disadvantaged pupil impact aid (DPIA) – Prohibits the economically disadvantaged student count used to calculate DPIA funding (from FY 2025) from exceeding a school's enrolled ADM for that year. Clarifies that a "newly opened community school" means a school that was not open in FY 2025. (Section 3, amending Section 265.215 of H.B. 96.)

2. Local option homestead exemption – H.B. 96 enacted R.C. 319.304 to authorize counties to offer a "piggy-back" homestead exemption. H.B. 434 modifies eligibility requirements to align with the state homestead exemption program. The amendment applies to resolutions adopted before or after the effective date of H.B. 434. (R.C. 319.304 amended; Section 12.)

3. Teach for America – Earmarks $2,000,000 in each fiscal year for Teach for America to increase recruitment, train and develop first-year and second-year teachers in the Teach for America program in Ohio, and to support the ongoing development and impact of Teach for America alumni working in Ohio. (Section 3.)

4. Vetoes – Gov. DeWine vetoed a provision concerning victim of crime vehicles fees (R.C. 4513.60 and 4513.66).

H. **Senate Bill 56 – Medical and adult-use marijuana laws** (effective March 20, 2026; operating appropriations effective Dec. 19, 2025)

This bill revises medical and adult-use marijuana laws. As relevant to schools:

1. Rights of employers (R.C. 3796.28 amended)

a. Under current law, employers are not required to permit or accommodate an employee's use, possession, or distribution of medical marijuana. Employers are also not prohibited from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action because of the person's use, possession, or distribution of medical marijuana.

b. Senate Bill 56 amends this provision so that it applies to marijuana generally, rather than only medical marijuana.

2. Unemployment benefits – A person who is discharged from employment because of the person's use of marijuana (rather than medical marijuana) is considered to have been discharged for just cause for purposes of unemployment compensation if the person's use was in violation of the employer's drug-free workplace or zero tolerance policy, or other formal program or policy regulating marijuana use. Senate Bill 56 also specifies that such a person is ineligible to serve a waiting period or to be paid benefits for the duration of the person's unemployment. (R.C. 3796.28 amended.)

I. **Senate Bill 50 – Age and schooling certificates; minor work hours** (Gov. DeWine vetoed 12/3/2025)

> **Note**: Gov. DeWine vetoed this bill, stating in his veto message: "I believe it unwise to provide for 14- and 15-year-olds to work, on a school night, that late at night. I see no compelling reason to deviate from current law."

J. **House Bill 129 – School district millage floor and fixed-sum levies** (effective March 20, 2026)

1. Millage floor (R.C. 319.301 amended; Section 3)

a. Modifies the calculation of the 20-mill floor (for school districts) and 2-mill floor (for joint vocational school districts) to include fixed-sum levies (emergency levies, substitute levies, growth levies, property tax levies that collect a fixed amount each year combined with income tax levies, and conversion levies). (The definition of "taxes charged and payable" is revised so these levies are no excluded from the definition.)

b. Emergency and substitute levies approved by electors at an election held before January 1, 2026, are included in the first tax year, starting in tax year 2026, that a county that includes the territory of the school district undergoes a reappraisal or triennial update.

c. Specifies that if a school district is on the floor for either class of property, and additional current expense taxes are levied or are included in the definition of taxes charged and payable then, for the first tax year those taxes are levied or included, the reduction factor computed for that district shall be computed as though the sums of current expense taxes levied for the district and charged against that class in the preceding tax year were equivalent to two per cent or two-tenths of one per cent, respectively, of the taxable value of all real property in that class.

d. Section 3 of the bill specifies that the amendment of R.C. 319.301 applies to tax year 2026 and thereafter.

2. <u>Fixed-sum levies</u> (R.C. 5705.194 amended; R.C. 5705.195, 5705.196, and 5705.197 enacted; related changes in R.C. 323.32, 5705.01, 5705.03, and 5709.92)

   The budget bill, H.B. 96, eliminated the authority of school districts to levy or renew emergency and substitute levies beginning in 2026. This bill permits a school district to levy property taxes that will generate a fixed sum in three circumstances. Such levies must specify they are for current expenses of the district and must be labeled as fixed-sum levies.

   a. **Fiscal caution, watch, or emergency, or disaster declaration**: Permits a board of education of a city, local, exempted village, cooperative, or joint vocational school district to levy a fixed sum levy if the district is in fiscal caution, fiscal watch, or fiscal emergency or is impacted by an emergency that is the subject of a disaster declaration. This levy may not be renewed. (5705.194(B).)

   b. **Emergency levy renewal:** A district may renew all or a portion of an existing emergency levy that was approved by electors at an election held before January 1, 2026. (R.C. 5705.194(C).)

   c. **Substitute emergency levy renewal**: A district may adopt a resolution to renew all or a portion of the proceeds derived from a substitute emergency levy (R.C. 5705.199) in the final tax year it is levied. (Applies to a substitute levy that was approved by electors at an election held before January 1, 2026.) (R.C. 5705.194(D).)

   d. Specifies that a fixed sum levy that is a renewal of an emergency levy or substitute levy, and any subsequent renewal of that levy, is a qualifying levy that will continue to be subject to property tax rollbacks if the original levy was subject to the rollbacks. These fixed-sum levies may be levied for up to five years, rather than ten. New fixed sum levies are included are included in the floor calculation immediately.

K. **House Bill 186 – School district property taxes inflation limit; property tax rollbacks** (effective March 20, 2026; appropriations effective Dec. 19, 2025)

Applies an inflation limit to property tax growth for districts at the 20-mill floor, and modifies property tax rollbacks.

1. <u>20-mill floor tax credit (inflation limit)</u> (R.C. 319.303 enacted; 319.301, 323.08, 323.152, 323.155, 323.158, 4503.06, 4503.065, and 4503.0610 amended; Sections 3 and 4, 5, and 7)

   a. **Property tax credit** – Provides a property tax credit for property owners located in a school district that is on the 20-mill floor (or joint vocational school district on the 2-mill floor) to limit increases in school district tax revenue following a reappraisal or triennial update. If a school district’s tax collections from the floor would exceed a specified inflation rate, a property owner would receive a tax credit so that a district's revenue increase does not exceed the inflation rate. The credit is recalculated every three years.

b. The calculation is based on a school district's "floor tax revenue" and "indexed property tax revenue." The inflation rate is based on the percentage change in the gross domestic product deflator over the preceding three years. This is compared to the district's tax collections from the floor. The credit is calculated separately for nonbusiness property and business property, and factors in locally imposed reductions in a school district's levies.

c. It applies to eligible property beginning in tax year 2025 (2026 for manufactured and mobile homes). A credit is also authorized for counties that underwent a reappraisal or triennial update in 2023 and 2024.

d. **School district revenue guarantee –** Provides a payment to school districts that underwent a reappraisal or triennial update in tax years 2023 and 2024 that, due to the credit, would receive less property tax revenue in tax year 2025, and 2026 if applicable, than in tax year 2024. This payment is funded by canceling the expanded sales tax holiday in 2026.

e. No changes are made to the school funding formula.

2. <u>Property tax rollbacks</u> (R.C. 319.302, 323.152(B), and 5715.19 amended; Section 3)

a. **10% nonbusiness property tax rollback** – Modifies the 10% property tax rollback for property intended primarily for use in farming or residential activity. The rollback remains at 10% for property used for farming activity. For property used for residential activity, the 10% rollback is phased out over 4 years (beginning with tax year 2026 for real property and tax year 2027 for manufactured homes). (R.C. 319.302.)

b. **2.5% owner-occupied property tax rollback –** The bill increases the 2.5% owner-occupied rollback over four years to 5.70% in tax year 2026 to 15.38% in 2029. The net effect of eliminating the 10% rollback for residential property and increasing the owner-occupied rollback results in an increase from 12.5% (10% + 2.5%) to 15.38%. (It also results in eliminating the rollback for residential property leased to renters or property not used as the owner's primary residence.) (R.C. 323.152(B).)

c. Under continuing law, new and replacement levies approved at elections held in November 2013 or after are not included in computing the rollbacks.

3. <u>Property tax abstract</u> **–** Requires the county auditor to submit a property tax abstract to the tax commissioner (in addition to the county board of revision). (R.C. 5715.16 amended.)

L. **House Bill 335 – Inside millage inflation limit** (effective March 20, 2026)

Applies inflationary caps to inside millage revenue increases due to reappraisals or triennial updates (GDP deflator). (R.C. 5705.31 amended; 5705.316 enacted; Section 3.)

1. Inside millage inflation limit (R.C. 5705.31 amended; 5705.316 enacted)

   a. In each year in which a county undergoes a reappraisal or triennial update, a county budget commission (or joint budget commission) must adjust the rate of inside millage levies so that the increase in current taxes charged and payable for that levy over the base taxes charged and payable do not exceed the product of the base taxes charged and payable and the inflation factor certified for that tax year. (R.C. 5705.316(B) enacted.)

   b. The inflation factor is the greater of 0% or the percentage change in the gross domestic product (GDP) deflator over the preceding three years. (Each year, the tax commissioner must determine the percentage change in the GDP deflator from January 1 of the third preceding calendar year to December 31 of the preceding calendar year, and must certify this amount by September 1 to each county auditor of a county that undergoes a reappraisal or triennial update.)

   c. The "base taxes charged and payable" means, for a levy, taxes charged and payable for the tax year immediately preceding the current tax year (or current year for manufactured/mobile homes), excluding taxes charged and payable against any property, or any portion of property, that was not taxed in the most recent tax year in which the county auditor conducted a reappraisal or triennial update (or following year for manufactured/mobile homes). Generally, this means that revenue increases due to new construction or the expiration of tax abatements are not included.)

   d. Prohibits a budget commission from reallocating mills reduced under this section to any other taxing unit.

   e. If a taxing unit elects to forgo revenue from or voluntarily reduce the rate of an inside millage levy, the inflation limit will be based on taxes charged and payable for the tax year preceding the voluntary reduction.

2. Inside millage increase request (R.C. 5705.316(E) enacted.)

   a. If, in a year in which a county undergoes a reappraisal or triennial update, the taxes charged and payable for an inside millage levy do not increase compared to the base taxes, the taxing unit may adopt and certify to the county auditor a resolution or ordinance requesting that the levy be levied up to a rate that would cause the levy's current taxes charged and payable to be the same as the levy's base taxes charged and payable. The taxing unit must certify its resolution to the county auditor not later than November 1, along with information demonstrating the taxing unit's need for the higher rate.

b. In September of reappraisal/triennial update year, the county auditor must calculate the increased rate of the levy that would cause the current taxes charged and payable to be the same as the levy's base year.

c. The county budget commission will decide whether to approve, partially approve, or deny the request based on the commission's evaluation of the taxing unit's need for the increase (provided the ten-mill limitation will not be exceeded).

3. <u>Effective date</u> – The bill applies to tax year 2026 and thereafter (tax year 2027 for manufactured/mobile homes). (Section 3.)

M. **House Bill 309 – County budget commission authority** (signed Dec. 19, 2025; effective March 20, 2026)

Authorizes county budget commissions to reduce property tax levies to avoid unnecessary or excessive collections. (R.C. 3317.01, 5705.31, 5705.32, and 5705.321 amended; R.C. 5705.60 enacted.)

1. <u>Reductions by county budget commission</u> – Authorizes a county budget commission to adjust amounts required from the general property tax for each fund, as shown by tax budgets, so as to bring the tax levies required therefor within levels the commission finds reasonable and prudent to avoid "unnecessary" or "excessive" collections. (R.C. 5705.32(C).)

a. "Unnecessary collections" is defined as "collections from a tax beyond the reasonably anticipated financial needs of the taxing authority for the specific purposes of the tax after accounting for current fund balances, projected expenditures, and other available funding sources."

b. "Excessive collections" is defined as "collections from a tax in an amount or at a rate that exceeds what is required to provide services at a level that is consistent with statutory obligations." (R.C. 5705.32(A).)

2. <u>Public hearing</u> – Before reducing the amount or rate of any tax, a budget commission must provide the levying taxing authority and taxing unit an opportunity to present, at a public hearing, information the taxing authority/unit considers relevant to the questions of if, and to what extent, the levy should be reduced. (R.C. 5705.32(C).)

3. <u>Limitations</u> – If the county budget commission adjusts amounts from any tax levied by a taxing unit that is not a qualifying subdivision, the adjustment is subject to both of the following:

a. No levy shall be reduced below the level that would cause it to collect less than what the levy collected in the preceding year, unless funds are available from reserve balance accounts, nonexpendable trust funds, or carryover amounts to offset a reduction below that level, and the budget commission shall consider reserve balance accounts, nonexpendable trust funds, and carryover amounts for that purpose;

b. No levy may be reduced under division (B) of this section to a level that would cause a school district subject to R.C. 3317.01(A) to levy less than twenty mills for current operating expenses as required by that division. (R.C. 5705.32(C).)

4. <u>Approval without modification limited to first year a levy is levied</u> – Requires a county budget commission to approve without modification properly authorized levies in excess of the ten-mill limitation in the first year they are levied, unless the levy is the renewal of an existing tax (or, as under continuing law, the subdivision requests an amount requiring a lower rate). (Under current law, county budget commissions are generally required to approve properly authorized levies in excess of the ten-mill limitation without modification.) (R.C. 5705.31(A).)

5. <u>School district safe harbor</u> – R.C. 3317.01(A) requires a school district to levy at least 20 mills for current operating expenses to be eligible for state school funding. H.B. 309 adds an exception for a school district that is levying less than 20 mills due to a declaration made under R.C. 5705.29(E) (voluntary reduction in collections for a levy within the 10-mill limitation or due to the operation of the 20-mill floor). (R.C. 3317.01(A).)

6. <u>Fixed-sum levies</u> – Requires the tax commissioner to determine by what amount, if any, the rate of a qualifying fixed sum levy must be changed for the levy to produce the levy's specified amount of money for the current tax year. The tax commissioner must certify this amount to the appropriate county auditor by September 1 each year. (R.C. 5705.60 enacted.)

a. A “qualifying fixed-sum levy” is defined as a tax levied on property at whatever rate is required to produce a specified amount of tax money, including a tax levied under R.C. 5705.199, but not including a tax levied in excess of the ten-mill limitation to pay debt charges.

N. **House Bill 124 – Property tax sales-assessment ratio studies** (effective March 20, 2026)

1. This bill modifies the process for making property tax sales-assessment ratio studies. The studies must be based solely on a representative sampling of sales provided to the tax commissioner by the county auditor, rather than the tax commissioner selecting the samples. (R.C. 5715.012, 5715.16, 5715.251, and 5715.26 amended.)

2. The amendment to 5715.012, 5715.251, and 5715.26 applies to tax year 2026 and thereafter. (Section 3.)

O. **Senate Bill 33 – Labor Law Notices** (signed April 21, 2025; effective July 21, 2025)

Ohio law requires employers to post certain labor law notices. Formerly, such notices were generally required to be posted in a conspicuous place in the employer's place or places of employment. This bill permits certain notices to be posted on the internet in a manner accessible that is accessible to employees, instead of on the premises. Specifically:

1. Ohio Minor Labor Laws – Employers employing minors are required to post on the premises an abstract of Ohio's minor labor laws (furnished by the director of commerce). These abstracts can now be posted on the internet in a manner that is accessible to the employer's employees. (Physical posting still permitted.) **Note**: A list of all minors employed at a particular establishment must still be posted on the premises in accordance with existing law. (R.C. 4109.08(A)(1).)

2. Ohio Minimum Fair Wage Standards – Employers can post on the internet in a manner accessible that is accessible to employees, instead of physically at places of employment. (R.C. 4111.09(A).)

3. Ohio Civil Rights Commission notice – Those subject to Ohio's equal employment opportunity laws (R.C. 4112.02(A) through (F)) can post the required notice (the Ohio Fair Employment Poster) on the internet in a manner accessible that is accessible to the public, instead of physically at the premises. (R.C. 4112.07.)

4. Ohio Prevailing Wage Law – Contractors or subcontracts can post the schedule of wage rates specified in the contract on the internet in a manner that is accessible to the contractor's or subcontractor's employees, instead of on the work site. (R.C. 4115.07.)

5. Ohio Workers' Compensation Law

   a. Employers can post the notice of proof of workers' compensation coverage or certificate of self-insurance on the internet in a manner that is accessible to employees, instead of in the employer's place of places of employment. (R.C. 4123.83.)

   b. Employers can post the "chemical test" written notice to employees on the internet in a manner that is accessible to employees, instead of physically in the same location as the proof of coverage or certificate of self-insurance. (R.C. 4123.54(F).)

6. Ohio Public Employment Risk Reduction Program (PERRP) Law – Under continuing law, the Ohio Bureau of Workers' Compensation must adopt rules requiring public employers to post notices of public employees' rights and obligations under the PERRP. The law is amended to state that the posting rule must allow any required notice to be posted on the internet in a manner that is accessible to the public employer's employees. (R.C. 4167.11.)

Note: The recently enacted Pay Stub Protection Act requires an employer to post a notice of violation in a conspicuous place on its premises for ten days.

P. **House Bill 15 – Amend competitive retail electric service law** (signed May 15, 2025; generally effective Aug. 14, 2025 unless another date is specified)

Several provisions in this are relevant to school districts, including:

1. Taxation of public utility property

   a. **Assessment rate reduction –** H.B. 15 reduces the assessment rate applicable to electric companies, rural electric companies, and pipeline companies. For electric company property, property first subject to taxation in or after 2027 is reduced from 85% to 25% for transmission/distribution tangible personal property (TPP). New energy conversion property is assessed at 7% (vs. 85%), and new generation TPP and repowered or converted existing generation is also assessed at 7% (vs. 24%). Rural electric company, energy company, and pipeline company assessment rates are also lowered. (R.C. 5727.01 and 5727.111, amended effective tax year 2027 per Section 8.)[4]

   b. **Exemption on tangible personal property and real property of certain qualified energy projects –** Specifies this section and any payments in lieu of taxes made as required under this section continue to apply. (R.C. 5727.75 amended.)

   c. **Tax exemption for tangible personal property used to transport or transmit electricity or natural gas –** Enacts R.C. 5727.76 to exempt TPP that is dedicated to transporting or transmitting electricity or natural gas and that is placed into service in a priority investment area designated under R.C. 122.161 during a time when that designation is in effect. Qualifying property is exempt from taxation for the tax year following the year in which it is placed into service and for the ensuing four tax years. (R.C. 5726.76 enacted.)

2. School district energy conservation measures

   a. **Installment payment contract for purchase and installation of energy conservation measures –** Under continuing law, school boards may enter into installment payment contracts for the purchase and installation of energy conservation measures. House Bill 15 adds solar panels to the list of energy conservation measures. It also adds division G to permit a board of education to apply to the Ohio facilities construction commission for a loan from the school energy performance contracting loan fund for purposes of paying for all or part of an installment contract. (R.C. 3313.372 amended.)

