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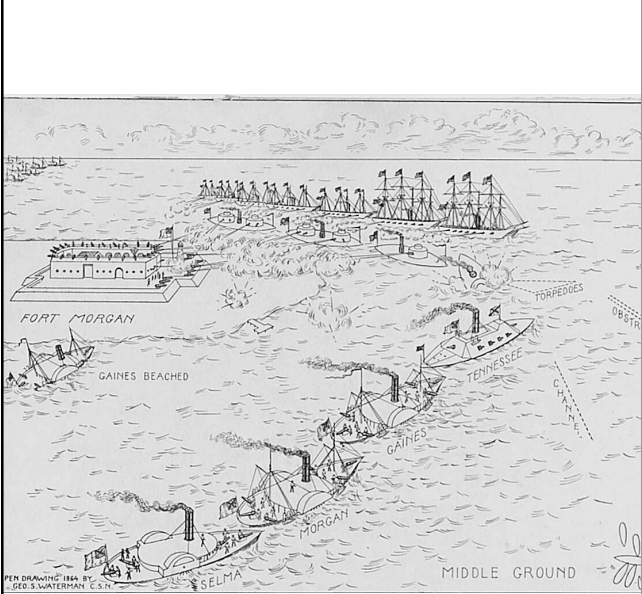
NWOESC
The Good, the Bad, and the Budget Bill:
Ohio Legal Roundup
August 5, 2025

Jeremy J. Neff
jneff@ennisbritton.com
[linkedin.com/in/jneff-esq](https://www.linkedin.com/in/jneff-esq)

 SCHOLARS IN EDUCATION LAW

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On this Day in History: The Battle of Mobile Bay August 5, 1864

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Today's Agenda

- 1) Ohio Budget Bill Takeaways
- 2) OBBBA Updates
- 3) Federal Court Case Updates
- 4) State Court Case Updates

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Ohio Budget Bill Update by Topic

1. Students and Educational Programming
2. School Personnel
3. District Policy and Operations
4. Miscellaneous Provisions
5. Major Vetos & Potential Overrides

Students and Educational Programs

- **3rd Grade Reading Assessment for SpEd Students 3313.608:** Appears to have removed language that exempted students with significant disabilities from the 3rd grade reading assessment.
- **Extracurricular Participation for Bullied Students 3313.5313:** Limits ability for students who are victims of bullying from participating in athletics to only home-educated students. Students from other public or nonpublic schools are no longer eligible.
- **Religious Instruction Release Time 3313.6022:** Students may miss between 1-2 periods of academic credit per week for religious instruction time. School policies cannot prohibit students from bringing external “educational” and program materials back to school.



Students and Educational Programs

- **Science of Reading 3313.6028:** Science of Reading curriculum will be adopted specifically for grades Pre-K to 5.
- **High Dosage Tutoring 3313.608:** May now be provided for students on RIMP during regular instructional time through a state-approved vendor or a locally approved program.

Students and Educational Programs

- **Drivers Education 3321.043:** Students will be excused absent for up to 8 hours to complete driver's education. The student shall only be absent for up to 2 hours per day for not more than 4 days to meet the maximum eight hours authorized by this section. The days may be nonconsecutive. No student may be released from a **core curriculum subject course** to attend a driver education course. Must be allowed to complete classroom assignments missed due to the absence.
- **Home-Educated Students in JROTC 3310.413:** Home-educated students may participate in JROTC at their resident district without being enrolled.

Students and Educational Programs



- **Tuancy Intervention Plans 3321.16, 3321.19, 3321.191, 3321.22:** Declares that truancy intervention plans are a thing of the past. Requires complaint to be filed if absent without legitimate excuse for 30 or more consecutive hours, 42 or more hours in a month, OR 72 hours in a year. Attendance officer *shall not* file a complaint if the school determines the student and family are making satisfactory progress in improving a student's attendance. Includes specific new requirements for truancy policies.
- **Retention and Promotion 3313.609:** Removes truancy from reason to justify retention in policy.

