

State Biennial Budget (HB33) Heads to Ohio Governor for Approval – Summary of Major Educational Changes

By Lisa Burleson & Aaron Ross

The long-anticipated state biennial budget (Ohio House Bill 33) is headed to the Governor for approval. The Bill contains significant changes for Ohio schools; below is a summary of those changes. Also, be on the lookout for information on Part 3 of Roetzel's "The Road to the Budget Bill" webinar on Monday, July 31, for an in-depth analysis of the final bill provisions and their impact on Ohio school districts presented by Roetzel attorneys Lisa Burleson, Sherri Warner and Susan Anderson.

Reorganization of the Ohio Department of Education

- One of the most notable changes in the state budget bill is the reshaping of the Ohio Department of Education. The Department of Education will now be divided into two separate agencies: the Ohio Department of Education and Workforce, and the State Board of Education. The State Board of Education will continue to handle educator licensure, educator disciplinary actions, and school district territory transfers. The Department of Education and Workforce ("DEW") will be divided into two divisions: the Division of Primary and Secondary Education; and the Division of Career Technical Education. Except for the list above, most powers and duties of the State Board of Education have been transferred to the Department of Education and Workforce.

School Funding

Some of the most important funding provisions contained in the state budget bill include the school funding formula, and the expansion of the EdChoice Scholarship Program. Here are the major regarding school funding:

- The current state funding formula for traditional schools will be continued, with a few changes. These changes include the formula now using data from fiscal year 2022 to calculate the base cost. Also the minimum state share percentage has increased from 5% to 10%.
- The permissible initiatives for which the disadvantaged pupil impact aid (DPIA) funds may be used has been modified and requires that the school districts spend student wellness and success funds on one or more of those initiatives. In part these initiatives include mental health services/community-based behavior health services through community liaisons, and programs that connect students to community resources through behavioral wellness coordinators.
- The eligibility of the EdChoice Scholarship Program has been broadened making the current income-based voucher program available to any child in the state. For those receiving a full scholarship, the base is estimated to be \$6,165 for students K-8 and \$8,407 for students 9-12. Scholarships will be gradually reduced for those families above 450% of the federal poverty level with the minimum scholarship amount being 10% of the base.

- The statutory base minimum teacher annual salary has been increased from \$30,000 to \$35,000. Statutory base salary steps have also been adjusted accordingly.
- Funding for a new grant program for College Credit Plus has been included. This new program will provide grants to school districts offering new College Credit Plus courses taught in secondary schools by high school teachers who have the appropriate credentials. These grants will be at least \$1,000 for each qualifying course and 25% of the grant must be used to make a payment to the teacher for teaching the new course.
- For school affiliated events where admission is charged, a school must accept cash as a method of payment. A school is required to issue a free ticket to a school affiliated event if no cash payment option is available and the individual has the appropriate amount of cash and tickets are still available. Additionally, for all school affiliated events, schools are required to have at least one concession stand that accepts cash.
- Public and chartered nonpublic schools are required to transmit student school records within five days of receiving a request from the student's new school. The school district is required to withhold a student's school records if there is \$2,500 or more of outstanding debt attributed to the student.
- A prohibition has been imposed on the creation of new academic distress commissions for the 23-24 and 24-25 school years.

General Provisions

The final version of the budget bill contains some significant provisions of general application to schools. A summary of the significant general application provisions is below:

- The process under which school districts use blizzard bags or lessons posted online for school closures ("calamity days") has been repealed. School districts are now required to adopt a plan, no later than August first of each school year, for school closures ("calamity days") to be made up through a virtual education delivery model. This model is to be used to make up a maximum of three school days. This provision will take effect during the 2023-2024 school year.
- A new exception has been added to the prohibition against a board member having a financial interest in a contract into which the school district enters when the contract is with a private institution of higher educator that employs the board member. The board member will be required to recuse themselves from voting and discussing the contract and to file an affidavit stating the member's employment status.
- For school districts utilizing an enrollment lottery for intradistrict enrollment, the lottery must be conducted on the second Monday of June in the year prior to the school year in which students seek intradistrict enrollment. School districts are now also required to report to DEW the number of students attending a school in the district that is not the school to which the student would normally be assigned to attend.
- School districts are now prohibited from denying a nonpublic school's request for personnel to provide auxiliary services who are properly licensed by a state board or agency.

Transportation

Transportation changes found in the state budget bill largely center around the transportation of students to community and nonpublic schools by public school districts. Below is a summary of the major transportation changes in the bill:

- For instances of school district non-compliance with transportation of students to nonpublic or community schools, school district transportation funds will be withheld from non-compliant school districts, instead of funds being deducted. DEW will notify school districts of non-compliance and once notified school districts will have one week to create corrective action plan and submit to DEW. For the next three occurrences of non-compliance within a school district, DEW will withhold 25% of the district's daily transportation payment for each day a district is determined to be out of compliance. On the fifth occurrence DEW will withhold 100% of the daily transportation payment for each day a district is determined to be out of compliance.
- School districts are required to provide transportation to students with disabilities who live in the district but attend a nonpublic school if transportation is provided for in the student's IEP.
- DEW is required to develop a Bus Driver Flex Career Path Model, which is a pathway for bus drivers to work simultaneously as educational aides or student monitors at school districts. The model is required to ensure that bus drivers work an eight to 10-hour shift per day with the employing school district. School districts have the option to implement this model.
- School districts are permitted to use a vehicle designated to carry nine passengers or less instead of a school bus for transporting students to community schools and chartered nonpublic schools. This designated vehicle must still meet the requirements set forth in Ohio Administrative Code pertaining to vehicles used in school transportation. This new provision allows community and chartered nonpublic schools to transport students in the same manner.
- A new pilot program will be created which will require ESCs to manage the transportation of students who attend community schools, STEM schools, and chartered nonpublic schools. The pilot program will be conducted through Franklin County and Montgomery County ESCs. The pilot program will be effective for the 2024-2025 school year.