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[4] For additional information, see https://www.brickergraydon.com/insights/publications/ohio-passes-expansive-law-to-promote-energy-generation-in-response-to-concerns-about-grid-reliability.

b. **Shared-savings contract –** Permits a board of education to apply to the Ohio facilities construction commission for a loan from the school energy performance contracting loan fund for purposes of paying for all or part of a shared-savings contract. (R.C. 3313.373 amended.)

c. **School energy performance contracting loan fund –** Enacts R.C. 3313.378 to create the school energy performance contracting loan fund. The fund will consist of funds transferred from the solar generation fund, repayments of loans, interest, and any appropriations, grants, or gifts made to the fund. The bill also enacts R.C. 3313.377 to permit the Ohio facilities construction commission to issue loans from the fund to boards of education under R.C. 3313.372 or 3313.373. Loans terms must be: two percent annual interest, repayment in not more than ten years, repayment begins six months after installation is complete, and any other provision considered appropriate by the commission. (R.C. 3313.377 and 3313.378 enacted.)

> **Note**: Proposed rule 3318:1-11-01 establishes the application process for schools.
> See https://www.registerofohio.state.oh.us/pdfs/3318/1/11/3318$1-11-01_PH_OF_N_RU_20251231_1243.pdf for the rule as originally filed.

III. Special Education

A. **School board did not violate its child-find obligations by not reevaluating student –** *G.E. v. Williamson County Bd. of Edn.*, No. 24-5969, 2026 WL 384250 6th Cir., Feb. 11, 2026)

A student and his parent sued the school board for failing to identify and evaluate a student for disability accommodations in violation of the IDEA, Section 504, and the Americans with Disabilities Act. The student struggled with anxiety and depression during fifth, sixth, and seventh grades, and had a large number of absences. The parent alleged she informed teachers that her son suffered from anxiety, but the teachers responded that her son just needed to get to school. During the student's sixth-grade year, the student continued to have a large number of absences, but school records show most of these were due to physical illnesses.

Before the student's seventh-grade year (in July 2019), the parent filed a due process complaint. The complaint alleged the school board violated its child-find obligations throughout the student's fifth- and sixth-grade years. (The complaint was later amended to include the ADA.) The school initiated an IDEA and Section 504 evaluation, but the parent denied the school board consent to perform a psychological evaluation. The IEP team met in September of the student's seventh-grade year and concluded that the student's anxiety did not adversely impact his educational performance and did not require specially designed instruction. The IEP team found that while the student's excessive absences adversely impacted the student's educational performance, data did not show the absences were primarily caused by the student's anxiety. The IEP team also intended to evaluate the student's Section 504 eligibility during this meeting, but the parent asked to reschedule. The team attempted to reschedule, but the parent never agreed to a new date. In July 2021, an administrative law judge (ALJ) denied the student's claims. The district court adopted the ALJ's report and recommendation. The Sixth Circuit affirmed, finding the student did not establish that the school board discriminated against him due to his disability, failed to accommodate his disability, or violated its child-find obligations.

The court rejected the student's assertion that the school's failure to meet its Section 504 child-find obligation was sufficient to entitle the student to relief. Rather, the student "must show that WCBOE discriminated against him because of his disability, not merely that it did not 'find' him." The student also did not establish that the school failed to accommodate his disability during the student's fifth- and sixth-grade school years. A public school must know of a person's disability to be compelled to provide an accommodation. The parent never told the school that outside mental health professionals recommended therapy to help with the student's anxiety, and never requested help in getting her child to school. Based on the evidence in the record, the school had no reason to know or suspect that the student's absences were due to anxiety.

The court also ruled the school board did not violate the IDEA's child-find mandate during the student's seventh-grade year by failing to timely reevaluate him after learning of the student's diagnoses and partial hospitalization treatment (during which the school provided the student with homebound instruction). The IEP team had conducted an evaluation two months before the student began homebound instruction, and the school was allowed a reasonable amount of time to monitor the student's progress before assessing whether a reevaluation was appropriate. The school also had a reasonable justification for not reevaluating the student—it needed consent. However, the parent did not cooperate with the district's efforts to conduct a psychological evaluation or to schedule a Section 504 meeting. The parent then placed the student in a private school, and declined to move forward with a reevaluation for services after the psychological evaluation was finally conducted.

B. **Parent not likely to succeed on claims alleging district's communication protocol violated her IDEA participation or First Amendment rights –** *Thomas v. Beachwood City School Dist. Bd. of Edn.*, No. 1:25-cv-2167, 2026 WL 297678 (adopting report and recommendation at 2025 WL 368425) (N.D. Ohio, Feb. 4, 2026)

A school district implemented a communications protocol for the parent of a student with disabilities after the parent allegedly violated the district's communications standards when emailing and meeting with various teachers and support staff. The protocol limited the parent to emailing only the superintendent, principal, and director of pupil services. Emails from the parent's address sent directly to teachers or staff were blocked. The parent filed a complaint and motion for preliminary injunction with the court seeking to restore her ability to communicate directly by email and in person with her child’s teachers, therapists, and service providers. On February 4, 2026, the court adopted the magistrate judge’s December 19, 2025 Report and Recommendation denying the parent’s motion.

The magistrate judge found the parent was not likely to succeed on her claims alleging denial of FAPE, disability discrimination, retaliation under Section 504, the ADA, and First Amendment violations. As to the FAPE and disability discrimination claims, the parent never alleged she exhausted her administrative remedies, a prerequisite to relief. Furthermore, as a non-attorney parent, she did not have standing to represent her child’s interests in the disability discrimination claim. As to the parent’s retaliation claim, while she asserted the district never provided justification for the communications protocol, evidence she submitted in her motion for preliminary injunction shows the superintendent sent her an email explaining that her emails to staff members were “received” by staff “as harassing, threatening and attempts to intimidate.” The parent’s motion also never addressed whether the communications plan was an adverse action. The parent was also not likely to succeed on her claim that the communications plan violated her First Amendment rights. “Based on both the filings to date and the absence of any developed argument from [the parent] regarding the likely success on the merits, the described communication protocol constitutes a permissible time, place, and manner restrictions, rather than a content-based or retaliatory action in violation of the First Amendment.”

Another factor in determining whether the parent is entitled to a preliminary injunction is whether she will suffer irreparable harm without injunctive relief. The judge found the parent did not provide any support for her argument that the communication protocol deprived her of meaningful IDEA parental participation. The communication protocol did not affect her ability to examine records or participate in meetings, and none of the procedural safeguard regulations cited by the parent “entitle her to direct communication with each teacher or staff member who interacts with her child.” For the balance of equities factor, the parent did not substantiate her assertion that the district would not be harmed by the injunction, whereas the district asserted that school staff would “be unnecessarily subjected to communications found to be in violation of the District's Communication Standards.”

C. **Parent not required to exhaust administrative remedies in claims stemming from child left on school bus** – *John Doe, et al. v. Reynoldsburg City School Dist. Bd. of Edn.*, No. 2:25-cv-138, 2026 WL 872576 (S.D. Ohio, March 30, 2026)

The parents of a nonverbal preschool child with autism (Doe) alleged a school district left their child on a school bus for an extended period of time, causing their child to suffer educational, psychological, behavioral, and developmental harm. Their child boarded a school bus in the morning, but he was marked absent by the school. When Doe did not arrive home at the normal time, the parents were unable to reach anyone at the school and contacted police. Doe was eventually found on a different bus than his normal one. (It was unclear whether Doe had been left strapped in a school bus the entire day.) When Doe arrived at home, he appeared upset and confused. As a result of the incident, the parents stopped sending Doe to the preschool program, and the district began providing home-based instruction. They sued the school district and district officials under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and for other violations of state and federal law.

Ruling on a motion for judgment on the pleadings, and accepting all facts alleged in the complaint as true, the court declined to dismiss the ADA and Section 504 claims. While the claims were premised on a denial of FAPE, the prayer for relief included a request for compensatory damages. Therefore, administrative exhaustion was not required. The court also ruled that plaintiffs alleged facts that supported their claim that Doe was subjected to discrimination because of his disability. They contended that district officials did not provide sufficient supervision of Doe on the day of his disappearance, nor did they conduct an adequate investigation or maintain thorough documentation of the circumstances surrounding the incident to prevent recurrence. As a result, Doe was allegedly prevented from attending school safely and was denied access to an education.

The court dismissed the Section 1983 claims against the school district and district officials in their official capacities, as the complaint did not allege a pattern of unconstitutional conduct. The Section 1983 claims against district officials were dismissed, although the court provided plaintiffs an opportunity to amend a claim alleging national origin discrimination by an administrator who allegedly directed an interpreter to cease all communications with the plaintiffs. The court also permitted a motion for leave to amend to be filed with respect to Doe's Title VI discrimination claim against the district arising out of the same conduct. The court dismissed the state law claims against the district and superintendent, but did not dismiss state law claims against two district officials in their individual capacities where the complaint alleged conduct including deliberately and intentionally concealing information, directing an interpreter to cease communication with the parents, failing to preserve a requested bus video, and failing to investigate the incident.

D. **Court grants motion for TRO to prevent enforcement of expulsion and interim alternative educational setting placement** – *Boroff v. Wapakoneta City Schools Bd. of Edn.*, No. 3:26-cv-522, 2026 WL 662922 (N.D. Ohio, March 9, 2026)

A high-school student with disabilities was suspended from school for fighting with another student, with a recommendation that the student be expelled. The IEP team conducted a manifestation determination review ("MDR") and determined that the student's conduct was not a manifestation of his disability. The parent appealed this determination by filing an expedited due process. The following day, the expulsion hearing was held and the superintendent issued a 20-day expulsion held in abeyance upon the condition that the student attend an interim alternative educational setting ("IAES"). The parent also learned the student had been removed from his placement and moved to an IAES for 12 days prior to receiving the 10-day suspension. The parent then filed an amended expedited due process complaint and added claims arising from the expulsion, the unilateral IAES placement, and the 12-day removal. The district refused to return the student to his original IEP placement and imposed the 20-day expulsion. The parent then filed suit, seeking declaratory and injunctive relief.

The parent contended that OAC 3301-51-05(K)(22) does not apply because she filed an expedited due process complaint while the student was serving the 10-day suspension and had not yet been placed into an IAES. (OAC 3301-51-05(K)(22) states that when a parent appeals a change in placement or MDR for a child who violates a code of student conduct, the child must remain in the IAES pending the decision of the hearing officer or the expiration of the time period specified in the disciplinary notice.)

The court granted the parent's request for temporary injunctive relief. The court found the parent was likely to succeed on her argument that based on the ordinary meaning of "remain," OAC 3301-51-05(K)(22) does not apply because it "calls for a student to 'remain' in an IAES pending appeal," and the student "could not 'remain' in an IAES because he had not been placed in one prior to appeal." The court also determined that without injunctive relief, the child was likely to suffer irreparable harm, and the district did not show it would suffer harm or that the public interest would not be served if injunctive relief was granted.

E. **Memo: Who can deliver Specially Designed Instruction (SDI)?** OEC-SDI Memo #2025-1 (Oct. 3, 2025)

This memo from the Ohio Administrator of the Office for Exceptional Children addresses the role of literacy specialists and general education teachers in delivering Specially Designed Instruction (SDI). The memo states:

> The IEP team makes the decision about who will deliver SDI based on the unique needs of the student and the content-level expertise of the qualified personnel. General education teachers or other experts in their fields (listed under support for school personnel in the IEP) may collaborate with the Intervention Specialist or Related Service Provider to deliver SDI when the Intervention Specialist or Related Service Provider does the following:
>
> • Ensures implementation of SDI service minutes and that instructional strategies align with the student's IEP;
>
> • Assesses and monitors, with the SDI provider, progress toward IEP goals and makes necessary instructional adjustments; and
>
> • Maintains oversight and compliance with SDI implementation requirements.

See https://education.ohio.gov/getattachment/Topics/Special-Education/Federal-and-State-Requirements/Operational-Standards-and-Guidance/SDI-Provider-Memo_2025-01-Final.pdf.aspx?lang=en-US for a copy of the memo.

IV. Student Issues

A. **U.S. Supreme Court to review transgender athletics decisions –** *State of West Virginia v. B.P.J.*, No. 24-43, 2025 WL 1829164 and *Little v. Hecox*, No. 24-38, 2025 WL 1829165 (U.S. Supreme Court, July 3, 2025)

The U.S. Supreme Court has agreed to review two circuit court decisions addressing whether transgender students have the right to join girls' sports teams. In *B.P.J. v. West Virginia*, the Fourth Circuit Court of Appeals ruled that, as applied to a 13-year-old transgender student, a state law prohibiting students of the male sex from participating on athletic teams or sports designed for females violated Title IX. In *Hecox v. Little*, the Ninth Circuit Court of Appeals ruled an Idaho law prohibiting transgender female athletes from participating on women's sports teams likely violated the Equal Protection Clause of the Fourteenth Amendment.

The questions presented to the U.S. Supreme Court in these two cases are: (1) whether Title IX prevents a state from consistently designating girls' and boys' sports teams based on biological sex determined at birth; (2) whether the Equal Protection Clause prevents a state from offering separate boys' and girls' sports teams based on biological sex determined at birth; and (3) whether laws that seek to protect women's and girls' sports by limiting participation to women and girls based on sex violate the Equal Protection Clause of the Fourteenth Amendment.

B. **U.S. Supreme Court rules school gender-transition policies likely violate parents' religious and due process rights** – *Mirabelli, et al. v. Rob Bonta, Attorney General of California, et al.*, No. 25A810, 2026 WL 575049 (U.S. Supreme Court, March 2, 2026)

A group of teachers and parents challenged state policies that permitted disclosure of a student's gender transitioning at school only if the student consented. A district court granted summary judgment to the plaintiffs and entered a permanent injunction preventing schools from misleading parents about their children's gender presentation and social transition at school and requiring schools to follow parents' instructions on names and pronouns. The Ninth Circuit Court of Appeals stayed the lower court's injunction pending appeal. The parents and teachers then filed an application with the U.S. Supreme Court seeking to overturn the Ninth Circuit's stay.

The U.S. Supreme Court granted the application and vacated the stay with respect to the parents. The Court concluded that "the parents who seek religious exemptions are likely to succeed on the merits of their Free Exercise Clause claim…. Indeed, the intrusion on parents' free exercise rights here—unconsented facilitation of a child's gender transition—is greater than the introduction of LGBTQ storybooks we considered sufficient to trigger strict scrutiny in Mahmoud." Parents who objected on due process grounds were also likely to succeed on the merits based on "long-established precedent" that parents have primary authority over the upbringing of their children, including "the right not to be shut out of participation in decisions regarding their children's mental health." The Court also found that the balance of the equities favored the parents, as the injunction "promotes child safety by guaranteeing fit parents a role in some of the most consequential decisions in their children's lives." The injunction also permitted the state to protect children from unfit parents by enforcing child abuse laws.

C. **En banc Sixth Circuit rules school district cannot punish students for the commonplace use of biological pronouns** – *Defending Education v. Olentangy Local School Dist. Bd. of Educ.*, No. 23-3630, 2025 WL 3102072 (6th Cir., Nov. 6, 2025)

Defending Education (formerly known as Parents Defending Education), a nationwide organization whose members include some students and parents of students attending the school district, filed suit to enjoin enforcement of the school district's policies prohibiting harassment and bullying. The District Court denied PDE's request for a preliminary injunction to prevent enforcement of the policies, finding PDE failed to establish a substantial likelihood of success. The Sixth Circuit initially affirmed, but the full court granted rehearing en banc and vacated the panel decision.

Defending Education later amended its requested relief to seek an injunction barring the school district from "from punishing students for misgendering other students" based on their belief that only two genders exist. On November 6, 2025, sitting en banc, the Sixth Circuit ruled Defending Education was entitled to an "appropriately tailored" preliminary injunction "barring the district from punishing students for the commonplace use of biological pronouns." However, the district is not foreclosed "from enforcing its anti-harassment policies against the abuse of transgender students just as it enforces those policies against the abuse of all other students."

The Sixth Circuit applied the *Tinker* test under which school officials may restrict speech that will cause a "substantial disruption" or infringe on the rights of others. "The closer the speech resembles the fighting words, true threats, defamation, or other statements that fall outside the First Amendment, the less evidence a school must present to show that the speech will likely cause a substantial disruption or infringe the rights of others…. But the closer the speech resembles political expression at the First Amendment's core, the more evidence a school must present of the disruption or violation of rights."

In this case, the school district did not justify its speech restriction. It did not show the commonplace use of biological pronouns would materially disrupt classwork or school activities. It did not show that the use of biological pronouns would violate students' rights under Title IX, as Title IX applies to conduct "so severe, pervasive, and objectively offensive that it denies its victims the equal access to education that Title IX is designed to protect." The district was also "wrong to equate the speech here (the use of biological pronouns) with the bullying and harassment that it may prohibit" under Ohio law. "[T]he School District has offered no evidence that the commonplace use of biological pronouns would create an intimidating, threating, or abusive environment."

Note: On January 27, 2026, the Southern District of Ohio granted the parties' proposed preliminary injunction, finding the proposed injunction was appropriately narrow in scope. The injunction prohibits the school district "from taking any action to enforce the policies challenged by Plaintiff in this action…against Plaintiff's members or their children for referring to another student, in a commonplace way, using pronouns that are consistent with the other student's birth sex but inconsistent with that student's gender identity." The district may "enforce the anti-harassment policies challenged by Plaintiff in this action…to prevent the abuse of transgender students, just as they enforce those policies to prevent the abuse of all other students." (2026 WL 205616.)

D. **Student failed to demonstrate "actionable harassment" in Title IX deliberate indifference "after" claim –** *J.B. by Blume v. Liberty Local Schools*, No. 4:22-cv-1752, 2026 WL 221003 (N.D. Ohio, Jan. 28, 2026)

A student, J.B., alleged the school district's response to her sexual assault by a middle school classmate (D.P.) was deliberately indifferent in violation of Title IX. After the student reported the assault approximately two weeks later, the principal contacted the school counselor to ensure that J.B. did not have any classes with D.P., issued a no-contact order, and alerted teachers. However, when J.B. returned to school, D.P. sat at her lunch table. On J.B.'s second day back at school, the junior high principal called J.B.'s father to inform him that students were fighting with J.B. about what happened. J.B.'s father then removed her from school and enrolled her in the district's remote learning program.

The court granted the school district's motion for summary judgment and denied J.B.'s motion for summary judgment. Addressing J.B.'s claim that the district failed to comply with Title IX's administrative requirements, the court found that while such noncompliance could be relevant to whether the district acted with "deliberate indifference," it does not, standing alone, establish that the district is liable under Title IX as a matter of law. The court also ruled that J.B.'s sexual assault, standing alone, was not sufficient to support her Title IX "after" claim, and that she must provide evidence of further actionable harassment that occurred after she reported her rape to district officials. While J.B. contended that her encounters with her alleged assailant after she returned to school constituted actionable harassment, the court did not agree. D.P. did not speak to, communicate with, or touch J.B. on the two days she returned to the school, and J.B. did not cite any authority that J.B.'s presence rose to the level of severe sexual harassment.