Students and Educational Programs



- **Ice Hockey Participation 3313.536:** Permits a school district superintendent to allow a student enrolled in another school district the opportunity to participate in ice hockey if the district of residence is within 20 miles and does not offer ice hockey, if the superintendents enter into an agreement. Student not required to enroll in the district or reside in the district in which they are participating in ice hockey.
- **Advanced Standing for Math 3313.6032:** Each district that offers advanced learning opportunities in math must offer those advanced learning opportunities to each student who achieves an advanced level of skill on any math achievement test or end-of-course exam.

Students and Educational Programs

- **Graduation Credit Policies for CTC Classes 3313.6031:** Each district that has students enrolled in courses that comply with career-tech credit transfer criteria must adopt and implement a policy for the awarding of grades and the calculation of class standing for those courses.
- **Graduation Requirement for Financial Literacy 3313.603:** Allows a board to adopt a policy that excuses a student from financial literacy if they take an equivalent class through a bank or financial institution.
- **Changes to Graduation Seals 3313.6114:** Changes will be made to seals for industry credentials (based on new criteria to be developed by ODEW) and college readiness.

Students and Educational Programs

- **Autism Scholarship 3310.41:** Expands definition of person who may apply & expands scholarship eligibility to students from age 3 to 22. Made sure that kids who still “need transition services” and are below age 22 may apply and receive the scholarship. This fixes ODEW’s earlier conclusion that students over 18 were not eligible. Clarifies that students may use scholarship to pay for services from multiple providers. Providers are not allowed to require that the student only use them. Adds licensed teachers and subs as providers of service. Allows for virtual services.
- **Jon Peterson Scholarship 3310.51:** Expands scholarship participant age from 3 to 22. Expressly permits home-educated students, nonpublic and community students to receive transition services under the scholarship. States that multiple providers may be paid at the discretion of the eligible applicant, and providers may not require exclusivity. Also allows services to be provided virtually.

Students and Educational Programs

- **Ohio RISE Enrollment of Students in Home or Facility 3313.64:** Students who do not reside in the district where their parent resides are not required to be enrolled in the child's district if:
 - 1.) the child is in a home and placed by parent upon recommendation of Ohio RISE, and
 - 2.) the home provides education meeting minimum standards
- Upon admission, home will notify parent district and district where home is located that home is providing educational services until child discharged. Parent residence district must continue to enroll and excuse child from attendance until discharge.
- Upon discharge, home will notify parent district, and home and district will develop a "supportive reentry plan" for student.



Students and Educational Programs

- **Ohio RISE Tuition for Students in Home or Facility 3313.64:**
 - District of parent residence must pay tuition to the residential treatment facility for the costs of educational services when child is placed there by their parent upon recommendation of Ohio RISE.
 - DEW must approve a per diem cost for educational service provided for each day served and certify that amount to the district and the home and deduct that amount from the district responsible for the payment of tuition from basic state aid. High school students must return to parent's residence upon release from residential treatment to complete graduation requirements that are similar to those of home-educated students.
 - Districts will continue to report these students as enrolled.



Students and Educational Programs

- **Ohio RISE Tuition for Students in Home or Facility 3313.64:**
 - If parent residence changes during child residential care, ODEW may re-determine district responsible for tuition.
 - Home will notify ODEW and school district of parent resident upon discharge and include certified transcript of coursework completed, and district must accept and award credit for that coursework in accordance with District policy.
 - If student has a scholarship and is provided services by chartered nonpublic during residential treatment, no school district is responsible for paying tuition.

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School Personnel

- **Administrator Salaries 3315.063:** Districts may spend no 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.
- **Teacher Assignments 3319.173:** Superintendent must assign teachers to positions based on **best interests of the students**. Seniority or continuing contract status may not be the primary factor in assignment.

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School Personnel

- **Child Abuse Training 3319.073:**
 - Modifies staff training for suicide prevention. No longer needs to align with ODEW curriculum, but may no longer be taken as self-study.
 - Child sex abuse training is no longer going to be provided by prosecutors or law enforcement officers. Schools must develop their own curriculum in consultation with public or private agencies or persons involved in child sexual abuse prevention or child sexual violence prevention.

