

The 135th Ohio General Assembly Sends Revised Bills, HB 8 and HB 206, to Governor DeWine for Signing

By Sherri Warner

The 135th General Assembly finished yesterday with both houses enacting two pieces of legislation of primary interest to boards of education and their administrators, HB 8 and HB 206. Both pieces of legislation are on their way to the Governor for his signature after several last-minute amendments yesterday morning.

HB 8 - Parents' Bill of Rights

This bill requires districts to adopt a policy in conformance with its provisions by July 1, 2025.

The required policy must:

- Specify that parents have the fundamental right to make decisions regarding their child and that the district will not prevent access to the child's educational and health records.
- Prohibit school personnel from encouraging children to withhold information regarding their physical, emotional or mental health from their parents. Children should also not be encouraged to withhold information on services or monitoring they receive from the district, and district personnel are prohibited from discouraging parental involvement in decisions affecting a child's mental, physical or emotional well-being.
- Provide notice to parents of healthcare services offered at or by the school and notify them that they have the right to withhold consent or decline services.
- Obtain authorization from parents prior to providing healthcare services to a student and inform the parent they may choose whether to allow the district to provide the service.
- Notify parents when a healthcare service is required under state law and if there are alternative ways for the child to obtain the service. Parents must also be notified that their permission for the service does not impact their rights to access their child's educational or health records. Note that there is an exemption to this requirement for emergency situations, first aid and unanticipated minor services.
- Require that instructional materials are both age and developmentally appropriate and prohibit the use of any type of sexuality content in grades K-3. This requirement includes both school personnel and any private contractor acting on behalf of the district.
- Provide parents with the opportunity to review any materials that fall under the definition of sexuality content prior to its use in class and allow them to withdraw their child from that lesson. The child must be permitted to complete an alternative assignment.

- Permit parents to file concern with any of the above to the principal or assistant principal and require that the staff resolve the issue within 30 days. Parents may appeal the staff's decision to the district superintendent.
- The policy must be publicly available and posted in a prominent position on its publicly available website.

Districts are not required to disclose information if that disclosure would violate the HIPAA privacy rule and other privacy provisions in state and federal law. It also does not require disclosure if that disclosure violates court orders, protection or consent agreements. There are also exceptions in providing for mandatory reporting of suspected abuse or if the nondisclosure is in response to a criminal investigation.

The language specifically exempts lessons on sexually transmitted diseases, sexual abuse prevention and sexual violence prevention from the definition of sexuality content. It also exempts incidental references to sexual concepts or gender ideology occurring outside of formal instruction or when they are made during class participation or in schoolwork.

HB 8 also contains two additional pieces of legislation regarding religious release time and modifications to how districts treat anti-seizure medication. Anti-seizure medication will be treated in the same way as asthma inhalers, allowing the child to have quicker access to the medication.

Districts will be required to adopt a religious release time policy allowing children to leave school grounds during school hours for religious instruction. Children will not be allowed to leave during core curriculum courses, but districts must work with providers to determine an appropriate time for the instruction to occur. There is some flexibility provided to districts when adopting this policy, but districts will need to take care that they don't single out religious instruction release to be treated in a significantly different way than other release programs. This policy will need to be in place when the bill becomes effective, which will be sometime in late March or early April.

HB 206 - Student Expulsions

Under HB 206, superintendents will now have the authority to extend the expulsion of a student beyond 180 days for serious threats to people or property. This has been done to provide districts with the flexibility they need to handle situations where students have engaged in dangerous behavior and may not be in a position where they should be returned to the classroom.

Under this bill, superintendents must work with a multi-disciplinary team to ascertain whether the student should be expelled and what terms should be set for the student's return to school. The legislation does not require districts to readmit students, even if the conditions are met, should they believe the student still poses a threat. As a part of the evaluation process, the student must have a psychological evaluation. That evaluation must be completed by a psychiatrist, psychologist or school counselor, and any cost not covered by the student's health insurance must be covered by the district.

Districts expelling a student are required to provide a plan for the continued education of the student within 15 days of the expulsion unless the student has an IEP, in which case the plan must be in place within 10 days. There are no specific requirements that districts must include when formulating this plan.

The bill also requires written notices to the parent or guardian of the student during the process and each time the expulsion is continued. An initial expulsion can be for 180 days, and each extension may be 90 days. A district expelling a student will be required to provide certain information to the Department of Education and Workforce.

On December 18, our team of Education Law attorneys held a webinar discussing the above legislation. If you would like to view the recording of the webinar, please [click here](#). If you would like to download a copy of the webinar materials, please [click here](#).

Members of Roetzel’s education law team are available for guidance when formulating policies to comply with these bills or to discuss any questions you may have about the bills’ requirements.

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