J.B. also argued that her repeated verbal harassment by other students constituted "actionable" sexual harassment. However, the court concluded that this verbal harassment was not so "severe" or "pervasive" that it deprived her of access to the educational opportunities offered by the school. The only evidence before the court was that J.B. was verbally harassed by four other students in school hallways on two dates, and received two text messages from another student threatening to fight J.B. "There is no doubt that the comments made by J.B.'s classmates were cruel and unkind.... However, as distressing as these allegations are, the Court finds that the nature, severity, and duration of the verbal harassment suffered by J.B. after she reported her rape to Liberty Local does not rise to the level of sexual harassment that has been found to be actionable in other Title IX cases." In closing, the court noted that while the school district prevailed, the district "would be well advised" to ensure its Title IX coordinators are properly trained to recognize when its Title IX obligations are triggered.

E. **School not deliberately indifferent to racial harassment of student –** *Jane Doe, by and through C.B. v. Diocese of Covington*, No. 25-5653, 2026 WL 711284 (6th Circuit, March 13, 2026)

An eighth-grade African-American student (Doe) who attended a nonpublic middle school sued the diocese, church, and a parish pastor for racial harassment under Title VI. Doe alleged a classmate called her the "n-word." When Doe reported the incident, the classmate called her a "snitch" for the remainder of the school year. Doe also alleged her English teacher asked the class whether there were "any Black students in this school," and said the "n-word" during a lesson on racial prejudice. The principal (with Doe's agreement) moved Doe to a different English class. Following an investigation, the principal concluded the teacher did not act with discriminatory intent. The teacher was not formally disciplined, but she was removed as a chaperone from Doe's class trip, and her contract was not renewed for the following school year.

The district court granted summary judgement in favor of defendants. The Sixth Circuit affirmed, finding that Doe failed to establish she suffered severe, pervasive, and objectively offensive harassment. "Although deplorable, a student's one-time use of the slur is not pervasive." In addition, being called a snitch was unrelated to Doe's race, and amounted to "juvenile behavior among students," not actionable harassment. The court also concluded the school was not deliberately indifferent to racial harassment by the teacher. The principal consulted with the parish pastor, met with Doe and other students in the class, removed the teacher as chaperone, arranged cultural diversity training for staff, and did not renew the teacher's contract partly because of the incident. The superintendent reviewed the matter and concluded the school's response was appropriate. "These steps reflect a good-faith response to Doe's complaint. We agree with the district court that Doe lacks evidence creating a genuine issue as to whether the Diocese was deliberately indifferent."

F. **School's response to aide's inappropriate behavior with student was not deliberately indifferent –** *Doe v. Teays Valley Local School Bd. of Edn.*, No. 2:23-cv-2704, 2025 WL 2711381 (S.D. Ohio, Sept. 23, 2025)

A classroom aide was criminally convicted for sexually abusing a sixth-grade student. The student's parent alleged that school officials and employees knew about the inappropriate relationship between the student and classroom aide and failed to intervene to prevent the abuse. The parent brought a Title IX claim against the school board, and a Section 1983 against various school officials and employees. The court granted the school board's motion for summary judgment on the Title IX claim.

First, the court found that viewing the facts in a light most favorable to the plaintiff, the school had actual notice of the aide's misconduct. There was sufficient evidence that in the month before the abuse occurred, the principal knew the aide was engaging in inappropriate behaviors that crossed a boundary with the student. He was aware the aide gave the student a cellphone, and there were multiple reports from teachers expressing concern about the amount of time the aide spent with the student. However, there was not sufficient evidence that the school board's response to the harassment was deliberately indifferent.

In the month leading up to the harassment, the principal proportionately increased his response to the aide's conduct. First, he had the assistant principal discuss appropriate boundaries with the aide. After an employee reported the aide had written "Love" on the student's hands, the principal spoke with the student in passing and did not see any writing. Even so, he spoke with the aide and asked her to distance herself from the student. After seeing video footage of the aide whispering to the student in hallways, he issued a verbal warning. When he learned the aide left a cellphone for the student, he set up a meeting with the student's parents and began an informal investigation. After the principal met with the parent and learned the aide had been texting the student, the principal removed the aide from school grounds for the remainder of the year. "Without more discernible or explicit sexual harassment, in the form of verbal or physical sexual contact or communication, the school's decision to repeatedly verbally warn [the aide] to distance herself was not clearly unreasonable."

The court also ruled the school board and individual school defendants were entitled to summary judgment on the Section 1983 claim. The record did not support the plaintiff's assertion that the board was deliberately indifferent by failing to follow up with educators who did not complete training requirements.

G. **Teacher entitled to qualified immunity for search of student as teacher had reasonable suspicion that student brought a gun to school –** *Johnson v. Russell,* No. 24-1739, 2025 WL 2778579 (6th Circuit, Sept. 30, 2025)

A parent brought suit against a teacher, school district, and other school officials alleging they violated her son's constitutional and statutory rights when they searched and detained him. The district court dismissed the claims brought against the school district and school officials, except for Russell, a teacher. The district court denied the teacher's motion for summary judgment on the Fourth Amendment claims, ruling that a jury must decide certain disputed facts. The teacher appealed.

The Sixth Circuit, accepting the student's version of the facts as undisputed, ruled the teacher was entitled to qualified immunity for the Fourth Amendment search and seizure claims. The student alleged the teacher exceeded the permissible scope of a search when he ordered the student to remove his pants. The Sixth Circuit disagreed. First, the search was justified. The student had behavioral issues and a history of violence towards others, the student told a classmate how lucky he was that the student did not have his gun with him that day, and the day before a separate classmate reported the student had brought a gun to school. Given these facts, it was reasonable for the teacher to believe he had a "moderate chance of finding evidence of wrongdoing" when he strip-searched the student. "To be sure, this court has not yet decided what circumstances would give a school official reasonable suspicion to search a student and his belongings for a gun. But in cases with facts similar to these, other circuits have found that reasonable suspicion exists." The

Sixth Circuit also ruled it was not clearly established that the teacher exceeded the permissible scope of his search when he asked the student to remove his pants. "Indeed, [the student] cannot point to a single decision from either this court or the Supreme Court that forbids school officials from directing a student to remove his pants when those officials have reasonable suspicion to believe that the student may have a gun—a failure that dooms [the student's] claims."

The student also alleged the teacher subjected him to an unreasonable seizure when the teacher locked the student in a breakroom for 20 minutes. This incident occurred when the student arrived to serve an in-school suspension for punching another student in the groin. The Sixth Circuit ruled the teacher was entitled to qualified immunity on this claim as well because it was not clearly established that his conduct violated the Fourth Amendment. "[T]his court has never decided in a published opinion whether or how the Fourth Amendment's guarantee against unreasonable seizures applies in the public-school context." The court noted that a case cited by the student was distinguishable—it involved social workers investigating allegations of parental child abuse, not "a troublesome student, a violent student, or a student who had repeatedly been suspected of bringing a gun to school." The court also noted that other circuit courts have not reached a "robust consensus" on this issue. (Petition for rehearing en banc denied on Nov. 5, 2025.) **Note**: In a December 18, 2025, ruling, the Sixth Circuit clarified the scope of the Fourth Amendment's guarantee against unreasonable seizures in the public-school context.[5]

H. **Sixth Circuit clarifies scope of Fourth Amendment's guarantee against unreasonable seizures in the public school context** – *Halasz v. Cass City Public Schools*, No. 25-1492, 2025 WL 3677383 (6th Cir., Dec. 18, 2025)

A week after a tragic school shooting in a school district in Michigan, an eighth-grade student at another school district in Michigan allegedly made comments during class about having or bringing a gun to school. School and law enforcement officials questioned and searched the student and the student's backpack and locker. No weapon was found, but the district expelled the student for making a threat of violence. The student's parents sued the school district and several school officials ("school district") alleging unlawful search and seizure, a violation of the student's due process rights, and state law claims. The district court granted the school district's motion for summary judgment. The Sixth Circuit affirmed.

Unconstitutional search – The court disagreed with the parents' assertion that the search was unreasonable. School officials received credible reports of a purported threat made by the student involving bringing a firearm onto school property. In light of the circumstances (a school shooting in a nearby district a week earlier), asking the student to remove his shoes and sweatshirt and to pull at the waistband on his pants, and searching his backpack and locker, were reasonably related to determining whether the student had a gun. School officials also did their best to maintain the student's privacy and did not touch the student.

[5] See *Halasz v. Cass City Public Schools*, below.

Unconstitutional seizure – The parents also alleged school officials unreasonably seized the student when they brought him to the principal's office without informing him of his *Miranda* rights or telling him he was under criminal investigation. The Sixth Circuit, noting that it has never decided whether or how the Fourth Amendment's guarantee against unreasonable seizures applies in the public-school context, took the opportunity to do so in this case. "We hold that a public-school official makes a Fourth Amendment seizure of a student when the official limits 'the student's freedom of movement' in a manner that 'significantly exceed[s] that inherent in everyday, compulsory attendance.'"

To determine when a search becomes unreasonable, the Sixth Circuit "adopt[ed] the *T.L.O.* reasonable-suspicion standard for Fourth Amendment searches in the public-school context and appl[ied] it to Fourth Amendment seizures in the same context. Thus, the seizure of a student is reasonable if it is: (1) justified at its inception, i.e. 'there is a reasonable basis for believing that the pupil has violated the law or a school rule,' and (2) 'reasonably related in scope to the circumstances which justified it in the first place.'"

As applied to this case, even assuming school officials seized the student when they brought him to the principal's office, the officials had clear justification to hold the student for 30 minutes to question him about his alleged comments in class. "That H.H. was not advised of a criminal investigation or read his rights does not alter this conclusion." Lastly, school officials provided the student with adequate due process when expelling him.

I. **School district did not violate students' First Amendment rights by prohibiting "Let's Go Brandon" shirts –** *B.A. v. Tri County Area Schools*, No. 24-1769, 2025 WL 2911071 (6th Cir., Oct. 14, 2025)

Two students sued the school district and several administrators for violating their First Amendment rights by prohibiting them from wearing sweatshirts with the phrase "Let's Go Brandon" to school. The school understood the phrase to have a profane double meaning. While the shirts did not cause any disruption, the school's dress code prohibited attire with vulgar messages or images. The district court granted the school's and administrators' motion for summary judgment. The Sixth Circuit affirmed.

The U.S. Supreme Court has recognized several exceptions to the *Tinker* standard for student speech (substantial disruption of or material interference with school activities). Once exception is that on school grounds, schools may generally prohibit speech that is indecent, lewd, or vulgar. The Sixth Circuit first ruled it was reasonable for the school administrators to classify the phrase as vulgar, even though no explicitly vulgar words were used. "[T]he rule governing student speech in the classroom must afford teachers and administrators some deference in determining whether certain speech is vulgar. A needlessly restrictive rule is unsupported by our history or caselaw and would hobble school administration as it looks to ensure a safe and appropriate learning environment."

The Sixth Circuit then considered whether the phrase on the shirts was entitled to greater protection because of its political message. It noted that in *Fraser*, the U.S.

Supreme Court held that schools may restrict students' use of vulgar and offensive language, even if such speech carries a political message. "*Fraser* requires our conclusion that a school may prohibit students from wearing a slogan reasonably understood as profane or vulgar. In the schoolhouse, vulgarity trumps politics. And the protection for political speech doesn't give a student carte blanche to use vulgarity at school—even when that vulgarity is cloaked in innuendo or euphemism. Here, the school administrators reasonably interpreted the 'Let's Go Brandon' slogan as being vulgar speech that 'a school may categorically prohibit' despite its political message." Note: On December 26, 2025, the Sixth Circuit denied a petition for rehearing en banc.

J. **Failing grades and truancy mediation referral did not violate students' due process or equal protection rights** – *Xie v. Jackson Local School Dist. Bd. of Edn.*, No. 5:23-cv-2288, 2026 WL 21298 (N.D. Ohio, Jan. 5, 2026)

During the COVID-19 pandemic, the school district offered students the option of attending school online or in person. Plaintiff's daughter, S.G., attended classes online and in person. Records show that during that school year, S.G. frequently failed to attend virtual classes or complete assignments. Plaintiffs contended S.G. was attending her virtual classes, but that her Chromebook was faulty and failed to record her attendance or assignment submissions. The district offered several options to address the issue, but ultimately, S.G. was referred to a family court truancy prevention mediation conference and failed several classes. The parent faulted the school district for failing to fix S.G.'s Chromebook, and alleged her daughter received failing grades and a truancy mediation referral in retaliation for the parent insisting that school officials were incorrectly blaming S.G. The parent filed suit on her own and her daughter's behalf for violations of their rights guaranteed by the Due Process and Equal Protection of the Fourteenth Amendment.

The court granted the school board's motion for summary judgment. First, plaintiffs procedural due process claim failed because S.G. did not have a property interest in the grades she received, and it was undisputed that she was never expelled or suspended. Plaintiffs substantive due process claim also failed as S.G.'s property right to access public education is not a fundamental right. For the equal protection claim, plaintiffs did not offer any evidence that S.G. was treated differently than other students because of her membership in any protected class. Lastly, the school board was entitled to statutory immunity on the emotional distress claim, as none of the exceptions to immunity applied. **Note**: Appealed to Sixth Circuit on February 3, 2026 (No. 26-3085).

V. Sunshine Law / Records

A. **Emails sent by school board members did not constitute actionable First Amendment retaliation** – *Hernden v. Chippewa Valley Local School Dist., et al.*, No. 24-1842, 2025 WL 2652993 (6th Cir., Sept. 16, 2025)

Plaintiff, a police officer and member of "Moms for Liberty," attended school board meetings to advocate for in-person learning during the COVID-19 pandemic.

During these meetings, plaintiff had "heated" interactions with board members, particularly defendant Pyden, about the board's handling of the pandemic. Pyden alleged that plaintiff defamed her at board meetings, posted hateful messages about her online, and revealed her personal information in online forums. These actions allegedly resulted in Pyden receiving "Nazi cartoons" in the mail, calls and messages saying she should kill herself, and occupied cars parked in front of her home. These actions culminated in Pyden forwarding an email thread between her and the plaintiff to the chief of police, plaintiff's supervisor.

The school board president was concerned about plaintiff's aggressive behavior at a board meeting during which plaintiff compared the board's masking policy to Nazi Germany. Plaintiff also sent an email to the district, addressed to the board president, that included a statement the board president perceived as threatening. The board president was aware of a U.S. Attorney General memorandum concerning threats against school officials and sent an email to the DOJ concerning plaintiff's conduct and Moms for Liberty.

Plaintiff sued the school district, board member Pyden, and the board president for First Amendment retaliation. She alleged the emails sent by the board members were retaliatory actions intended to curb her speech at board meetings. The district court granted summary judgment in favor of the school district and board members. The Sixth Circuit affirmed. First, the Sixth ruled board member Pyden did not violate plaintiff's First Amendment rights because the board member was acting as a private citizen when she emailed the police chief. The board member was not authorized to speak on behalf of the school board, the board did not ratify or adopt the email in any way, and the email was sent from the board member's personal email address.

The school board president, however, was (according to the board's bylaws) the official spokesperson for the board. Therefore, the board president's email to the Department of Justice concerning plaintiff's conduct was state action. Plaintiff, however, failed to show the board president's email was an adverse action that "would chill or silence a person of ordinary firmness from future First Amendment activities." Fear of an investigation is not sufficient to show an adverse action, and plaintiff stated in her deposition that the email did not have any impact on her life. Plaintiff acknowledged the DOJ never contacted her or took action in response to the board president's email. "Without the slightest indication that the DOJ was pursuing an investigation of Hernden or even considering doing so, her alleged fear of an investigation is too speculative." (Petition for certiorari filed Dec. 18, 2025 (25-712).)

B. **Sixth Circuit affirms decision denying preliminary injunction in challenge of school board's public participation policy** – *Moms for Liberty v. Wilson County Board of Edn.*, No. 24-5056, 2025 WL 2599923 (6th Cir., Sept. 9, 2025)

Members of Moms for Liberty challenged the board of education's public participation policy. Specifically, they took issue with a provision that for remarks to the board on a non-agenda item, a board member may allow it if he/she determines it is in the public interest. The board's policy also required speakers to state their address before speaking, and prohibited abusive comments, but the board removed these requirements after the lawsuit was filed. The district court denied plaintiffs' motion for a preliminary injunction. The Sixth Circuit affirmed.

While the plaintiffs' First Amendment interests "may well be proscribed by the public-interest provision and abusive-comments restriction depending on how the two provisions are interpreted," and are "certainly proscribed by the address-disclosure requirement," they failed to demonstrate a credible threat of enforcement against them. First, plaintiffs failed to demonstrate a credible threat that the public interest requirement would be enforced against them. They had multiple avenues to address the board, only one of which involved the public interest provision. They also failed to demonstrate the address requirement and abusive comments provision would be enforced against them given that the board rescinded these requirements over two years ago.

C. **Plaintiff failed to show that school board authorized the retention of legal counsel during executive session in violation of the Open Meetings Act** – *Brinkman v. Toledo City School Dist. Bd. of Edn.*, 2025-Ohio-4353, 2025 WL 2652992 (6th Dist. Lucas County, Sept. 16, 2025)

Thomas Brinkman alleged the school board violated the Open Meetings Act by authorizing the retention of legal counsel during executive session rather than during the public session of the meeting. The board argued its blanket purchasing policy authorized the board president to enter into purchase agreements with vendors, including attorneys, as long as the amount did not exceed a certain monetary threshold. The retention agreements the board entered into did not require payment for service so fell within the purchasing policy.

The trial granted the school board's motion for summary judgment. The appellate court affirmed. Brinkman inferred that because there was no discussion or debate concerning the engagement of outside legal counsel during the public portion of the meeting, the board must have authorized the engagement during executive session. The court ruled this inference was not reasonable. "[T]he Board identified an applicable policy that permitted the retention of outside counsel without any specific resolution, negating appellant's inference that such a resolution had to have been passed during the executive session at the September 29, 2023 Board meeting." The remaining facts alleged in the complaint were insufficient to support Brinkman's claim under the Open Meetings Act.

D. **Use of consent agenda did not constructively close school board meeting in violation of the Open Meetings Act** – *State ex rel. Ames v. Vermilion Local School Dist. Bd. of Edn.*, 2026-Ohio-893, 2026 WL 789188 (6th Dist. Erie County, March 17, 2026)

A school district did not constructively close a school board meeting by its use of a consent agenda to pass fourteen items with a single motion. As specified by the district, items included in the consent agenda can be removed and voted upon separately if requested by a board member, the superintendent, or the treasurer. Ames asserted the procedure essentially closed the board meeting, as it prevented members of the public from being informed about which resolutions were approved and hearing any related deliberations.

While Ames implied that any use of a consent agenda effectively closes a public meeting, the Ohio Supreme Court has held that the Open Meetings Act does not prohibit a board from using consent agendas as a general matter. Unlike the case where the contents of the consent agenda were not made public until the meeting minutes were published, for the meeting at issue here, the school board published the consent agenda on its website prior to the meeting. During the meeting, the entire consent agenda was read aloud, and any items could be removed for separate discussion. "While there were more items on the consent agenda in this case compared to the consent agenda in *Ames II*, the fundamental requirement of ensuring public access was protected here, unlike in *Ames I* where the public could only find out what had been voted on after the meeting, when the minutes were published. Accordingly, the Board in this case, like the Board in *Ames II*, did not keep secret its consent agenda items." Ames also objected to the lack of discussion and deliberation by the Board at the meeting. "However, nothing in the Open Meetings Act requires a public body to discuss every issue on which the public body votes or engage in a prescribed amount of deliberation prior to a vote."