Educator Licensure

The state budget bill contains several provisions that are intended to expand school district abilities to appropriately staff schools, through the creation of new licenses, modification of licensure grade bands, and increased flexibility of already established licensure programs and pathways. Below is a summary of the significant changes set forth in the bill:

- The State Board of Education is required to create a pre-service teacher permit for students enrolled in an educator preparation program. These individuals will be enrolled in retained applicant fingerprint database (rapback) and can use this permit for substitute teaching in schools.
- The bill establishes a permanent provision that permits a school district to hire a substitute teacher that does not hold a post-secondary degree so long as the individual passes a background check, is of good moral character, and meets the school districts own set of educational requirements. Under this permanent

provision, the State Board of Education will issue a one-year temporary substitute teaching license to applicants, and the State Board of Education will be required to establish procedures and criteria for renewal of the license.

- For resident educator, professional educator, senior professional educator, and lead professional educator teaching licenses issued after 11/2/2018, the licensure grade bands will change from current grades PreK-5, 4-9, and 7-12, to the new grade bands consisting of PreK-8 and 6-12 beginning with the 2023-2024 school year. Also effective with the 2023-2024 school year, school districts will have the authority to employ an educator who holds a resident educator, professional educator, senior professional educator, and lead professional educator teaching license to teach not more than two grade levels outside of their current grade band for not more than two school years at a time.
- The Ohio Teacher Residency Program has been updated to allow for online or in person mentoring and to provide additional resources for educators to successfully complete the program.
- The alternative resident educator program has been modified down from four years to two years and allows the license to be generally renewable.
- The State Board of Education is required to create a new computer science educator license that is specifically for industry professionals.
- That State Board of Education is required to create an alternative military educator license for eligible military individuals to receive a license on an expediated timeframe. These individuals will be permitted to substitute military training for some licensure requirements including college course work, professional development, content knowledge examinations or other licensure requirements.

Student Health and Wellness

The state budget bill provides for additional parameters related to student wellness and success funds and includes several new student health and wellness initiatives. The summary of the major provisions is below:

- School districts are required to spend 50% of their student wellness and success funds on physical or mental health-based initiatives and must develop a plan to use these funds. Any funds from fiscal year 2020 to fiscal year 2023 must be spent by the end of fiscal year 2025 or these funds will need to be repaid to DEW.
- DEW must provide reimbursements to school districts to make school breakfast/lunches free to all students eligible for a reduced price breakfast/lunch at any public or chartered nonpublic school that participates in the National School Breakfast/Lunch program.
- Any individual who is coaching an athletic activity in a public school is required to complete a student mental health training course and changes the frequency with which a coach must complete both cardiac arrest and brain trauma/injury training from annually to within the duration of the coach's prior permit. Depending on the length of the individual's pupil activity permit, this may be once every three, four, or five years.

- School districts are now required to create an individualized seizure action plan for each student with an active seizure disorder diagnosis.
- Each school district that enrolls female students in any grades 6-12 is required to provide free feminine hygiene products to those students. School districts have the option to provide free feminine hygiene products to younger students.

Reading & English Language Arts

A significant focus of the state budget bill in terms of student learning addresses student reading and the implementation of the science of reading. Below is a summary of key provisions:

- The student retention portion of the third-grade reading guarantee has been removed. A student may be promoted to 4th grade if the parent/guardian consults with the reading teacher and principal. The student must continue to receive reading intervention services and the school district must send written notification to parents of children reading below the required level detailing the connection between reading at grade level and long-term success. Additionally, it is required that intensive instruction continue for any child reading below grade level and requires schools to provide "high-dosage" tutoring through a state-approved vendor. The tutoring must include instruction at least three days a week or 50 hours over 36 weeks. School districts that retained children for the 2023-2024 school year based upon the third-grade reading assessment are required to promote those children in the Fall of 2023 unless their parent/guardian requests they be retained.
- DEW is required to compile a list of high-quality core curriculum and instructional materials in English language arts and evidence-based reading intervention programs that are aligned with the science of reading. School districts are required to begin using these programs not later than the 2024-2025 school year. School districts are also required to report in EMIS their English language arts curriculum, instructional materials, and reading intervention programs that are being used.
- The required completion date for dyslexia professional development for all teachers has been clarified in the bill. Specifically, the legislation requires that teachers hired by a school district before April 12, 2021, complete dyslexia professional development training by the beginning of the 2023-2024 school year for those providing instruction to grades K-1; by September 15, 2024, for those teachers providing instruction to grades 2-3; and by September 15, 2025, for those providing instruction to grades 4-12. Teachers hired after April 12, 2021, must complete the required training by the later of two years after the date of hire or the dates prescribed for teachers hired before April 12, 2021, (above) unless the training was already completed while employed by a different school district. Also included in the bill are additional clarifications of when a tier one dyslexia screening needs to be administered based upon the student's history and the timing of their enrollment in the school district. Specifically, screening must be completed for transfer students enrolled in kindergarten during the regular scheduled screening or within 30 days after the student's enrollment or a parent/guardian requests or grants permission for the screening. Additionally, screening must be completed for transfer students enrolled in grades 1-6 within 30 days after a student's enrollment, if so required, or a parent/guardian requests or grants permission for the screening.

Please contact any of the attorneys in Roetzel's Education Law group with questions about the legislation, including implementation of specific provisions highlighted above.

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