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School Personnel



- **Science of Reading Training 3319.2310:** Teachers, administrators, school psychs, SLPs, shall all complete Science of Reading training every 5 years.
 - Any individual hired prior to July 1, 2025, has until June 30, 2030, to complete training.
 - Any individual hired on or after July 1, 2025, has one year from hiring to complete training.
 - Any school psych or SLP has until June 30, 2027, to complete training.
 - Teachers who already have completed training are exempt from this law. LPDC must count this toward credit to renew licensing.

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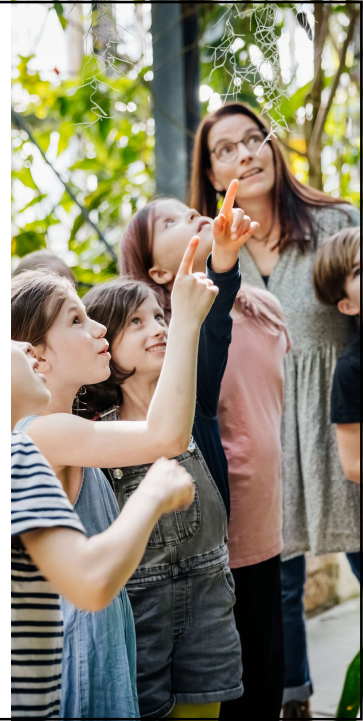


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School Personnel

- **Resident Educator Program 3319.223:** Removes state's provision of online instructional videos and online instruction for teachers who fail assessments. Also removes OTES exemption for RAs, presumably because evaluations may be used as part of the RA program assessment.

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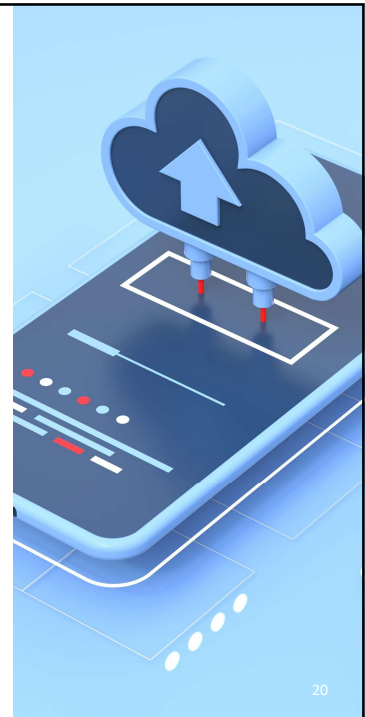


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District Policy and Operations

- **Cell Phone Policy 3313.753:** By January 1, 2026, a district must adopt a policy prohibiting cell phones by students during instructional day (with exceptions). Each public-school administrator must include in their comprehensive emergency management plan a protocol that addresses student use of cellular telephones during an active threat or emergency.
- **AI Policy 3301.24:** By July 1, 2026, the district must adopt a policy on the use of artificial intelligence.

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District Policy and Operations

- **Ransomware/Cybersecurity Incidents 9.64:** Government entities may not pay a ransomware demand unless the political subdivision's legislative authority approves it. Political subdivisions must adopt a **cybersecurity program**. Must report "cybersecurity incident" to the Exec. Director of Homeland Security (within 7 days) and Auditor of State (within 30 days).
- Records/documents/reports are exempt from public records. This includes procurement of security software, hardware, services, vendor names, etc.

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District Policy and Operations

- **Middle School Vocational Waivers 3313.90:** Beginning FY27, no waivers for a district's obligation to provide career-tech to 7th and 8th graders.
- **Diabetes Info Sheets 3313.7118:** District must provide electronic or paper copies of diabetes information sheets to parent/guardian upon enrollment in elementary school.
- **ODEW Reporting Requirement 3301.82:** Each district (including joint vocational, community, and STEM schools) must report employment and vacancy data to ODEW annually.
 - Effective 1 year after bill effective date

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District Policy and Operations

- **Interdistrict Enrollment 3313.98**

- Exempts a student whose parent is an active-duty member stationed in Ohio from any interdistrict open enrollment policy application deadline.
- Eliminates a provision permitting districts to adopt a resolution discouraging or prohibiting native students from applying to enroll in adjacent or other districts if that district is receiving federal impact aid under a repealed federal law and at least 10% of its students would have been included in the aid calculation.