E. **City's public participation rules did not violate plaintiff's First Amendment rights** – *Montgomery v. City of Akron, et al.*, No. 5:25-cv-00758, 2026 WL 232831 (N.D. Ohio, Jan. 28, 2026)

Proceeding pro se, the plaintiff in this case alleged that the city's rule concerning the public comment period of city council meetings violated his First Amendment rights. The city's rule permitted up to ten members of the public to address the council at each meeting, but limited individuals to speaking only once every 30 days. Pursuant to this rule, the city council denied plaintiff's request to speak at a meeting in January 2025. The court ruled the city's rule was a constitutional time, place, and manner restriction on speech. The rule was content-neutral, as it applied to all members of the public regardless of the content of their speech, and the rule was not triggered based on what the speaker said.

The rule was also narrowly tailored to serve a significant governmental interest. It encouraged the participation of as many different voices as possible while still allowing the council to address the items on its agenda in an efficient and orderly manner. The rule also left open ample alternative means of communicating with the council. Members of the public can also submit comments on the city council's website, or by phone or email. The plaintiff also failed to show that the rule violated Ohio's Sunshine Law. While meetings must be open to the public, the Sunshine Law does not require that members of the public be permitted to speak.

F. **It was not clearly established that a ban from BTA adjudicatory hearings violated person's First Amendment rights** – *Hicks v. Crowley*, 25-3202, 2025 WL 2993749 (6th Cir., Oct. 24, 2025)

Hicks, a "government transparency advocate" filed suit after the Ohio Board of Tax Appeals refused to let him record certain public hearings and banned him from attending adjudicatory hearings unless he was a party to a proceeding. The district court ruled the board members were not entitled to qualified immunity because, at the time the ban was issued, "it was clearly established that a government entity cannot categorically ban access to its public proceedings without violating the First Amendment."

The Sixth Circuit disagreed. There was no controlling authority that the ban violated the law, and the handful of district court cases cited by Hicks do not establish a "robust consensus" of persuasive authority that the ban violated the law. Furthermore, the cited cases "don't come close to establishing the relevant right: Hicks's constitutional right to attend other peoples' quasi-judicial administrative tax hearings." The cases Hicks cited concerned school board meetings, a state legislature, a city council meeting, and a courthouse. "These decisions have little to do with Hicks's purported right to access other peoples' quasi-judicial administrative hearings at the Ohio Board of Tax Appeals."

G. **Ohio Supreme Court rules that school district email distribution list is a public record –** *State ex rel. Boddy v. Xenia Community City School Dist. Bd. of Edn.*, 2026-Ohio-164, 2026 WL 173372 (6th Ohio S. Ct., Jan. 22, 2026)

The Ohio Supreme Court ruled that an email-distribution list used to send the superintendent's newsletter to the community is a public record. The list qualified as a record because it is an "item" created by the school district that "documents particular functions and procedures of the school district, revealing how and to whom the superintendent's newsletter is regularly distributed." The Court also held that the school district did not show that the list was exempt from disclosure under R.C. 149.43(A)(1)(v), which excludes from the definition of "public record" a record that is prohibited from being released under state or federal law.

A records custodian who withholds records has the burden to establish that an exemption applies, but the district did not submit the list under seal for in camera review and did not submit any other evidence showing the list contained protected student information. "Because we cannot determine whether the list contains any protected student information that may be exempt from disclosure under the Public Records Act, the school district has failed to satisfy its burden to prove that the list falls squarely within the 'state or federal law' exemption." The court ordered the district to produce the list and to redact any personally identifiable information from the list before doing so.

H. **Sixth Circuit upholds dismissal of declaratory judgment action seeking ruling that releasing copyrighted survey in response to public records request would constitute fair use –** *Stovall v. Jefferson County Bd. of Edn.*, No. 25-5357, 2026 WL 102860 (6th Circuit, Jan. 15, 2026)

When a parent learned that her child's school planned to administer a mental health survey to her child's class, she submitted a public records request to obtain a copy of the survey. The school permitted the parent to see the survey, but did not allow her to make a copy of it. The school claimed that Kentucky's public records law did not extend to copyrighted materials. Rather than pursuing state law remedies, the parent sought a declaratory judgment in federal court that releasing a copy of the survey to her would qualify for the fair-use exception in copyright law.

The Sixth Circuit upheld the lower court's dismissal of the lawsuit for lack of jurisdiction. Federal courts have exclusive jurisdiction to hear cases "arising under" copyright law. There are three categories of cases arising under copyright law, none of which are applicable here. First, her claim did not "rely on a cause of action created by the Copyright Act." Rather, her right to public records arises from Kentucky law. Second, her claim did not "necessarily raise" a copyright law question. Federal copyright law came into the case only because the school board invoked state law that exempts records "prohibited by federal law or regulation" from disclosure when denying the public records request. Third, the open records act claim did not assert rights "equivalent to any of the exclusive rights within the general scope of copyright." Because the "public-records claim does not resemble an infringement claim, it does not belong in federal court."

I. **Ohio Supreme Court denies mandamus relief, damages, and attorney fees to records requestor who knew record did not exist** – *State ex rel. Ames v. Big Walnut Local School Dist. Bd. of Edn.*, 2026-Ohio-532, 2026 WL 468064 (Ohio S. Ct., Feb. 19, 2026)

Brian Ames filed a mandamus action asking the Court to order the school district to provide an original copy of the video recording of a public school board meeting. The district initially denied the request as ambiguous because it was not clear what Ames meant by "original unaltered video." The district did send Ames a link to the audio recording of the meeting. Later that day, rather than replying to the district's email, Ames filed the mandamus action. The district submitted an affidavit explaining that, because of a technical error, the audio recording of the meeting was missing from the video. Therefore, the district's technology director removed the video from YouTube and accidentally deleted the video file entirely.

The Court ruled Ames was not entitled to a writ of mandamus because he conceded in his merit brief that the record did not exist. Instead, Ames argued in his brief that the board improperly denied his request as ambiguous instead of denying it because no record existed, and requested a writ of mandamus ordering the school board to provide him with a truthful response. The Court also denied this request because Ames could only obtain the relief he requested in his complaint. His request for statutory damages, costs, and fees was also denied. In a dissenting opinion, one Justice disagreed with the Court's decision to deny an award of statutory damages "because the school board failed to provide a good-faith response until after Ames filed his mandamus complaint."

J. **School board cannot be ordered to provide records that do not exist; argument concerning Open Meetings Act not before the court** – *Ames v. Revere Local School Dist. Bd. of Edn.*, 2025-Ohio-4818, 2025 WL 2976709 (9th Dist. Summit County, Oct. 22, 2025)

A records requestor, Ames, filed a petition for a writ of mandamus based on the school board's alleged failure to fully respond to his records request. Ames asked for the rule for notifications of meetings in effect for 2023 and 2024. The board responded with directions to access its policy on the district's website, but Ames argued the policy did not apply to work sessions. The court ruled the school board complied with the records request. The policy was the only rule in effect for the requested years. To the extent that Ames argues the board's implementation of its policy did not satisfy the Open Meetings Act, the only issue before the court is the Public Records Act and whether the board provided Ames with records he requested.

Ames also argued the board failed to respond to his request for approved minutes, because the minutes on the district's website were unsigned. The court found the board responded to this request. "While Mr. Ames claims the minutes are not official, he 'does not cite any authority requiring that a public office's meeting minutes be signed. Although not signed, the [Board's] minutes are what the [Board] posts on its public website.'" [Citation omitted.] Ames also argued that the board's response to his request for the district's current records retention schedule did not actually respond to his request because the policy the board pointed him to is not the authorized records retention schedule. The board argued that while it is required to maintain a retention schedule, it is not required to maintain it in a specific format. The treasurer averred that the district does not retain a copy of the RC-2 form provided by the Ohio History Connection. "Upon review, the Board set forth evidence showing that it provided Mr. Ames with the only records retention schedule in its possession. Mr. Ames has not set forth any evidence to the contrary. Instead, he argues that the schedule the Board produced does not satisfy his public records request because it is deficient in certain respects. To the extent he seeks to compel the Board to produce different records, however, this Court cannot order the Board to produce records that do not exist." Accordingly, the court ruled Ames was not entitled to a writ of mandamus or statutory damages.

K. **Request for all emails to or from the email address of a university president over an eleven-day period was not overbroad –** *Schaffer v. The Ohio State University*, 2025-Ohio-5647, 2025 WL 3679210 (10th Dist. Franklin County, Dec. 18, 2025)

The Tenth District Court of Appeals affirmed a decision of the Court of Claims ordering a university to produce emails in response to a public record request. The court agreed with the lower court that a request for all emails sent to or from the university's president over a period of eleven days was not overbroad. The university rejected the request because it did not identify the other party or parties to the email correspondence and did not narrow the request by subject matter. However, the university did not indicate the records were stored by subject matter or the identity of the sender and it was aware of the specific records requested, so it's denial of the request was improper. The university also argued the request was overbroad because it sought a "duplication of an entire category" of records. The court, citing the Ohio Supreme Court's decision in *Rescue Employees* (2023-Ohio-3112), ruled the request was not overbroad. The university also asked the court to consider the reasonableness of the request in light of the fact that the requestor submitted over 1,000 public records requests to the university in 2024 and was on track to do the same in 2025. While the court was sympathetic to the university's predicament, the university did not develop any factual support for its argument in the Court of Claims proceedings.

L. **2026 Ohio Sunshine Laws Manual –** Ohio Attorney General (March 2026)

The 2026 Ohio Sunshine Laws manual is now available. The Manual and appendices can be found at https://ohioattorneygeneral.gov/YellowBook.

VI. Employment Issues

A. **SERB must consider whether employer committed ULP when it refused to submit grievance to arbitration based on untimeliness –** *State ex rel. Staple v. State Employment Relations Board*, 2025-Ohio-4698, 2025 WL 2919065 (Ohio S. Ct., Oct. 15, 2025)

A former police officer filed a grievance challenging his termination. The union ultimately submitted a notice of intent to arbitrate the grievance, but the city refused to submit it to arbitration based on untimeliness. The police officer then filed unfair labor practice charges (ULPs) against the city and the union. The charge against the city claimed the employer violated R.C. 4117.11(A)(1)[6] by failing to submit his grievance to arbitration. The State Employment Relations Board (SERB) dismissed this charge for lack of probable cause, finding the employer's refusal to arbitrate was because the notice to arbitrate was not timely filed based on the actions of the officer and his attorney (the employee did not want to be represented by the union). The Tenth District Court of Appeals granted mandamus relief and directed SERB to vacate its order dismissing the ULP and issue an order finding probable cause exists to believe the city violated R.C. 4117.11(A)(1) by refusing to submit the grievance to arbitration.

The Ohio Supreme Court affirmed. The Court found that SERB considered the wrong issue. "The issue the board should have considered is not whether the notice to arbitrate was timely but, rather, who decides whether it was timely based on the agreement." Based on U.S. Supreme Court precedent, arbitrators have discretion to decide procedural arbitrability. And in this case, the parties' collective bargaining agreement incorporates the rules of the American Arbitration Association. These rules state that arbitrators have the power to rule on their own jurisdiction. Therefore, "it was not within the city's discretion to refuse arbitration based on its own interpretation of the agreement." The Court concluded "that on the face of the agreement, an arbitrator should have ruled on the timeliness of the notice to arbitrate and that the city's refusal to submit this issue to an arbitrator provided at least probable cause to believe that the city committed an unfair labor practice. We therefore affirm the Tenth District's judgment to the extent that it granted a writ of mandamus requiring the board to issue a complaint and conduct a hearing on this charge."

The Ohio Supreme Court also affirmed the lower court's ruling that SERB erred in failing to address the officer's ULP charge against the union for a violation of R.C.

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[6] R.C. 4117.11(A)(1) states: "It is an unfair labor practice for a public employer, its agents, or representatives to…[i]nterfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Chapter 4117. of the Revised Code or an employee organization in the selection of its representative for the purposes of collective bargaining or the adjustment of grievances."

4117.11(B)(2). However, SERB did not abuse its discretion when it dismissed the R.C. 4117.11(B)(6) charge against the union. In the representation waiver agreement between the union and the officer, the "union agreed only to cooperate with outside counsel." The union followed the instructions of the officer's outside counsel when it filed the notice to arbitrate. "In doing so, it stayed in line with [the officer's] waiver."

B. **Court rules last chance agreement subject to arbitration** – *Ohio Council 8, AFSCME, AFL-CIO v. Lakewood*, 2025-Ohio-4369, 2025 WL 2673912 (8th Dist. Cuyahoga, Sept. 18, 2025)

The employee, a union member, was terminated in 2020 for alleged insubordinate, inappropriate, and intimidating acts in the workplace. The employee was then reinstated under a "last chance agreement," which included a provision waiving grievance rights for future termination. In 2021, the city fired the employee for misconduct under the last chance agreement. The union filed a grievance and sought binding arbitration, but the city refused, citing the waiver in the last chance agreement. In June 2025, the Ohio Supreme Court ruled that a court of common pleas had the authority to compel a city to arbitrate the termination of an employee, thus rejecting the city's claim that only the State Employment Relations Board (SERB) had jurisdiction over the issue. The case was remanded to the lower court to consider the city's second assignment of error: whether the trial court erred by granting the union's application and motion to compel arbitration because under the plain language of the last chance agreement, the union and the employee waived recourse to the grievance or arbitration provisions of the CBA.

On remand, the Eighth District Court of Appeals ruled the grievance was arbitrable. U.S. Supreme Court precedent establishes that when a contract contains an arbitration clause, "there is a presumption of arbitrability. . . unless it may be said with positive assurance that the arbitration clause is not susceptible of an interpretation that covers the asserted dispute." The last chance agreement states that if the employee "violates any City work rule or policy pertaining to professional, respectful, and workplace appropriate behavior when performing assigned work responsibilities, he shall be subject to immediate termination without recourse to the grievance or arbitration provisions of the Collective Bargaining Agreement." The city argued this language forecloses recourse to the CBA's grievance and arbitration provisions. However, the union argued the employee could still arbitrate whether the employer had just cause to discipline the employee—the last chance agreement only waived the type of discipline the employee would be subject to. The court ruled that because the language in the last chance agreement is subject to more than one interpretation, the ambiguity is resolved in favor of arbitrability.

The court also ruled the language of the last chance agreement did not expressly overcome the presumption of arbitrability. "To accept the City's interpretation, we would have to assume that no 'recourse to the grievance or arbitration provisions of the [CBA]' encompassed the threshold issue of ascertaining whether [the employee] violated the City's work behavior policy in the first instance." The court also noted that given the city's and union's divergent interpretations of the last chance agreement, there was no meeting of the minds regarding the scope of the waiver, which supported arbitrability.

C. **Teacher's Facebook post about an interaction with a student was not a matter of public concern entitled to First Amendment protection** – *Summer v. Detroit Public Schools Community Dist.,* No. 24-1729, 2026 WL 637407 (6th Cir., March 6, 2026)

A teacher sued a school district and several district administrators for First Amendment retaliation and religious discrimination. The First Amendment claim stems from a written warning the teacher received for posting on a "private/members only" Facebook page for the Detroit Federation of Teachers. The post described an incident in which a student hit the teacher and pulled her hair for taking a paper away from the student. Approximately seven months later, district administrators issued a report concerning alleged misconduct by the teacher from 2018-2020 and recommended she be terminated. The teacher was suspended for fourteen days in lieu of termination. The teacher alleged the warning letter and suspension were in retaliation for her Facebook post regarding the altercation with a student. The Sixth Circuit determined the Facebook post was not constitutionally protected. While the teacher made the post as a private citizen using her personal Facebook account, the post did not involve a matter of public concern. "The post highlights an 'internal personnel dispute' between Plaintiff, a student, and school administration, along with 'employee beef' harbored by Plaintiff, neither of which implicate public concern under our precedent."

The teacher also alleged the district and administrators discriminated against her based on her religion by assigning her to a class with 36 students. The Sixth Circuit upheld the lower's court grant of summary judgement to the district. While the assignment to an oversized classroom could constitute an adverse employment action, the teacher did not show that an adverse employment action occurred because she did not provide any evidence that a similarly situated non-Jewish teacher received more favorable classroom assignments. "Since Plaintiff has not shown that an adverse employment action occurred under circumstances giving rise to an inference of discrimination, Plaintiff cannot make a prima facie case of religious discrimination."

D. **School district's controversial issues policy not unconstitutionally vague** – *Cahill v. New Richmond Ex. Village School Dist. Board of Edn.,* No. 1:24-cv-688, 2025 WL 2772519 (S.D. Ohio, Sept. 29, 2025)

A third-grade math teacher, in response to an earlier controversy in the district about a plan to make the district more welcoming to LGBTQ+ students, decided to add four books to her classroom collection with LGBTQ+ characters. The books were available to students to read, but were not used in classroom instruction. In late 2024, a parent emailed the school principal and school board to complain about the presence of these books in the teacher's classroom. The superintendent determined that the teacher had violated the district's controversial issues policy and suspended the teacher for three days. The teacher sued the school board, board members (in their official capacities), and the superintendent (official and individual capacities). The teacher claimed the controversial issues policy was unconstitutionally vague and violated her rights of equal protection and free exercise of religion.

The court ruled the district's controversial issues policy was not unconstitutionally vague. A statute (or, in this case, a policy with disciplinary consequences) is void for vagueness under the due process clause if it fails to provide a person of ordinary intelligence with fair notice of what is prohibited. "So long as the policy is sufficiently clear as applied to the facts at issue, the plaintiff lacks a viable facial or as-applied challenge." In this case, the facts show the teacher knew the books she placed in her classroom addressed a "controversial issue." Under the policy, a "controversial issue" included "a topic…likely to arouse both support and opposition in the community." The teacher was aware that LGBTQ+ issues had generated controversy in the district in the past, as she states in her complaint that she added the books to her collection because of the controversy surrounding LGBTQ+ topics. The teacher also should have known that she could be subject to discipline as a result of making the books available. The policy and administrative guidance made clear that prior approval was required. While there could be situations in which other teachers did not have adequate notice that their conduct could subject them to discipline under the policy, in this case the teacher "reasonably should have known that she faced the prospect of discipline. And that means that her void-for-vagueness challenge fails as a matter of law." The teacher also failed to show her equal protection rights were violated in light of the original complaint. However, this claim was dismissed without prejudice. **Note**: Appealed to 6th Circuit on October 30, 2025 (No. 25-3880).