District Policy and Operations

- **Treasurer Transfer of Funds Upon Termination of Employment 3313.27:**

Eliminates the provision that allows a representative of the auditor of state to count the money, bonds, or other securities produced by the departing treasurer instead of the board or a committee of the board.



- **Financial Forecasts 3313.489:** Changes **5-year forecast** to **3-year** forecast. Must be submitted to ODEW along with current budget information.
- **Online Learning 3302.42:** Districts may employ staff or contract to operate an online learning school.

District Policy and Operations

- **School Safety Grants 221.20:** \$10 million in each fiscal year allocated for school safety grants for use in SRO training, active shooter and safety training/equipment, all grade level type educational resources, training to identify and assist students with mental health issues, school supplies related to school safety plan, or any other training or supplies related to safety. Participating schools must contract with the county sheriff's office or local police to develop programs and training.



District Policy and Operations

- **Auxiliary Services Funds-** 2.6m in FY26 and in FY27
 - Funds may be used to pay for CCP for nonpublic high school students.
 - Funds may be used to provide diagnostic/therapeutic mental health services for students enrolled in chartered nonpublic anytime during fiscal year.
- **Special Education Enhancements**
 - ODEW received \$1m for each FY to “build capacity” for a regional training, support, coordination and direct service for secondary transition services for students with disabilities age 14 and over.
 - » Available regardless of partner agency eligibility requirements
 - » Stand-alone direct secondary transition services

District Policy and Operations

■ Special Education Enhancements

- Districts, ESCs, and Boards of DD with preschools that serve special education students and receive Early Childhood Education Grant Program funds or provide publicly funded child care are required to adhere to the Step Up to Quality program.

Throughout the Code, “mental health and addiction” is now being referred to as “behavioral health.”

Transportation Changes

- **Multifunction School Activity Buses**
3327.08: Boards are allowed to purchase **multifunction school activity buses** via competitive bidding.
- **Community School Transportation**
Option 3314.093: 2 or more community schools may form a consortium to provide transportation to their schools. Consortium may enter agreement with school district, may accept unilateral responsibility to provide transportation, which must comply with 3327.0. ODEW will make payments to the consortium.



Transportation Changes

- **Special Education Transportation Funding 3317.024:**
 - Increase to state share for service center transportation
 - Appropriation for special education transportation has been exceeded in past years, this budget provides \$177m in FY 26 (was \$138m in FY25).
- **Community School Transportation Option 3314.093:** 2 or more community schools may form a consortium to provide transportation to their schools. Consortium may enter agreement with school district, may accept unilateral responsibility to provide transportation, which must comply with 3327.0. ODEW will make payments to consortium.

Transportation Changes

- **Bus Purchase**
 - Was an annual calculation, then a grant program, recommended by the Governor's workgroup.
 - Grant money is being moved to general fund, emptying the account.
- **Rural Transportation Grants:** For dropout prevention and community schools with 75% of students from disadvantaged background, 3 counties, more than 12 districts. Grant is \$450K per fiscal year, must be used for transportation.

Transportation Changes

- **Transportation Workgroup**
 - This group will meet and make recommendations for 2025-26.
 - Their task? Conduct a study of and develop recommendations regarding the feasibility of school districts transporting students enrolled in NP/CS on days those schools are open but the public school is not.

Miscellaneous Provisions



- **Territory Transfer 3311.242:** State board approval is required to transfer an adjacent district property, depending on rating of the adjacent district.
- **High Performing Community School Definition 3313.413:** Definition of "high performing community school" was changed. This impacts who is eligible for the priority offer of property when the board is selling land and buildings.
- **STRS Boards 3307.05, 3307.07, 3307.10:** Changes to composition of STRS Board.
- **SERS Campaign Rules 3309.073, 3309.074:** Adds jurisdictional language for election complaints of SERS board members.