E. **Industrial Commission must reconsider whether nine-month employee is entitled to temporary total disability payments during summer months –** *State ex rel. Columbus Schools, Columbus Bd. of Edn. v. Brookbank-Mizer*, 2026-Ohio-1175, 2026 WL 926892 (Ohio S. Ct., April 3, 2026)

The Ohio Supreme Court ruled that the Industrial Commission of Ohio must reconsider its determination that a school speech therapist, a nine-month employee whose salary was prorated over 12 months, was entitled to temporary total disability payments (TDD) during the summer months. The Industrial Commission relied on the Ohio Supreme Court's decision in *State ex rel. Glenn v. Indus. Comm.*, 2009-Ohio-3627, in which the court determined that an injured teacher who had elected to receive stretch pay was entitled to TTD compensation during the summer months if the teacher was not receiving her normal wages. The Tenth District Court of Appeals denied the school district's mandamus action challenging the Commission's award, relying on *Glenn* and the first sentence of R.C. 4123.56(F).

R.C. 4123.56(F) states in part:

> "If an employee is unable to work or suffers a wage loss as the direct result of an impairment arising from an injury or occupational disease, the employee is entitled to receive compensation under this section, provided the employee is otherwise qualified. If an employee is not working or has suffered a wage loss as the direct result of reasons unrelated to the allowed

> injury or occupational disease, the employee is not eligible to receive compensation under this section."

The Tenth District concluded that because the employee's injury was the direct reason for her inability to work, the second sentence of R.C. 4123.56(F) did not apply. However, in a 2024 decision (*AutoZone*, 2024-Ohio-5519), the Ohio Supreme Court made clear that the second sentence of R.C. 4123.56(F) "calls for *an analysis* of whether the employee is 'not working . . . as the direct result of reasons unrelated to the allowed injury.'" The Tenth District also erred by relying on *Glenn,* a case decided before R.C. 4123.56(F) went into effect. "The commission's analysis should have been guided by R.C. 4123.56(F), not *Glenn*."

The Court reversed the Tenth District's judgment and directed the Commission to consider and determine whether the speech therapist was entitled to TDD during the summer recess under R.C. 4123.56(F). The commission must consider whether the speech therapist was not working during the summer months as "the direct result of reasons unrelated to the injury." The employee's intent to work during the summer months may also be relevant to the analysis. If she was not scheduled to teach during the summer and did not intend to seek other summer employment, "then her 'not working' during the summer might be the direct result of reasons unrelated to her injury. However, if she intended to work during the summer and her injury prevented her from doing so, then she might be eligible for TTD compensation under R.C. 4123.56(F)."

F. **School bus attendant adequately plead that that First Student willfully violated the FLSA –** *Purnell v. First Student, Inc.*, No. 1:25-cv-193, 2026 WL 632344 (S.D. Ohio, March 6, 2026)

A school bus attendants alleged her employer, First Student, failed to pay her and similarly situated employees for overtime in violation of the Fair Labor Standards Act (FLSA). She claimed First Student did not fully compensate overtime hours worked above forty per week, including time spent traveling to and attending required safety meetings, and that it improperly calculated overtime by excluding non-discretionary bonuses from the regular rate of pay. She filed her suit as a proposed FLSA collective action and sought to apply the statute's three-year limitations period for willful violations. First Student moved to limit the claim to two years, arguing that willfulness was not adequately pleaded.

The issue before the court was whether the employee adequately pleaded that First Student willfully violated the FLSA, thus extending the relevant period to three years rather than two. The court concluded that the employee's reliance on First Student's size and internal compliance resources alone did not establish willfulness. However, her allegations concerning prior, similar FLSA lawsuits against First Student were sufficient to plausibly infer that First Student knew of or recklessly disregarded potential FLSA violations. While one case was settled, and the court preliminarily approved a settlement agreement in the second case, both cases progressed beyond the mere pleading stage. For a motion to dismiss, the question "is only plausibility, and the Court finds the two lawsuits constitute sufficient smoke to allow Purnell to pursue discovery in hopes of finding fire as well."

G. **Requiring a teacher to undergo a fitness-for-duty exam was not an adverse employment action –** *Perry v. Indian Hill Exempted Village School Dist.*, No. 1:20-cv-24, 2026 WL 183545 (S.D. Ohio, Jan. 23, 2026)

A former teacher alleged that he was compelled to resign as a result of the school district discriminating against him based on his disability and race. In 2018, during a meeting between the teacher and district administrators concerning the teacher's inappropriate conduct, the teacher revealed that he had recently been diagnosed with bipolar disorder. The district placed the teacher on administrative leave and directed him to undergo a fitness for duty examination. The psychiatrist concluded the teacher was not fit to teach. During a meeting with district administrators to discuss the psychiatrist's report, the teacher stated he was going to resign and subsequently submitted his resignation letter. The teacher sued the district under the Americans with Disabilities Act (ADA), Title VII, and related state law. He claimed the district "unlawfully required" him to undergo a fitness-for-duty examination, refused to allow him to return to his job after a psychiatrist concluded he could not perform his job, and constructively discharged him. The court granted the school district's motion for summary judgment.

Viewing the evidence in a light most favorable to the teacher, the teacher did not establish that the district violated the ADA because he failed to show that the district subjected him to an adverse employment action. While requiring an employee to undergo a fitness-for-duty examination could, in some circumstances, constitute an adverse employment action, examinations that are job-related and based on a genuine reason to doubt whether an employee can perform essential job functions are not adverse actions or evidence of discrimination. In this case, the district was justified in ordering the examination given the teacher's pattern of concerning behavior. (Conduct cited includes giving his building entrance card to students; leaving medication on his desk where elementary students could access it; giving candy to students as an incentive—including a child with serious allergies—in violation of two district policies; threatening to dig up dirt on the principal after she raised a concern regarding the teacher's classroom management; and asking female students to go the gym alone with him). The teacher also failed to show that he was constructively discharged, as there is no evidence on the record that suggests the district deliberately created intolerable working conditions to compel him to resign. Lastly, the teacher's race discrimination claim failed because he failed to identify an appropriate comparator who was treated more favorably.

H. **School board properly rejected referees' recommendation in teacher termination matter; teacher evaluation and nonrenewal –** *Matola v. Mathews Local School Dist. Bd. of Edn*, 2025-Ohio-5717, 2025 WL 3709647 (11th Dist. Trumbull County, Dec. 22, 2025)

A teacher employed under a two-year limited contract was terminated for allowing students to vape in her classroom. A referee issued a 13-page report and recommendation, concluding that the evidence was insufficient to establish good and just cause for terminating the teacher. The school board adopted an 89-page resolution rejecting the referee's recommendation and terminating the teacher. The board also non-renewed the teacher. The teacher appealed both the termination and the nonrenewal. The trial court dismissed the appeal, finding “that there was reliable, probative, and substantial evidence supporting the school board's termination order,” and that there were no procedural errors in the nonrenewal.

The court of appeals affirmed. In *Aldridge v. Huntington Local School Dist. Bd. of Edn*. (1988), the Ohio Supreme Court held “that in teacher contract termination disputes arising under R.C. 3319.16: (1) the referee's findings of fact must be accepted unless such findings are against the greater weight, or preponderance, of the evidence; (2) a school board has the discretion to accept or reject the recommendation of the referee unless such acceptance or rejection is contrary to law.”

Thus, the school board did not have to fully accept the referee’s credibility determinations. A school board can reject a referee’s findings if the board explains its reasons for doing so. In this case, the school board rejected five of the referee’s findings, and in each instance it “set forth the referee's applicable finding, explained its reasons for rejecting the finding, and cited specific portions of the record in support.”

The teacher also argued her nonrenewal should be overturned because the board did not conduct three formal observations as required by R.C. 3319.111(E). The school board argued that it was not required to evaluate the teacher because she was on leave for the entire 2021-2022 school year. The court rejected the teacher’s argument that the evaluation exception for teachers on leave did not also apply to the requirement that three observations must be conducted. “Since formal observations are a component of a teacher evaluation, the exception in R.C. 3319.111(C)(2)(d)(i) necessarily encompasses that component. Accordingly, R.C. 3319.111(C)(2)(d)(i), when satisfied, excuses a school board from conducting three formal observations of a teacher under a limited contract who is under consideration for nonrenewal.” The court also ruled that the teacher—who was suspended for the entire 2021-2022 school year pending termination in accordance with R.C. 3319.16—was “on leave” for purposes of the teacher evaluation exception in R.C. 3319.111. The term “leave” is not defined in the statute, so the court applied its common meaning of a permitted or authorized absence from work.

Note: This decision was appealed to the Ohio Supreme Court on February 4, 2026 (case 2026-0141).

I. **Court did not have jurisdiction to consider nonteaching employee’s administrative appeal due lack of final order** – *Jones v. Montgomery Cty. Educational Serv. Ctr. Bd. of Edn*, 2025-Ohio-4774, 2025 WL 2955915 (2nd Dist. Montgomery County, Oct. 17, 2025)

A full-time administrative assistant was transferred to a full-time second shift custodial position as a disciplinary measure in lieu of termination. The human resources director notified the employee of the transfer by mail. The district treasurer also sent the employee an email notifying her that the board approved the transfer during its meeting. The employee considered the transfer to be a demotion and appealed to the court, but the trial court determined it lacked subject-matter jurisdiction to consider her appeal and dismissed the case.

The court of appeals affirmed. While R.C. 3319.081 permits a school employee to appeal a termination, suspension, or demotion, it does not have a statutory procedure for appeals. Therefore, the appeal is governed by Revised Code Chapter 2506. Under Chapter 2506, a court does not have jurisdiction to hear an appeal if there is no final order from which to appeal. The letter the employee received from human resources regarding her transfer was not a final order as defined in R.C. 2506.01 because it was sent before the board acted. The email the treasurer sent to the employee following board action was also not a final order as it did not include all the requirements of a final order. The email only included the treasurer's name and a date. While R.C. 2506.08 permits a court to remand a matter to a board with instructions to enter a final order, "[w]e agree that the trial court, lacking subject matter jurisdiction, had no authority to resolve whether [the employee] was demoted for the purpose of ascertaining her right to appeal." Therefore, the trial court was correct in declining to remand the employee's appeal to the school board for entry or service of notice of a final order.

J. **School counselor not entitled to preliminary injunction in dispute over administrative assignments –** *Kolkowski v. Ashtabula Area City School Dist. Bd. of Edn*, No. 1:25-cv-02764, 2026 WL 591832 (N.D. Ohio, March 3, 2026)

A school guidance counselor sought a preliminary injunction barring the school board from assigning her administrative or clerical work, or other non-counseling duties. She later narrowed her request and asked the court to enjoin the school board from disciplining, penalizing, issuing an adverse evaluation, or otherwise taking adverse employment action against her for carrying out her licensed counseling responsibilities. She also sought to prevent adverse action based on any shortcomings in master scheduling or state testing coordination that resulted from her decision to prioritize student counseling duties. The counselor argued that she faced irreparable harm because she risked professional discipline, her counseling services were disrupted during critical periods of the academic year, and her constitutional rights were threatened.

The court denied the counselor's motion. First, her claim that she could face professional discipline was speculative. The record contained no evidence that the disputed duties were unlawful, threatened her license, or could result in termination for "good and just cause." The counselor cited the school counselor evaluation framework in R.C. 3319.113, but these standards govern the evaluation of counselors and "are not binding rules of conduct." The counselor's argument was also undercut by her delay in filing the lawsuit. She had performed the disputed tasks for more than ten years, knew about the disputed job description for five years, and offered no evidence that she has been—or will be—disciplined for complying with the job description.

The counselor also failed to show that she would be harmed by the displacement of her counseling services. Even if students would lose access to those services, a plaintiff must assert her own legal rights, not the rights of third parties. The court also rejected the counselor's claim of irreparable constitutional harm, finding no evidence that the disputed job duties prevented her from exercising her First Amendment freedoms.

K. **STRS Ohio – Temporary reduction in years of service for unreduced and reduced retirement benefit –** STRS Ohio (Nov. 18, 2024; April 18, 2025; March 2026)

In November 2024,[7] the State Teachers Retirement System temporarily lowered the required years of service for an unreduced retirement benefit under the Defined Benefit Plan to 33 years (from 34 years), and eligibility for a reduced retirement benefit was lowered to 28 years (from 29 years) of service. The change was effective for retirement dates of June 1, 2025, to July 31, 2027.

In April 2025, STRS again lowered the required years of service for an unreduced retirement benefit to 32 years (27 years of service for a reduced retirement benefit). This applied to active members retiring between June 1, 2025, and May 1, 2030. For active members retiring between June 1, 2030, and May 1, 2032, eligibility for an unreduced retirement benefit will be 33 years (28 years of service for reduced benefits). From June 1, 2032, and after, 34 years of service will be needed for unreduced benefits, and 29 years for reduced retirement benefits. See https://www.strsoh.org/newsroom/2025/april-board-news.html for more information.

In March 2026, STRS extended the current required years of service for an additional five years. Retirement eligibility criteria are now:

Retirement dates	Unreduced benefit*	Reduced benefit*
June 1, 2025–May 1, 2035	Any age and 32 years; or age 65 and 5 years	Any age and 27 years; or age 60 and 5 years
June 1, 2035–May 1, 2037	Any age and 33 years; or age 65 and 5 years	Any age and 28 years; or age 60 and 5 years
On or after June 1, 2037	Any age and 34 years; or age 65 and 5 years	Any age and 29 years; or age 60 and 5 years

See https://www.strsoh.org/newsroom/2026/march-board-news.html for more information.

L. **FLSA and FMLA opinion letters –** U.S. Dept. of Labor Wage and Hour Division (Jan. 2026)

The U.S. Department of Labor's Wage and Hour Division issued several recent opinion letters interpreting provisions of the Fair Labor Standards Act (FLSA) and the Family and Medical Leave Act (FMLA). The letters can be obtained at https://www.dol.gov/agencies/whd/opinion-letters/request.

FMLA 2026-1 – Advises that when a school closes for part of a week during which an employee uses less than a full week of FMLA leave, the period during which school is closed is not counted as FMLA leave unless the employee was scheduled and expected to work during that period and used FMLA leave for that time. If a school closes for part of week during which an employee is using a full week of

[7] See https://www.strsoh.org/newsroom/2024/retirement-eligibility-changes-announced-2.html.

FMLA leave, the entire week is counted as FMLA leave. The letter gives the example of employee who needs FMLA leave each Tuesday afternoon for physical therapy, but the school is closed on Tuesday due to inclement weather and the employee is not required to report to work. In this case, the employer should not deduct this time from the employee's FMLA entitlement.

FMLA 2026-2 – Advises that an employee may use FMLA leave to travel to and from medical appointments for a serious health condition, and that a health care provider does not need to provide an estimate of an employee's travel time for the medical certification to be complete and sufficient under FMLA.

FLSA 2026-1 – Addresses the criteria for the learned professional exemption and advises that even if an employee meets the test for the learned professional exemption, an employer is permitted to reclassify such employee as non-exempt.

FLSA 2026-2 – Addresses whether certain bonus payments may be excluded from the "regular rate of pay" used to calculate overtime. The employer in this case provided bonus payments based on punctuality, attendance, driving safety, and other performance criteria. These bonus payments must be included in the regular rate when calculating the overtime premium because they are incentives, rather than discretionary bonuses. The bonus amount is calculated using a predetermined plan to incentivize work performance. Although opinions may differ about whether certain criteria were satisfied, eligibility criteria and bonus amounts were predetermined before performance.

VII. Board Issues

A. Ohio Supreme Court rules county auditor did not have discretion to refuse to place bond levy on tax list and duplicate for collection – *State ex rel. Springfield City School Dist. Bd. of Edn. v. Hamilton,* 2025-Ohio-4427, 2025 WL 2724420 (Ohio S. Ct., Sept. 25, 2025)

In 2013, voters approved a bond issue and tax levy. The district issued the bonds in two series—the first in 2013 (with a maximum maturity date of December 1, 2026), and the second in 2019 (with a maximum maturity date of December 1, 2031). In 2023, the county auditor informed the school district that collection of the bond levy would end in 2025. The school district sought a writ of mandamus ordering the auditor to collect the bond levy through collection year 2031. (The Ohio Supreme Court read this as a request to order the county auditor to place the bond levy on the tax list and duplicate for collection.)

The auditor argued the maximum duration of the bond levy approved by voters (twelve years) expired. The school district argued Chapter 133 of the Ohio Revised Code permits the bonds to be issued in separate 12-year installments. The Ohio Supreme Court stated it "need not resolve this disagreement over the proper interpretation of R.C. Ch. 133, however, because the auditor does not have the authority to refuse to place the bond levy on the tax list and duplicate for tax year 2025 (collection year 2026)." The school district passed authorizing legislation certifying the amounts needed to pay the debt charges by November 30 each year, as required by R.C. 133.18(H). Therefore, "the school district has a clear legal right to have the bond levy placed on the tax list and duplicate for collection in 2026," and "the auditor has no discretion to refuse to perform this ministerial duty."

The Court limited its writ of mandamus to ordering the auditor to place the bond levy on the tax list and duplicate for tax year 2025, collection year 2026, because "[T]he auditor's duty in tax years beyond 2025 and collection years beyond 2026 will not be triggered until the school district has passed the legislation described in R.C. 133.18(H) for future tax years."

B. **Ohio Supreme Court rules mandamus action seeking to compel board to provide interim transportation to nonpublic school is moot –** *State ex rel. Siebold v. Columbus City Schools Bd. of Edn.,* 2025-Ohio-5245, 2025 WL 3275283 (Ohio S. Ct., Nov. 25, 2025)

In August 2024, a school district passed a resolution of impracticality and stated it would not provide transportation services for some students attending certain nonpublic and community schools. The latest day the school district could make an impracticality determination was July 22. The parent of one student filed a petition for a writ of mandamus ordering the school district to comply with R.C. 3327.02 and provide transportation for her child. The Ohio Supreme Court dismissed the case as moot because evidence submitted showed that the district began providing transportation for the student in October 2024. The court rejected the parent's argument that the "voluntary cessation" exception to mootness applied in this case. "In the end, [the parent] has cited no case in which this court (or any Ohio court) has applied the voluntary-cessation exception to the mootness doctrine in the context of an extraordinary action in mandamus in which the respondent has provided the relief requested."

C. **Uncomfortable lifeguard chair did not constitute a physical defect for purposes of political subdivision immunity –** *Hoskins v. Cleveland,* 2026-Ohio-1225, 2026 WL 948391 (Ohio S. Ct., April 8, 2026)

The Ohio Supreme Court ruled that the City of Cleveland was entitled to immunity in the drowning death of a swimmer at a city pool. The executor of the swimmer's estate argued the city's immunity was removed by the "physical defect" exception. The lifeguard on duty was sitting in a folding chair when the swimmer drowned, rather than the elevated lifeguard chair, because the elevated chair was uncomfortable. The lifeguard's view was also obstructed by the elevated chair and objects hanging from it. In the executor's view, the lack of an effective lifeguard chair was a physical defect on the pool grounds. The executor cited the Ohio Supreme Court's decision in *Doe v. Greenville City Schools,* 2022-Ohio-4618, in which a plurality of the Court found that the absence of a fire extinguisher or other safety equipment in a classroom could be a physical defect.

The Court stated that "while it is true that our reasoning here could be read to conflict with that of the lead opinion in *Greenville*, the reasoning of the lead opinion in that case did not rely on the plain meaning of R.C. 2744.02(B)(4). Moreover, the opinion garnered the votes of only three justices and so should not be relied upon."

Because "physical defect" is not defined in R.C. Chapter 2744, the plain meaning is used. Putting together the dictionary definition of "physical" and "defect," the meaning of physical defect "can be reasonably understood as a tangible imperfection that impairs the function of an object."

The Court concluded: "The commonly understood meaning of 'physical defect' is a material imperfection that impairs the quality, function, or utility of something. No evidence of a tangible imperfection with respect to the lifeguard chair or pool area was presented. The exception to political-subdivision immunity in R.C. 2744.02(B)(4) does not apply."

D. **Gymnasium mat did not constitute a physical defect for purposes of political subdivision immunity** – *Stealey v. Belpre City School Dist.,* 2025-Ohio-4899, 2025 WL 3000458 (4th Dist. Washington County, Oct. 17, 2025)

The plaintiff in this case sued the school district for negligence for injuries she sustained when she tripped on a mat in the school gymnasium while attending a funeral service. The court ruled the trial court properly granted summary judgment in favor of the school district based on political subdivision immunity. The court agreed with the school district that the protective mats it placed on the gymnasium floor did not constitute a physical defect under R.C. 2744.02(B)(4).

The plaintiff argued the school's failure to tape down the edges of the mat was similar to a case in which a school's bleachers were found to be defective because they were not fully extended so they could be locked in position and stabilized in accordance with the manufacturer's specification. The court disagreed. While the school district did not tape the edges of the mat down, there was no evidence that the manufacturer of the mats used by the district advised taping edges. The evidence plaintiff did submit concerned mats made by a different manufacturer, but this evidence was not admissible because it was presented through an expert's report that was not properly authenticated. In addition, the facilities director testified that the mats did not have any instructions to tape them to the floor and did not come with any tape supplies or dispensers for that purpose. The court also found the video evidence submitted did not contain any evidence that the plaintiff tripped over a raised area or gap in the mat.

The plaintiff also attempted to introduce evidence that the school began taping edges after she fell. The court ruled this evidence was inadmissible because Evid.R. 407 prohibits evidence of subsequent remedial measures when it is introduced to prove negligence or culpable conduct.

E. **Damaged ceiling tiles in room used for physical education class constituted physical defect for purposes of political subdivision immunity** – *Johnson v. Cleveland Metro. School Dist.,* 2025-Ohio-5852, 2025 WL 3774571 (8th Dist. Cuyahoga County, Dec. 31, 2025)

A student sued a school district and teacher for injuries the student sustained when a ceiling tile fell on her during gym class. The class was conducted in a multi-purpose room with ceilings fifteen feet high, and the students were playing circle volleyball. On the day of the student's injury, one tile in the room was already hanging, and a second tile was dislodged when a student served the volleyball and hit the ceiling. The teacher testified that she asked the students to stop playing, but a student served the ball again and dislodged a tile that landed on plaintiff student's head.

Under R.C. 2744.02(B)(4), a political subdivision may be liable for injuries caused by employees' negligence due to physical defects in buildings used for governmental functions. The appellate court affirmed the trial court's finding that the ceiling's condition constituted a physical defect. Months-old photos showed numerous missing or hanging tiles, and staff testified the tiles frequently needed replacement. The damaged ceiling also diminished the room's usefulness for physical education classes. The physical education teacher testified that she spent "a lot of energy" keeping students away from hanging tiles and that the room "wasn't the safest" for trying to teach the students. However, the record did not show that the absence of hold-down clips in the ceiling constituted a physical defect. The court also ruled that the open-and-obvious doctrine did not apply, as the student was required to participate in gym class and the hazard was dynamic, not static.

Under R.C. 2744.03(A)(5), immunity may be reinstated if the injury resulted from the exercise of judgment or discretion "unless the judgment or discretion was exercised with malicious purpose, in bad faith, or in a wanton or reckless manner." The court denied the school district's motion for summary judgment on this issue, finding issues of fact remained on whether the teacher's decision to have students play volleyball in the multi-purpose room was reckless. "Reasonable minds could disagree as to whether, in deciding that the students could play volleyball, [the teacher] consciously disregarded a known or obvious and unreasonable risk." The teacher knew that volleyballs hit the ceiling, but she included volleyball in her curriculum because students enjoyed it. While the teacher did take precautions to reduce the risk to students, the record did not establish whether these efforts were effective or adequate under the circumstances. The case was remanded to the trial court for further proceedings.

F. **School officials entitled to immunity for allegedly defamatory statements made about coaches –** *Wattley v. Rinaldi*, 2025-Ohio-5538, 2025 WL 3554702 (5th Dist. Stark Cty., Dec. 11, 2025)

Members of the school district's coaching staff were terminated after a student was allegedly disciplined by being forced to eat pepperoni pizza despite the student's religious objections to eating pork. The former coaches sued the superintendent and school board president for defamation, false light invasion of privacy, civil conspiracy, and spoliation of evidence. The trial court granted the school officials' motion to dismiss. The court of appeals affirmed the trial court's ruling based on three independent bases: the statute of limitations, political subdivision immunity, and failure to plead facts sufficient to meet the elements of a defamation claim.

<u>Political subdivision immunity</u>: While the complaint stated the school officials were sued in their personal, as opposed to official, capacity, the court looked to the substance of the complaint and found that the allegedly defamatory conduct

occurred within the scope of their official duties as school board president and superintendent. (One allegedly defamatory statement was made by the board president at a board meeting. Statements attributed to the superintendent were posted on the district's official Facebook page.) Because the complaint did not allege any facts sufficient to trigger an exception to immunity under R.C. 2744.02, the school officials were entitled to immunity.

<u>Defamation</u>: The court also found the coaches failed to plead facts sufficient to meet the elements of a defamation claim. To be defamatory, a statement must be published, i.e. communicated to a third party. A draft resolution the superintendent sent to board members was not "published" because the board members were not third parties, and the fact that "a document is a record that could be the subject of a public records request is not sufficient to demonstrate it was published to a third party." The coaches alleged the official resolutions were published, but the complaint did not identify to whom. The allegedly defamatory statements also did not assert any false statements of fact. The statements described the investigative process and overall findings of the investigation, and were true. Statements made by the superintendent in a video were either true or were "opinions and judgment calls made in connection with the Board's official duties of investigation, hiring, and decision-making." While the coaches disagreed that the evidence supported the investigatory conclusions, "whether the evidence supports the District's investigative conclusions is not relevant to the claims pled, or to our analysis, in this case."

G. **Lower court erred in retaining supplemental jurisdiction over Board member's state law claims alleging unfair treatment** – *Williams v. Addison Community Schools,* No. 25-1205, 2026 WL 575854 (6th Circuit, March 2, 2026)

A school board member sued a Michigan school district, its superintendent, and other board members after the board convened a special meeting, adopted a resolution censuring him, and removed him as board president. The district court dismissed the board member's federal due process claims. The lower court then exercised supplemental jurisdiction over the claims arising under state law and dismissed them as well.

The board member appealed on a single claim arising under the Fair and Just Treatment clause of Michigan's constitution. The Sixth Circuit ruled it was not appropriate for the lower court to exercise supplemental jurisdiction in this case. The board member's claims raised novel or complex issues of state law that "requires interpreting in the first instance a provision of the Michigan Constitution." Nor was there an analogous clause under the United States Constitution from which to draw interpretations. The Sixth Circuit instructed the lower court to dismiss the board member's Fair and Just Treatment claim and related assertion of *respondeat superior* liability without prejudice.

H. **Common Pleas court rules Ohio's EdChoice voucher program unconstitutional, but stays its judgment –** *Columbus City School Dist., et al. v. State of Ohio*, No. 22-cv-000067 (Franklin County Common Pleas, June 24, 2025)

The Franklin County Court of Common Pleas ruled that Ohio's EdChoice voucher program is unconstitutional.[8] In count one, plaintiffs argued that EdChoice violates Art. VI, Sec. 2 of the Ohio Constitution because it creates a second system of uncommon private schools. The court agreed, stating: "The idea that EdChoice establishes scholarships, not a system of schools, and that it funds students, not private schools, is mere semantics." The court also ruled the program violates the thorough and efficient clause, noting that "the General Assembly chose to expand their system of private school funding by about the same amount as Ohio's public schools lost through the General Assembly's failure to fully fund the FSFP." The court also granted plaintiffs' motion for summary judgment on count four (unconstitutional state funding of religious schools).

The court granted the state's motion for judgment on count five (equal protection under Art. I, Sec. 2 of the Ohio Constitution). On count three (segregation), the court denied both plaintiffs' and defendants' motions for summary judgment, finding there was not enough evidence in the record. The court enjoined the EdChoice program, but stayed its judgment given the high likelihood an appeal would be filed immediately. (Notice of appeal filed July 23, 2025 (25AP-603).)

I. **Ohio Attorney General Opinion: Compatibility of Positions –** Ohio Attorney General Opinion No. 2026-02 (April 1, 2026)

The Ohio Attorney General (OAG) issued an opinion concluding that, generally, a person may not serve simultaneously as a juvenile court probation officer and as a member of a school district board of education located within the same county. The OAG applies a seven-part test when determining whether two public offices are compatible. In this case, question 5, "is there an impermissible conflict of interest between the two positions," is dispositive. Under the circumstances presented, potential conflicts arise from each position's access to or need for confidential records of a student under the juvenile court's supervision. A person serving in both positions would also have access to confidential information from each position, thus increasing the risk of inadvertently violating FERPA, R.C. 3319.321, and other confidential provisions in law.

Conflicting interests could also arise from competition for grant funds distributed by the county's juvenile court probation department. A juvenile probation officer's investigative duties could also present conflicts and adversarial alignment between the school district and juvenile court's probation department, and divided interests could compromise an individual's independent judgment in either position. See

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8 https://fcdcfcjs.co.franklin.oh.us/CaseInformationOnline/imageLinkProcessor.pdf?coords=n9%2F7IEeet2tpIe4f9lrPqTdfcFxtjYzRsbMXkNDKaKD%2FZNbJwww%2BWtsdiz06gNjhG4C82BzVV8RcUMGE5VQNlWjX5Ga4rlcUd6pXzmdrekcOCySCnO5SJNJFBtjwYcvOwduP97VifI73LB8cfeMjjYUfItTBjEk6dKwqR02B%2B90%3D.

https://www.ohioattorneygeneral.gov/getattachment/46753fa0-2260-4b71-acf8-e74f8f05c6c2/2026-002.aspx for the opinion.

J. **Ohio Ethics Commission Advisory Opinion: Frequent Flyer Miles and Rewards Points –** Ohio Ethics Commission Advisory Opinion No. 2025-02 (Aug. 4, 2025)

The Ohio Ethics Commission issued an advisory opinion stating that R.C. 102.03(D) and (E) do not prohibit public officials or employees from personally using frequent flyer miles or other rewards points accrued during official business so long as the rewards are acquired under the same conditions as a member of the public would earn them, and at no additional cost to the public agency. A public official or employee is prohibited from choosing an airline or vendor based on whether it provides rewards. A conference, event, or group travel planner is prohibited from personally using frequent flyer miles or other rewards earned in connection with the booking.

The opinion also notes that R.C. 2921.43(A)(1) does not prohibit personal use of frequent flyer miles that the public official or employee accrued while on official travel because it does not constitute additional compensation for the performance of public duties. In addition, public agencies can adopt policies that are more restrictive than the Ethics Law. This opinion overrules Advisory Opinion No. 91-010 and Informal Advisory Opinion No. 2003-INF-0224-1.

The opinion is available at https://ethics.ohio.gov/advice/opinions/2025-02.pdf?utm_campaign=website&utm_medium=email&utm_source=sendgrid.

K. **Ohio Ethics Commission Advisory Opinion: Civil Legal Defense Funds –** Ohio Ethics Commission Advisory Opinion No. 2026-01 (Jan. 22, 2026)

This opinion addresses Ohio Ethics Law limitations on a public official or employee soliciting or accepting contributions to a fund established for the official's or employee's legal defense in a civil case. A public official or employee may not solicit or accept contributions from anyone who does business with, is seeking to do business with, is regulated by, or has matters pending before the public agency they serve. These prohibited sources are likewise barred from giving. A public official may use his or her official title in a solicitation for legal defense funds, but the solicitation cannot imply the public agency sanctions or endorses it.

See https://ethics.ohio.gov/advice/opinions/2026-01.pdf for more information.

L. **Ohio Auditor Bulletin 2025-012: Frequent Flyer Miles and Rewards Points –** Ohio Auditor Bulletin No. 2025-012 (Oct. 16, 2025)

The Ohio Auditor of State issued a bulletin concerning the Ohio Ethics Commission Advisory Opinion 2025-02 concerning frequent flyer miles and rewards points. The auditor recommends that public offices adopt policies/rules for the personal use of reward program points accrued while conducting public business. The auditor notes that while public offices cannot create policies that are less restrictive than the Ethics laws, they can adopt more restrictive policies. See https://ohioauditor.gov/publications/bulletins/2025/2025-012.pdf for more information.

VIII. Federal and State Guidance and Regulations

A. **Information Collection: SAM Registration – Requirement to certify compliance with orders prohibiting unlawful discrimination based on race or color –** General Services Administration, 91 FR 3726 (Jan. 28, 2026)

The General Services Administration is proposing a revision to a current information collection requirement regarding the pre-award registration requirements for Prime Financial Assistance Recipients. The existing information collection requires applicants and recipients of federal financial assistance to register in the System for Award Management (SAM) and maintain an active SAM registration with current information.

The proposed amendment would require the Financial Assistance General Representations and Certifications to align with updated executive branch guidance, including Department of Justice "Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination" (July 29, 2025) and Executive Order (E.O.) 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, (January 21, 2025), applicable to all entities receiving grants, cooperative agreements, and financial assistance such as loans, insurance, and direct appropriations.

The collection would require organizations to certify they comply with "the U.S. Constitution, all Federal laws, and relevant executive orders prohibiting unlawful discrimination on the basis of race or color in the administration of federally funded programs." It lists examples of practices that may violate applicable anti-discrimination laws, including: preferential treatment based on race or color, preferential hiring or promotion practices, or access to facilities or resources based on race or ethnicity, "including through the use of 'cultural competence' requirements, 'overcoming obstacles' narratives, or 'diversity statements'"; race-based "diverse slate" policies; training programs that stereotype or single out individuals based on protected characteristics; retaliation against an employee or participant for engaging in protected activities related to opposing DEI practices (protected activities could include raising concerns or filing complaints about, or objecting to or refusing to participate in, discriminatory programs, trainings, or policies).

Comments were due by March 30, 2026. See https://www.federalregister.gov/documents/2026/01/28/2026-01676/information-collection-system-for-award-management-registration-requirements-for-financial for the proposal.

Supporting statement: https://www.regulations.gov/document/GSA-GSA-2026-0001-0007.

B. **U.S. Attorney General Memorandum: Upholding constitutional rights and parental authority in America's education system –** (Sept. 8, 2025)

U.S. Attorney General sent a memo to the FBI director and all U.S. Attorneys instructing them to "work with federal, state, and local partners to identify and respond to credible threats against parents or violations of their lawful rights." The memo states that "[s]chools receiving public funds must ensure compliance with applicable federal protections, including mechanisms for parents to exempt their children from instruction that conflicts with the family's sincerely held religious beliefs, such as content related to sexuality and gender ideology. As the Supreme Court recognized in *Mahmoud v. Taylor*, compelled exposure to such materials over parental objections may violate federal protections. Any attempt to burden these rights will face scrutiny and action from the Department of Justice."

The memo goes on to state: "I am directing the Civil Rights Division to be alert to violations of parental rights and First Amendment liberties in educational settings. I am also directing U.S. Attorneys to work with federal, state, and local partners to identify and respond to credible threats against parents and violations of their federal rights." The memo notes that conspiring to violate constitutional rights is a crime (citing 18 U.S.C. § 241).

See https://www.justice.gov/ag/media/1413671/dl?inline for the memo.

C. **U.S. Attorney General Guidance for recipients of federal funding regarding unlawful discrimination (including DEI) –** (July 29, 2025)

This guidance memorandum addressed to all federal agencies "clarifies the application of federal antidiscrimination laws to programs or initiatives that may involve discriminatory practices, including those labeled as Diversity, Equity, and Inclusion ("DEI") programs." It also "identifies 'Best Practices' as non-binding suggestions to help entities comply with federal antidiscrimination laws and avoid legal pitfalls; these are not mandatory requirements but rather practical recommendations to minimize the risk of violations."

The memo is available at:

https://www.justice.gov/ag/media/1409486/dl?inline=&utm_medium=email&utm_source=govdelivery.

D. **U.S. Department of Justice amended its Title VI regulations to eliminate disparate-impact liability –** U.S. Dept. of Justice, 90 FR 57141, Document 2025-22448 (Dec. 10, 2025)

The U.S. Department of Justice amended its Title VI regulations in 28 CFR § 42.104 to eliminate disparate-impact liability. Specifically, the Department rescinded § 42.104(b)(2), (b)(6), and (c)(2), and amended (b)(3) to remove "or effect."[9] In the discussion section, the Department did note that "eliminating disparate-impact liability does not preclude the use of data on disparate outcomes to help prove intentional discrimination."

While the U.S. Department of Education has not yet amended its Title VI disparate impact regulations (34 CFR part 100), the Spring 2025 regulatory agenda indicates the Department intends to do so.

[9] See https://www.govinfo.gov/content/pkg/FR-2025-12-10/pdf/2025-22448.pdf.

E. **U.S. Department of Education guidance on prayer and religious expression in public schools –** U.S. Dept. of Education, (Feb. 5, 2026)

The U.S. Department of Education released updated guidance on prayer and religious expression in public schools. This updated guidance supersedes and replaces the Department's 2023 *Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools*. The guidance addresses private religious expression by students (in class, at an athletic event, or before a meal), religious expression in student groups, religious expression at school events (such as ceremonies, assemblies, graduations, or sporting events), religious expression in assignments, and religious expression by public school employees. It also addresses protecting students from targeted harassment.

The guidance document is available at https://www.ed.gov/media/document/2026-guidance-constitutionally-protected-prayer-and-religious-expression-public-elementary-and-secondary-schools-113182.pdf.

F. **Process for Seeking Unclaimed Money for Public Offices –** Ohio Auditor of State Bulletin 2025-008 (Aug. 29, 2025)

This bulletin advises local governments that because unclaimed funds belonging to a local government are public money, they should take all required steps to claim these funds. The bulletin addresses how to find unclaimed money, the steps to complete the claims process, and accounting for money that has been reclaimed. See https://ohioauditor.gov/publications/bulletins/2025/2025-008.pdf for more information.

G. **Reimbursement of Sales Tax by Tax-Exempt Public Offices –** Ohio Auditor of State Bulletin 2025-013 (Oct. 16, 2025)

"This Bulletin will provide guidance to public offices that are exempt from the payment of Ohio's retail sales tax about reimbursing their officials and/or employees when those individuals have made lawful expenditures on behalf of the public office using their own personal credit card or checking account."