Miscellaneous Provisions

- **DEW appropriations changes, Section 265.10**
 - Decreases in FY 26-27
 - Academic standards (-106,377 from FY26 to FY27)
 - Half-mil maintenance equalization line item (-268,190 from FY26 to FY27)
 - Program and project support (-100,000)
 - School bus safety (from \$10m to \$0)- Student support and academic enrichment (decrease of about 4.5m from FY26 to FY27)
 - All other line items were flat-funded or increased.
- **Notable Increases**
 - Foundation funding- increase from FY 26 to FY 27 of 38.4m
 - Pupil Transportation- increase of 77.4m
 - Adult Education Programs- 6.3m
 - Federal funds group- ASPIRE funds, \$0 in FY26 to 18.9m in FY27

Miscellaneous provisions

- No more Ohio Elections Commission. Meet the **Election Integrity Commission** (EIC) which will be part of the Ohio Secretary of State's office (which received a \$250m appropriation for the operation of the commission.) R.C. 3517.14
- This election cycle, complaints will be made to the Ohio Elections Commission but any pending matters on Jan. 1, 2026 will move to the commission.
- All employees will be transferred to the SoS office.
- Annual report of activities of the commission will be produced each January.
- All the usual campaign and election offenses remain the same.
- Referrals for investigation/prosecution will be prosecuted or declined within a year, after which may be referred to OAG .

Miscellaneous provisions

ODEW Use of Volunteers



ODEW may use volunteers “for any of its purposes”, reimburse them for expenses, designate them as state employees for purposes of vehicle insurance and for the performance of their duties.

Flexible Funding Option

Districts (including ESCs, CTCs, STEM, Board of DD, community schools) who receive state aid to transfer a portion of their allocation to a flexible funding pool created by Family and Children First Council to support services to families and children.

Miscellaneous Provisions

- **Private Residential Treatment Facility Project:** When DYS contracts with certain private facilities named in the section will have educational costs paid to the provider (plus excess costs for special education students), but may not count the student in their ADM.



- Any district responsible shall pay tuition as outlined in the section *notwithstanding any conflicting provision of the Revised Code* unless district is providing the education.
- ODEW will track use of the funds to ensure “educational accountability.”
- There is a reimbursement from ODEW through a separate item up to an appropriation amount.

Miscellaneous Provisions

- **Private Residential Treatment Facility Project Continued:**
 - “Supplement not supplant” provision for other sources of funding for the student.
 - “Maximum flexibility” shall be given to the residential treatment facility to determine the provider. If voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall provide the educational program at the treatment center to children under twenty-two years of age residing in the treatment center.

Miscellaneous Provisions

- **Financial Literacy and Workforce Readiness Programming Initiative:** Created within ODEW for FY26 and FY27 to “prepare the next generation in financial literacy, workforce or career readiness, entrepreneurship and other relevant skills to enter and be competitive in the future economy.”
 - Funds will be distributed to Junior Achievement affiliate organizations
 - Required to collaborate with higher ed, school districts private employers, subject matter experts, community-based organizations, and “other private-public entities” to implement the initiative.
 - There is a 1.25m earmark for this program

Major Vetos and Potential Overrides

- Process
 - Must start in the chamber where the bill originated (always House for budget bills)
 - Must pass both chambers with 3/5 vote
 - Must be completed by the end of the session
 - December 31, 2026

Major Vetos and Potential Overrides

- **VETOED** Prohibition of pickup contributions to STRS on behalf of superintendents/principals employed by the school district, and to SERS on behalf of treasurers employed by the district.
- *“School boards often negotiate contracts with school district leaders based on local needs and talent competition. Prohibiting certain supplemental benefits could limit the ability of local school districts to offer competitive compensation packages to attract or retain experienced school leaders. Therefore, a veto of this item is in the public interest.”*