See https://ohioauditor.gov/publications/bulletins/2025/2025-013.pdf for more information.

H. **OAC 3302-89-02 and 3302-89-03 – Requests for territory transfer –** Ohio State Board of Education (approved Nov. 18, 2025; filed with JCARR Dec. 5, 2025)

The state board voted to amend OAC 3302-89-02 and 3309-89-03 at its November 2025 board meeting.[10] The changes include removing a requirement that residents seeking the transfer of territory must file the proposal with the originating school district prior to March 15th. Comments indicate this earlier deadline is not enforced.

The changes also remove the "25 Questions" that school districts have been required to complete. Instead, the state board will send the involved school districts

[10] See https://public.education.ohio.gov/StateBoardBooks/2026%20-%20Board%20Books/January%202026/Jan%202026%20-%20Ch.%20119%20-%20Public%20Hearing%20Exhibits.pdf.

a notice of the opportunity to submit a position statement within thirty days of receiving the notice. The state board will also obtain the most recent district-level report cards and financial forecasts from DEW. Parties will also have an opportunity to submit supplemental position statements within ten days of receiving copies of all the parties' position statements. If a hearing is not requested, the state board will determine whether to approve the proposed transfer based on an evidentiary review.

I. **OAC 3302-20-03 – Employment of non-licensed individuals with certain criminal convictions –** Ohio State Board of Education (effective Nov. 10, 2025)

The state board of education adopted changes to this rule at the May 2025 state board of education meeting. No substantive changes were made.

J. **OAC 3302-83-23 – Employment of school bus and van drivers with certain criminal convictions –** Ohio State Board of Education (effective Nov. 10, 2025)

The state board of education adopted changes[11] to this rule at the May 2025 state board of education meeting. Changes include updating the list of "non-rehabilitative offenses" to remove from the category of violent offenses 2903.09 (vehicular manslaughter and assault). (Note: R.C. 2903.09, while referred to as vehicular manslaughter and assault in the rule, is actually titled "unlawful termination of another's pregnancy.")

The changes also update the descriptions used for 2903.06 (change description to "aggravated vehicular homicide – vehicular homicide – vehicular manslaughter") and 2903.08 (change description to "aggravated vehicular assault; vehicular assault) to align with those used in the Ohio Revised Code.

The offense of strangulation (R.C. 2903.18) is added to the list of non-rehabilitative violent offenses. Paragraph E (addresses sealed convictions) adds language indicating the provisions are applicable to sealed records "to the extent permitted under division (N)(2) of section 2953.24 of the Revised Code.

Other changes to the rule reduce regulatory restrictions (e.g. changing "shall" to "is to") and change references to "school transportation" to "pupil transportation."

K. **OAC 3302-24-01, -04, -11, -19, -23, -24 –Educator licenses –** Ohio State Board of Education (draft proposed changes, March 2025)

The state board of education is amending these educator licensure rules.

OAC 3302-24-01 (Glossary/definitions) changes correct administrative code references.

3302-24-04 (Teacher residency) changes remove requirements for a performance-based assessment in accordance with H.B. 96 changes.

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11 See https://public.education.ohio.gov/StateBoardBooks/2025%20-%20Board%20Books/May%202025/Voting%20Items/Item%2006%20-%20OAC%203302-83-23-Employment%20of%20School%20Bus%20and%20Van%20Drivers%20With%20Certain%20Criminal%20Convictions%20-Rule.pdf.

3302-24-11 (Alternative principal license) revisions add a reference to school psychologist licenses, as they are now issued by the board of psychology.

3302-24-19 (Alternative resident educator licenses for teaching in grades kindergarten to twelve) changes the title to "pre-kindergarten to twelve." Another changes specifies that satisfaction of the teaching of reading or teaching of phonics coursework requirements in the rule may be obtained through an approved program or an alternative preparation program, as defined under rule 3302-24-01.

3302-24-23 (Resident educator license renewal and extension) and 3302-24-24 (Alternative resident educator license renewal and extension) changes update citations to the administrative code and reflect that the resident educator program is now two years.

L. **OAC 3302-24-18 – Resident educator license –** Ohio State Board of Education (filed with JCARR Dec. 9, 2025)

The state board of education is amending this rule pertaining to the dual licensed intervention specialist resident educator license.[12] For all grade bands, the areas such licenses are issued in is amended to include intensive needs, in addition to mild/moderate needs, and to add a primary area valid for teaching mild/moderate/intensive needs in grades prekindergarten through five. "These changes ensure dual licensed intervention specialists can obtain licensure for the full range of students with disabilities and grade levels to which they are assigned."

M. **OAC 3302-24-19 – Alternative resident educator license for teaching in grades kindergarten to twelve –** Ohio State Board of Education (open for comment Jan. 2026)

For a professional educator license to be issued to the holder of an alternative resident educator license, permits coursework requirements in the teaching of reading or teaching of phonics to be obtained through an approved program or an alternative preparation program.[13]

N. **OAC 3301-51-11 – Preschool children eligible for special education –** Ohio Department of Education and Workforce (proposed Jan. 2026)

Proposed changes to this rule update references to either the Ohio Department of Education & Workforce or the Ohio Department of Children and Youth due to House Bill 33 of the 135th General Assembly; update referenced rule numbers; and update standards and responsibilities for educational agencies in the provisions of special education and related services to preschool children with disabilities.[14]

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12 See https://public.education.ohio.gov/StateBoardBooks/2026%20-%20Board%20Books/January%202026/Jan%202026%20-%20Ch.%20119%20-%20Public%20Hearing%20Exhibits.pdf.

13 See https://dam.assets.ohio.gov/image/upload/sboe.ohio.gov/Public-Comment-Rules/3302-24-01_and_3302-24-19_Draft_01.06.26.pdf.

14 See https://education.ohio.gov/getattachment/About/Ohio-Administrative-Code-OAC-Rule-Comments/3301-51-11-Rule-1.pdf.aspx?lang=en-US.

O. **OAC 3307:1-13-01, -02, and -03 – STRS reemployment rules** – School Employees Retirement System (original filing Feb. 19, 2026)

The State Teachers Retirement is amending its rules addressing reemployment restrictions for retirees. Changes to OAC 3307:1-13-01 clarify that forfeiture applies to an STRS retirant who has received a disability retirement allowance for less than two months (in addition to a retirant who has received a service retirement allowance.

OAC 3301:1-13-01 changes remove unnecessary language (references to wages) and add clarifying leading language to paragraphs B ("procedures when the member has multiple active positions in this system and no active positions in an other retirement system") and C ("procedures when the member has at least one active position in this system and at least one active position in an other retirement system").

OAC 3307:1-13-03 (reemployment subject to R.C. 3307.353): Revises paragraph (B)(1) to state that an employer must certify it has given public notice in compliance with the requirements of R.C. 3307.353. The text "not less than sixty days before employment as a reemployed superannuate is to begin that the individual is or will be retired and is seeking employment with the employer."

P. **OAC 4501-1-01 to -17, 4501-25, 4501-52-01 to -03, -05, -06 – Pupil transportation rules** – Ohio Department of Public Safety (filed with JCARR Sept. 25, 2025; effective Jan. 1, 2026)

The Ohio Department of Public Safety amended its rules concerning transportation of pupils, transporting preschool children, and bus inspections as part of its five-year review.[15]

4501-1-01 changes the definition of "license" to include the license issued to each person who engages in training for the transportation of pupils, in addition to each person who engages in the transportation of pupils. A conforming change is made to 4501-1-03.

4501-1-04 updates materials incorporated by reference (the forms available at https://statepatrol.ohio.gov/services/vehicle-inspections/school-bus-inspections.)

4501-1-05 and -08 changes update a citation to a 3301-83-23 (changing to 3302-83-23). Other changes (including to 4501-1-15) update references to the Ohio Department of Education and Workforce. Changes are not being made to 4501-1-02, -06, -07, -09 to -14, -16, and -17. No changes are being proposed for 4501-25-01 to 25-08 or 4501-52-01 to -06.

Q. **OAC 3301-18-01 – Calculating student attendance rate** – Ohio Department of Education and Workforce (effective May 18, 2025; additional revision filed with JCARR Jan. 21, 2026 that goes into effect March 30, 2026)

DEW is updating this rule that sets forth calculation of the student attendance rate. Updates to attendance hours add cocurricular activities. The rule clarifies that

[15] See https://www.registerofohio.state.oh.us/servlet/RooBusinessPDF?ruleActionId=685875&docTypeId=14.

pupils absent for reasons other than those listed as attendance hours are not counted as in attendance. For excused absence hours (the number of hours the student was absent for excused reasons, adds language stating this does not include absences pursuant to R.C. 3320.04 (religious expression days). As refiled, language was added to (G)(1) to clarify that filed trips (including extracurricular and cocurricular activities) that occur during the school day counts as attendance hours.[16]

Update: DEW posted an additional proposed revision to this rule to remove the word "truancy" from the definition of unexcused absence hours.[17]

R. **OAC 3301-35 – Operating standards for kindergarten through twelfth grade** – Ohio Department of Education and Workforce (proposed Nov. 2025)

DEW is amending Chapter 3301-35 of the Ohio Administrative Code as part of the five-year review and to align the rules with current law.

For 3301-35-04 (student and other stakeholder focus), language is added requiring school districts to maintain in an accessible manner student records from community schools and chartered nonpublic schools that have closed and respond in a reasonable period of time to requests from former students for official copies of transcripts.

For 3301-35-06 (educational programs and support), reference to phonics is replaced with language requiring instruction to align with the science of reading requirements specified in R.C. 3313.6028.

3301-35-07 (data-driven improvement), a reference to five-year projections is replaced with "current budget information and three-year" projection of revenue and expenditures.

3301-35-09 (chartered nonpublic schools) changes clarify curriculum requirements that do not apply to these schools.

For 3301-35-15 (standards for the implementation of PBIS and the use of restraint and seclusion), language is added to ensure authority to issue corrective action. The definitions of "positive behavior intervention and supports leadership team" and "timeout" are removed. For the PBIS framework, language is added specifying schools shall implement PBIS "as part of an integrated multi-tiered system of supports." For data-based decision making, the reference to a "framework" is replaced with data-based decision making "through implementation of a proactive, systematic process of collecting, analyzing, and using forms of data such as screening, progress monitoring, and other methods to inform student needs and allocate resources at the individual, classroom, building, and system levels."

The section on standards for a school district's implementation of "an integrated multi-tiered system of supports" is revised extensively, and includes paragraphs on "shared leadership", "professional capacity", and "communication and

[16] See https://www.registerofohio.state.oh.us/pdfs/3301/0/18/3301-18-01_PH_RF_A_RU_20250402_1348.pdf.

[17] See https://education.ohio.gov/getattachment/About/Ohio-Administrative-Code-OAC-Rule-Comments/3301-18-01-Draft-Rule.pdf.aspx?lang=en-US.

collaboration." The paragraph concerning professional development is removed. (R.C. 3319.237 addresses professional development for PBIS.)

For restraint and seclusion, the following change is made for multiple incidents of restraint and seclusion: "After the third ~~incident~~ use of physical restraint and seclusion and after every fifth subsequent use of physical restraint or seclusion in a school year of a student who has been found eligible for special education services or has a 504 plan, the requirements are as follows…" Paragraphs on monitoring and reporting are removed.

For the complaint process, language is added that DEW may issue corrective action to a school district for any findings of violations of the rule, and failure to complete the corrective action plan may impact the school district's funding.

For 3301-35-16 (online learning), language is added to the requirement that each district that operates an online learning school must comply with R.C. 3302.42 by adopting policies and procedures that "aligns to the national standards for quality online learning developed under a project led by a partnership between quality matters, the virtual learning leadership alliance, and the digital learning collaborative, or any successor organization."

Changes to 3301-35-01 (purpose and definitions) are limited to updating references to DEW. References to DEW are updated throughout the other rules.

No changes are being proposed for 3301-35-02 (governance, leadership, and strategic planning), -03 (blended learning), or -05 (faculty and staff focus). OAC 3301-35-08 (non-chartered nonpublic school) will be rescinded as the language is already codified in the statute.

S. **OAC 3301-13-02: Administering state tests at the designated grades –** Ohio Department of Education and Workforce (filed with JCARR Oct. 30, 2025; effective Jan. 15, 2026)

DEW is amending this rule in light of recent legislative changes to R.C. 3319.22 to ensure that school psychologists licensed under R.C. Chapter 4732 can continue to serve as administrators for state tests.[18]

T. **OAC 3301-44 and 45 – Adult diploma pilot program –** Ohio Department of Education and Workforce (proposed Jan. 2026)

Amendments to the rule support the Competency-Based Educational Program, created by H.B. 96. The existing Adult Diploma Pilot Program was eliminated. The competency-based program begins in July 1, 2026, and combines the twenty-two plus and the adult diploma pilot programs into a single program. Current OAC Chapter 44 will be rescinded and replaced with the new rules.[19] DEW is also

[18] See https://education.ohio.gov/getattachment/About/Ohio-Administrative-Code-OAC-Rule-Comments/3301-13-02-Rule-Draft.pdf.aspx?lang=en-US.

[19] See https://education.ohio.gov/getattachment/About/Ohio-Administrative-Code-OAC-Rule-Comments/DRAFT-BIA-Chapter-44.pdf.aspx?lang=en-US.

prosing to rescind all the rules in OAC 3301-45 (the Twenty-Two Plus Adult Diploma Program) as H.B. 96 eliminated the program.

U. **OAC 3301-8-01 – Payment of debt charges under the state credit enhancement program –** Ohio Department of Education and Workforce (proposed Jan. 2026)

DEW is amending this rule. The changes included adding a definition for the term "financial forecast" (has the same meaning as in rule 3301-92-04) and changing references to the five-year forecast to "financial forecast."[20]

V. **OAC 3301-92 – Distribution of state aid (financial forecast changes) –** Ohio Department of Education and Workforce (proposed Jan. 2026)

DEW is amending 3301-92-02, -04, and -05. The changes to 3301-92-04 include updates to reflect the financial forecast changes enacted in H.B. 96. Definitions for "current budget information," "financial forecast," "appropriations," and "updated financial forecast" are added. The definition of five-year forecast is changed to three-year forecast.[21]

Submission deadlines reference R.C. 5705.391 and provide that a board may approve and submit its financial forecast or updated financial forecast to DEW up to thirty days in advance of the applicable due date (rather than 60 days). The changes also set forth submission requirements, including requirements for current budget information and three-year projections.

Changes to 3301-92-02 (capital improvement and maintenance fund) are non-substantive. OAC 3301-92-05 (certification of adequate revenue) changes update references to the financial forecast, remove references to replacement levies, update references to state reimbursement for property tax credits (formerly referred to as property tax allocation), and changes update references to DEW.[22]

W. **OAC 3301-19 – School district expenditure flow reports –** Ohio Department of Education and Workforce (proposed Jan. 2026; filed March 31, 2026)

DEW is amending this rule. The changes are limited to updating references to the state board of education and the state superintendent to DEW and the director of DEW.

X. **OAC 3301-39-01, -03, and -04 – Approval of nonpublic schools –** Ohio Department of Education and Workforce (effective Feb. 8, 2026)

DEW updated these rules that establish the procedures and requirements related to the issuance of a charter for a nonpublic school. The changes include extending the application time frame, extending the time to delay completion of the steps to obtain a charter from one year to twenty-four months, and updating references to the

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[20] See https://education.ohio.gov/getattachment/About/Ohio-Administrative-Code-OAC-Rule-Comments/Rule-3301-8-01-DRAFT.pdf.aspx?lang=en-US.

[21] https://education.ohio.gov/getattachment/About/Ohio-Administrative-Code-OAC-Rule-Comments/Rule-3301-92-04-DRAFT.pdf.aspx?lang=en-US.

[22] See https://education.ohio.gov/getattachment/About/Ohio-Administrative-Code-OAC-Rule-Comments/Rule-3301-92-05-DRAFT.pdf.aspx?lang=en-US.

department of education and workforce. The rule also modifies site visit requirements.

Y. **OAC 3333-1-14 – Ohio Computer Science Promise Program (new rule) –** Ohio Department of Higher Education (filed Feb. 4, 2026)

The Ohio Computer Science Program (R.C. Chapter 3322) permits students in grades 7-12 to enroll in and receive high school credit for one computer science course per academic year that is not offered by the student's public or nonpublic secondary school. R.C. 3322.20 requires the chancellor of higher education to adopt rules governing the program.

The draft rules state that public and nonpublic secondary schools, ESCs, nonprofit and for-profit organizations, and institutions of higher education may apply to be course providers for the program. DEW will release a request for information to allow entities to apply. DEW will also maintain a list of approved courses posted on its website.

Public secondary schools and participating nonpublic schools are required to offer high school credit to students participating in the program. If there is a dispute concerning the award of credit, participants should first alert the governing entity they are going to appeal, and the parties should attempt to reach a consensus. If consensus cannot be reached, complaints can be filed with DEW. DEW's decision is final.[23]

Z. **OAC 4167-4-01 – PERRP Notice to Employees –** Public Employer Risk Reduction Program (effective Nov. 1, 2025)

An amendment to this rule permits public employers to post notices informing public employees of the protections and obligations provided under the act on the internet, instead of or in addition to a physical posting. If posted on the internet, it must be accessible to the public employer's employees.

AA. **OAC 5160-35-01, -02, -05, -06, and -07 – Medicaid School Program –** Ohio Department of Medicaid (effective Jan. 1, 2026)

The Ohio Department of Medicaid updated its rules for the Medicaid School Program. Changes to rule -05 include additional acceptable documentation of medical need. In addition to an Individualized Education Plan (IEP), 504 plans or a school services plan of care documenting medical necessity can be used. Additions are made to nursing services that can be provided (renamed physical health services) to include chronic disease management and behavioral health services. The list of qualified practitioners is expanded to include clinical nurse specialists, nurse practitioners, physician assistants, and others.

New rule -07 sets forth services that can be provided by medicaid school program (MSP) providers to eligible children enrolled in Medicaid without a plan of care. See https://www.registerofohio.state.oh.us/rules/search to review the rules.

[23] See https://www.registerofohio.state.oh.us/pdfs/3333/0/1/3333-1-14_PH_OF_N_RU_20260204_1057.pdf.

BB. **OAC 5180-37 to 5180:2-20 – School-based preschool program rules** – Ohio Department of Children and Youth (filed with CSI March 12, 2026)

The Ohio Department of Children and Youth (DCY) is updating its rules for school-based preschool programs. As part of the five-year review, DCY is renumbering the rules for organizational reasons. Current 5180-37-01, -02, -03, and 5180-37-05 to -12 are being rescinded and readopted as 5180:2-20-01, -02, -03 and 5180:2-20-05 to -02. The rules are being put into a question-and-answer format. Other changes include:

Changes to 5180:2-20-01 ("Definitions") include new and revised definitions. No substantive changes are being made to 5180:2-20-03 ("Program"). Rule 5180:2-20-05 ("Facility") clarifies a program must have a working phone and a backup form of communication while in session, and that programs must provide sun protection for children. Rule 5180:2-20-06 ("Equipment and supplies") clarifies equipment and supplies requirements, such as first-aid kid requirements and safe infant sleep. Prohibits general-use trampolines, but personal-sized therapy trampolines may be used under direct supervision.