Major Vetos and Potential Overrides

- **VETOED** School carryover capped at 40%. County budget commissions (CBC) directed to refund taxpayers for anything above that mark.
- *“While the intention to save taxpayer dollars is understandable, this item would significantly limit the amount of funding that school districts can carry over year-to-year, resulting in more districts asking taxpayers to pass levies more often, which could very well exacerbate property tax increases instead of reducing them. . . [t]his item is contrary to local control and will undermine efforts by school districts to manage their finances responsibly and follow best business practices.”*

Major Vetos and Potential Overrides

- **VETOED** Provision allowing county budget commission to reduce millage on any voter-approved tax levy aside from a debt levy.
- *“This item gives county budget commissions the authority to unilaterally reduce a levy passed by voters for a school district or other taxing authority under certain circumstances. This breaches the approval of such millage by the voters.”*

Major Vetos and Potential Overrides

- **VETOED** Provision that emergency levies, substitute tax levies, incremental growth levies, conversion levies, and the property tax portion of combined levies would all count toward the 20-mill floor.
- *“The DeWine-Tressel Administration recognizes the great need for property tax reform in Ohio and will convene a working group that will include legislators, agency officials, school officials, community members, and property tax experts to ensure this critical topic is given the attention deserved.”*

Major Vetos and Potential Overrides

- **VETOED (House override vote successful July 21, no date for Senate as yet)**
Eliminates the authority for political subdivisions including schools to levy replacement property tax levies and the authority for school districts to levy fixed-sum emergency, substitute emergency levies, and combined school district income tax and fixed-sum property tax levies.
- *“These levies serve as important tools for school districts as they seek to maintain their long-term financial stability.”*

Major Vetos and Potential Overrides

- **VETOED** Non-chartered Educational Savings Account Program that would have allowed students to receive funds in a savings account to apply for tuition and expenses to attend a non-chartered nonpublic school.
- *“Specifically, as was made widely known in 2021 with the significant media attention on Bishop Sycamore (a former NCNP school in Ohio), there is a lack of oversight and compliance mechanisms for NCNP schools in Ohio law and rule. Without proper accountability, this item would risk taxpayer dollars on programs that may have compromised educational quality or that could risk student safety.”*

Major Vetos and Potential Overrides

- **VETOED** School Board partisan elections
- *“Local school boards and ESC governing boards have historically been non-partisan offices, and this has served the interests of students and communities well. This provision could also have a chilling effect on potential candidates who do not want to run for partisan office but are otherwise well-suited and well-qualified to serve on their local school board. Moreover, making these positions partisan offices would prohibit local classified employees from seeking these offices, potentially eliminating strong candidates.”*

OBBBA Updates

- Section 60005 - Recission of funding to address air pollution at schools
- Section 70110 - Termination of miscellaneous itemized deductions other than educator expenses
- Section 70411 – Tax credit for contributions of individuals to scholarship-granting organizations (\$1,700)
- Section 71102 - Moratorium on implementation of rule relating to eligibility and enrollment in Medicaid, CHIP, and the Basic Health Program Savings Programs.
- Section 71109 - Alien Medicaid eligibility
- Section 71119 - Requirement for States to establish Medicaid community engagement requirements for certain individuals
- Section 87001 - Potential sponsor vetting for unaccompanied alien children appropriation
- Section 10108 - Alien SNAP Eligibility
- Section 110102- No Tax on Overtime

OBBBA Updates

- \$910 billion in Medicaid funding reductions over 10 years.
- Shifts Medicaid financing structure, limiting provider taxes and state-directed payments.
- Imposes new eligibility redetermination and copayment requirements.
- **Direct Impacts on Ohio School Districts:**
 - **Potential of Reduced Federal Match:** Limits on provider taxes may reduce Ohio's ability to draw down federal Medicaid funds for school-based services.
 - **Potential for Lower Reimbursement Rates:** Cuts to fee-for-service and managed care payments may reduce funding for related services for special needs students.