5180:2-20-02 ("Compliance and investigation") – Adds a list of "moderate risk" non-compliance findings (such as missing background checks, group size and ratio violations) that are worth three points each. Serious risk non-compliance items are worth six points each. Annual accumulated points may result in DCY license or step up to quality actions. The meaning of "serious incident" is also clarified.

5180:2-20-07 ("Policies and procedures") adds a requirement to adopt and follow an emergency preparedness plan and response (EPRP) and to ensure all preschool staff have initial training and annual reviews of the EPRP. Safety plans adopted and filed in accordance with R.C. 5502.262 meet this requirement.

Changes to 5180:2-20-08 ("Child information") removes the child medical examination/physician statement requirement, clarifies attendance documentation, and amends the process for child incident/injury reporting. 5180:2-20-09 ("School food services") adds that meals must contain food from each of the five food groups.

5180:2-20-10 ("Child guidance") changes require that when a report of child abuse is made, the program must notify DCY in the Ohio statewide licensing system as a serious incident. The changes also clarify that behavior management plans are to be consistent with a child's individualized family service plan (the plan for providing early intervention services), IEP, or 504 plan, if applicable. Expulsions for behavioral reasons must be reported to DCY.

5180:2-20-11 ("Management of communicable disease" requires the communicable disease chart (form DCY 08087) to be posted. No substantive changes are being made to 5180:2-20-12 ("Diapering").

See https://dam.assets.ohio.gov/image/upload/childrenandyouth.ohio.gov/For%20Partners/Rules%20and%20Resources/2026/TL_77.pdf for more information.

A Monitoring and Compliance Field Guide is also available at https://dam.assets.ohio.gov/image/upload/childrenandyouth.ohio.gov/For%20Partners/Rules%20and%20Resources/2026/Early_Care_Education_School-Based_Preschool_Field_Guide.pdf.

CC. **OAC 5180-32 to 5180:2-19 – School-based school-age child care programs –** Ohio Department of Children and Youth (filed with CSI March 12, 2026)

The Ohio Department of Children and Youth (DCY) is updating its rules for school-based school-age child care programs. As part of the five-year review, DCY is renumbering the rules for organizational reasons. Current 5180-32-01 and 5180-32-04 to -11 are being rescinded and readopted as 5180:2-19-01 and 5180:2-19-03 to -10. The rules are being put into a question-and-answer format. Other changes include:

Changes to 5180:2-19-01 include new and revised definitions.

Changes to 5180:2-19-03 ("Indoor and outdoor health and safety") (renumbered from 5180-32-04) includes clarifications to play spaces, swimming pools, off-site play areas, and others. Programs must have a backup form of communication.

5180:2-19-04 ("Curriculum") (renumbered from 5180-32-05) renames personal discipline to child guidance. 5180:2-19-05 ("Child information") (renumbered from 5180-32-06) clarifies enrollment form documents, attendance records, medication administration documentation requirements, and reporting incidents/injuries.

5180:2-19-06 ("Snack and meal requirements") (renumbered from 5180-32-07) adds that meals must contain food from each of the five food groups, and snacks must contain food from two basic food groups. Milk must be offered based on parental preference. Water bottles must labeled with a child's name. Removes requirement that personnel involved in food preparation must be trained in sanitary procedures as this training is not regulated by DCY.

5180:2-19-07 ("Management of communicable disease") (renumbered from 5180-32-08) requires the communicable disease chart (form DCY 08087) to be posted, and requires a staff member to observe children for communicable disease or illness as they enter.

5180:2-19-08 ("Child guidance") (renumbered from 5180-32-09) clarifies that prone restraint is prohibited, prohibits placing a child alone in locked room or otherwise confining a child in an enclosed area, requires expulsions for behavioral reasons to be reported as a serious incident, and requires child abuse reports to be submitted in the Ohio statewide licensing system within 24 hours.

5180:2-19-09 ("Policies and procedures, recordkeeping, and administration") (renumbered form 5180-32-10) defines supervision and clarifies the requirements for written supervision plans. Require programs to adopt and follow an emergency preparedness plan and response (EPRP), to ensure all staff have initial training and annual reviews of the EPRP. Safety plans adopted and filed in accordance with R.C. 5502.262 meet this requirement.

5180:2-19-10 ("Licensure and monitoring") (renumbered from 5180-32-11) clarifies that) adds a list of "moderate risk" non-compliance findings (such as missing background checks, ratio violations, meals and snacks do not meet requirements) that are worth three points each. Serious risk non-compliance items are worth six points each. Annual accumulated points may result in DCY license or step up to quality actions. The meaning of "serious incident" is also clarified.

See https://dam.assets.ohio.gov/image/upload/childrenandyouth.ohio.gov/For%20Partners/Rules%20and%20Resources/2026/TL_78.pdf for more information.

A Monitoring and Compliance Field Guide is also available at https://dam.assets.ohio.gov/image/upload/childrenandyouth.ohio.gov/For%20Partners/Rules%20and%20Resources/2026/Early_Care_Education_School-Based_School-Age_Field_Guide.pdf.

DD. **OAC 5180:3-13-90 – Information to be provided to children, caregivers, school districts and juvenile courts –** Ohio Department of Children and Youth (filed with JCARR Oct. 17, 2025; effective Jan. 1, 2026)

DCY amended this rule (renumbered from 5180:2-42-90) to incorporate changes needed to comply with H.B. 315 (135th General Assembly).[24] The rule sets forth information to be shared with a board of education when a child is placed in a residential facility where the child will be attending a new school district. Information necessary to support the child's education is to be provided to the foster care liaison verbally upon enrolling the child, and form DCY 01442 "Educational Information for Children Placed in Residential Facilities" must be provided to the district's foster care liaison no later than five days after the child's enrollment in the new school district.

EE. **OAC 1301:7-7 – Ohio Fire Code –** Division of State Fire Marshal (effective Nov. 20, 2025)

The State Fire Marshall is amending the Ohio Fire Code to update the code to the 2021 version of the International Fire Code. A change to 1301:7-7-04 extends "tornado season" to include the month of March. Currently, tornado season is from the first day of April to the last day of July. This change will require an additional tornado drill for schools, except if a school participates in a statewide tornado drill conducted in March by the Ohio emergency management agency, then no additional drill is required. See https://com.ohio.gov/divisions-and-programs/state-fire-marshal/code-enforcement/ohio-fire-code/2025-proposed-ohio-fire-code-update for additional information.

[24] https://www.registerofohio.state.oh.us/pdfs/5180/3/13/5180$3-13-90_PH_OF_N_RU_20251017_1556.pdf.

IX. Reductions in Force

RC 3319.17 Teacher Reduction in Force

Reasons

"(B) When, for any of the following reasons that apply to any city, exempted village, local, or joint vocational school district or any educational service center, the board decides that it will be necessary to reduce the number of teachers it employs, it may make a reasonable reduction:

(1) In the case of any district or service center, return to duty of regular teachers after leaves of absence including suspension of schools, territorial changes affecting the district or center, or financial reasons;

(2) In the case of any city, exempted village, local, or joint vocational school district, decreased enrollment of pupils in the district;

(3) In the case of any governing board of a service center providing any particular service directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total number of pupils the governing board is required to provide with the service under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts;

(4) In the case of any governing board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts."

Process

"(C) In making any such reduction, any city, exempted village, local, or joint vocational school board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall, within each teaching field affected, give preference to teachers on continuing contracts. The board shall not give preference to any teacher based on seniority, except when making a decision between teachers who have comparable evaluations."

Partial Reduction in Force

"(C)…On a case-by-case basis, in lieu of suspending a contract in whole, a board may suspend a contract in part, so that an individual is required to work a percentage of the time the employee otherwise is required to work under the contract and receives a commensurate percentage of the full compensation the employee otherwise would receive under the contract."

Right of Restoration Following Reduction in Force

"(C)…The teachers whose continuing contracts are suspended by any board pursuant to this section shall have the right of restoration to continuing service status by that board if and when teaching positions become vacant or are created for which any of such teachers are or become qualified.

No teacher whose continuing contract has been suspended pursuant to this section shall lose that right of restoration to continuing service status by reason of having declined recall to a position that is less than full-time or, if the teacher was not employed full-time just prior to suspension of the teacher's continuing contract, to a position requiring a lesser percentage of full-time employment than the position the teacher last held while employed in the district or service center.

Seniority shall not be the basis for rehiring a teacher, except when making a decision between teachers who have comparable evaluations."

RC 3319.172 Non-Teaching Employees Reduction in Force

"The board of education of each school district wherein the provisions of Chapter 124. of the Revised Code do not apply and the governing board of each educational service center may adopt a resolution ordering reasonable reductions in the number of nonteaching employees for any of the reasons for which the board of education or governing board may make reductions in teaching employees, as set forth in division (B) of section 3319.17 of the Revised Code."

Process

"In making any reduction under this section, the board of education or governing board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of the district or service center who shall, within each pay classification affected, give preference first to employees under continuing contracts and then to employees on the basis of seniority."

Partial Reduction in Force

"On a case-by-case basis, in lieu of suspending a contract in whole, a board may suspend a contract in part, so that an individual is required to work a percentage of the time the employee otherwise is required to work under the contract and receives a commensurate percentage of the full compensation the employee otherwise would receive under the contract."

Right of Restoration Following Reduction in Force

"Any nonteaching employee whose continuing contract is suspended under this section shall have the right of restoration to continuing service status by the board of education or governing board that suspended that contract in order of seniority of service in the district or service center, if and when a nonteaching position for which the employee is qualified becomes vacant or is created.

No nonteaching employee whose continuing contract has been suspended under this section shall lose that right of restoration to continuing service status by reason of having declined recall to a position requiring fewer regularly scheduled hours of work than required by the position the employee last held while employed in the district or service center."

Reminder: Civil Service School Districts are governed by the lay off processes contained in ORC 124.321 to 124.327 and local civil service rules.

RC 3319.171 Administrator Reduction in Force:

"(A)…the board of education of a city, local, exempted village, or joint vocational school district or the governing board of an educational service center may adopt an administrative personnel suspension policy governing the suspension of any contract of employment entered into by a board under section 3319.02 of the Revised Code.

If a board adopts a policy under this section, no contract entered into by a board under section 3319.02 of the Revised Code may be suspended except pursuant to the policy.
If a board does not adopt such a policy, no such contract may be suspended by a board except pursuant to section 3319.17 of the Revised Code.

(B) The administrative personnel suspension policy shall include, but not be limited to, all of the following:

> *(1) One or more reasons that a board may consider for suspending any contract of employment entered into under section 3319.02 of the Revised Code. A reason for such suspension may include the financial conditions of the school district or educational service center.*
>
> *(2) Procedures for determining the order of suspension of contracts within the employment service areas affected;*
>
> *(3) Provisions requiring a right of restoration for employees whose contracts of employment are suspended under the policy if and when any positions become vacant or are created for which any of them are or become qualified.*

(C) The policy procedures and provisions adopted under divisions (B)(2) and (3) of this section shall be developed by the board of a district or service center with input from the superintendent and all assistant superintendents, principals, assistant principals, and other administrators employed by that board under section 3319.02 of the Revised Code."

Reminder: The administrator's continuing contract status continues under RC 3319.02(C).

UNIFORM PLANS OF REDUCTION

The Statutory Bases for Uniform Plans of Reduction

RC 3319.12 Annual notice of salary to be paid teacher - transfer to other positions.

"Each board of education shall cause notice to be given annually not later than the first day of July to each teacher who holds a contract valid for the succeeding school year, as to the salary to be paid such teacher during such year. Such salary shall not be lower than the salary paid during the preceding school year unless such reduction is a part of a uniform plan affecting the entire district. This section does not prevent increases of salary after the board's annual notice has been given…."

RC 3319.082 Annual notice of salary to nonteaching school employees.

"In all school districts wherein the provisions of Chapter 124. of the Revised Code do not apply, each board of education shall cause notice to be given annually not later than the first day of July to each nonteaching school employee, who holds a contract valid for the succeeding school year, as to the salary to be paid such school employee during such year. Such salary shall not be lower than the salary paid during the preceding school year unless such reduction is a part of a uniform plan affecting the nonteaching employees of the entire district. This section does not prevent increases of salary after the board's annual notice has been given…”

RC 3319.02 Assistant superintendents and other administrators.

“…The salaries and compensation prescribed by such contracts shall not be reduced by a board unless such reduction is a part of a uniform plan affecting the entire district or center…”

RC 3319.01 Employment of Superintendent.

“…At the time of making such appointment or designation of term, such board shall fix the compensation of the superintendent, which may be increased or decreased during such term, provided such decrease is a part of a uniform plan affecting salaries of all employees of the district, and shall execute a written contract of employment with such superintendent….”

RC 3313.24 Compensation of treasurer.

“(B) The compensation of the treasurer may be increased or decreased during the treasurer's term of office, provided any decrease is a part of a uniform plan affecting salaries of all employees of the district.”

<u>Procedures for a Uniform Plan of Reduction</u>

1. Establish the legal and financial bases for a uniform reduction in salary

2. Consider the District’s Bargaining Obligations

- *Reminder: wages are a mandatory subject of bargaining under R.C. 4117.*

3. Provide Formal Notice to the Union and Bargain Where Appropriate

4. Take Board Action to Adopt a Uniform Reduction Resolution

The foregoing is a summary of legal developments, and this document and the accompanying presentation are not intended to offer legal advice. Please be sure to consult the full text of legislation and cases. Also, please be sure to consult competent legal counsel for specific legal issues.

X. Confidentiality of Economic Development Project Information

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Economic Development Project Information Now Confidential: New Risks for Public Officials & Employees

Ohio Revised Code (R.C.) Section 9.66 is well-known to economic development practitioners as the oft-cited state law provision requiring disclosure in economic development assistance applications of any outstanding liabilities owed to Ohio governments; this statute also addresses the issue of using false statements in such assistance applications.[1]

But with a little-noticed change[2] in this statute, which took effect March 20, 2026, we foresee significant impact in how Ohio's economic developers handle project information. Namely, new subsection (D) renders a broad array of economic development-related project information as confidential: "any" information submitted to political subdivisions (i.e., counties, municipalities, and townships), port authorities, or tax incentive review councils (TIRCs) related to economic development assistance[3] is confidential and not a public record under Ohio's Public Records Act.[4]

In practice, new R.C. Section 9.66(D) requires a wide array of information to be kept confidential. Such information now treated as confidential – and requiring careful handling by economic developers – includes applications for economic development assistance, project financial data, identities of project companies, draft agreements, project details such as maps and real property information as compiled by developers, CRA compliance data, draft TIF instruments, and Community Development Block Grant (CDBG) subrecipient progress reports, among others. This new law says such information is non-public until it is statutorily mandated to be disclosed (such as a board approval of a cooperative agreement detailing financial assistance).

Critically, new R.C. Section 9.66(D) places public officials and employees in legal peril when processing applications for economic development incentives, administering agreements, and evaluating compliance. Public officials (including members of legislative authorities) and employees may be subject to liability – including criminal penalty – if they publicly disclose such information. The new statutory provision says that "under no circumstance shall the political subdivision, port authority, or tax incentive review council publicly disclose information... that is not a public record". This means public officials and employees are exposed to criminal liability under Ohio's ethics law for such disclosure of confidential information.[5] By way of illustration, a public official or employee in Ohio may now be subject to criminal liability for disclosing confidential information – by explaining to a resident or the local media outlet the contents of an economic development application.

At base, it appears this provision was designed to expand the exemption from Ohio's Public Records Law[6] of financial and proprietary information such as that permitted to port authorities.[7] But the unintended consequence of adding such a layer of statutory confidentiality exposes Ohio's public officials and employees to criminal liability in the handling and discussion of economic development incentives applications and agreements.

With R.C. Section 9.66(D) now effective in Ohio, counties, municipalities, townships, port authorities, and tax incentive review councils will need to take extra precautions to safeguard against their unauthorized disclosure of economic development project-related information. To that end, Ohio's public sector economic development practitioners should strongly consider requiring all current and prospective incentives applicants to disclaim and indemnify against the potential liability created by the new law.

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[1] R.C. Section 9.66(A)(1) defines "economic development assistance"; R.C. Section 2921.13(A)(4) sets forth the crime of falsification, a misdemeanor of the first degree, for providing a false statement in an application for such assistance.

[2] The Ohio Constitution requires that the General Assembly only enact bills that pertain to a single-subject – so that legislation watchers generally know what's in those bills and don't miss "unnatural combinations of provisions in a single bill" (Community Hospitals and Wellness Centers v. State, 151 N.E.3d 1113, 1126 (Ohio Ct. App. 6th Dist., Williams County 2020); and see OH CONST Art. II, § 15; further see Pim v. Nicholson, 6 Ohio St. 176 (1856)).

As to state budget (and reappropriation) bills, that requirement is ignored under the following theory: such bills encompass many kinds of items, nevertheless, they're all bound by the thread of budget appropriations.

Such was purportedly the case with Sub. H.B. 184, signed into law at the end of 2025 and which took effect on March 20, 2026. Although the bill ostensibly was introduced to address college athletes' name, image, or likeness (NIL) compensation, the final legislation was chock-full of an array of different items, such as reappropriations of the state's One-Time Strategic Community Investment grant allocations.

[3] R.C. Section 9.66(A)(1) defines "economic development assistance" as all of the following:

> "(a) The programs and assistance provided or administered by the department of development under Chapters 122. and 166. of the Revised Code and any other section of the Revised Code under which the department provides or administers economic development assistance;
>
> (b) The programs and assistance provided or administered by a political subdivision under Chapters 725. and 1728. and sections 3735.67 to 3735.70 [Community Reinvestment Area (CRA)], 5709.40 to 5709.43 [municipal tax increment financing (TIF)], 5709.61 to 5709.69 [Enterprise Zone], 5709.73 to 5709.75 [township TIF], and 5709.77 to 5709.81 [county TIF] of the Revised Code and any other section of the Revised Code under which a political subdivision provides economic development assistance;
>
> (c) Assistance provided under any other section of the Revised Code under which the state or a state agency provides or administers economic development assistance;
>
> (d) The tax credit authorized by section 5725.31, 5729.07, or 5733.42 of the Revised Code."

New subsection (D) further expands such economic development assistance to include "any grant, subgrant, exemption, credit, loan, award, [and somewhat incongruently] cooperative agreements, or other similar and related form of financial assistance[.]"

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[4] R.C. Section 149.43.

[5] See R.C. Section 102.99(B), which makes unauthorized disclosure of confidential information by public officials or employees punishable as a misdemeanor of the first degree; under R.C. 102.03(B), no current or former public official, whether elected or appointed, or employee may disclose any information acquired by the public official or employee in the course of the public official's or employee's official duties that is confidential, without appropriate authorization.

[6] R.C. Section 149.43.

[7] R.C. Section 4582.091; R.C. Section 4582.58.