Federal Education Funding

- \$6.8 billion in Congressional-approved appropriations for schools was frozen by Trump Administration before the usual July 1 release
 - This funding supports education for migrant farm workers and children, teacher training and recruitment, ELL learning, after-school and summer programs, and academic enrichment.
 - Some of this money is used by ODEW to pay for special education transportation. Some funds had been held due to this freeze.
- Litigation (Ohio did not join) apparently caused a reversal and funds are being released, but...
 - “Guardrails” are reportedly in place to ensure the funds are aligned with the administration’s agenda. The scope and specifics of the guardrails is not known at this time.

Federal Court Case Updates

Mahmoud v. Taylor

- SCOTUS held that parents may opt students out of reading LGBTQ+ books
 - District introduced LGBTQ+ inclusive books for K-5 students and parents sought to exclude students from instruction on these books
 - District decided not to allow parents to opt-out students
- The Court finds that District unconstitutionally burdens parent's free exercise of religion
- The Court emphasizes the rights of parents to direct the religious upbringing of their children

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E-rate Cases

- **Federal Communications Commission v. Consumers' Research**
 - SCOTUS upheld the constitutionality of the E-rate program
 - The Communications Act that directs the FCC for Universal-service programs provides sufficient guidance in how much money can be raised and what entities must be served by the FCC (i.e. schools must be served)
- **Wisconsin Bell v. United States**
 - Case alleging that Wisconsin-Bell consistently overcharged schools which defrauded the E-Rate Program out of millions of dollars. E-rate reimbursement requests are considered "claims" under the **False Claims Act** because the government provided a portion of funds to the Universal Service Fund through its regulatory role in collection and distribution of funds, and also directly contributed funds.

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Ames v. Ohio Dept. of Youth Services

- SCOTUS held that reverse discrimination claims brought by majority groups are subject to the same requirements as typical discrimination claims
 - The disparate treatment provision bars discrimination against “any individual” because of protected characteristics
 - Title VII is meant to be applied equally to all individuals
- Background:
 - Before this decision some courts (including 6th Circuit) applied an informal “background circumstances” rule that raised the burden of proof when a lawsuit alleged their employer was the “unusual employer who discriminates against the majority”

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Oklahoma Statewide Charter School Board v. Drummond

- SCOTUS upheld the Oklahoma Supreme Court decision that a religion-based charter school violates the First Amendment Establishment Clause.
 - Supreme Court split 4-4 which upholds lower court decision
- Note that Justice Amy Coney Barrett recused herself, and it seems likely that any future case would turn out 5-4 in support of public funding of religious-based charter schools



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United States v. Skrmetti

- SCOTUS upheld a Tennessee law prohibiting certain medical treatments for transgender minors.
 - The law is not subject to heightened scrutiny under the equal protection clause of the 14th Amendment because it only classified people based on age and medical use.
 - The law does not classify based on sex because it prohibits people of a certain age regardless of the biological sex.
- The law satisfies rational basis review because the state had reasonable grounds for the restriction.
 - The State considered irreversible sterility, increased disease risk, and adverse psychological consequences, while minors lack the maturity to understand these consequences and many express later regret.

Parents Defending Educ. v. Olentangy Local Sch. Dist. Bd. of Educ.

- This case is currently in the Sixth Circuit Court (heard *en banc* in March) after initial 2024 decision, which was issued by a three-judge panel, was vacated.
 - The Court held in 2024 that Olentangy Local School District policy requiring students to use preferred pronouns was constitutional.
- *Question: Does a school policy requiring students to call others by preferred pronouns violate free speech?*
- Due to recent Supreme Court cases (Skrmetti and Mahmoud), there is a higher likelihood that the decision will favor the parents' rights and find the school's policy unconstitutional.

A.J.T. v. Osseo Area Schools

- SCOTUS held that students bringing claims under Title II of the ADA or Section 504 of the Rehabilitation Act are not required to make a heightened showing of "bad faith or gross misjudgment."
 - Instead, the claims are subject to the standards that apply in other disability discrimination contexts
 - Typically, the standard in other disability discrimination cases seeking damages is "deliberate indifference."
- Reduced scrutiny level for parents making claims against schools regarding Title II of ADA or Section 504 discrimination claims.

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Changes in Enforcement of Section 504

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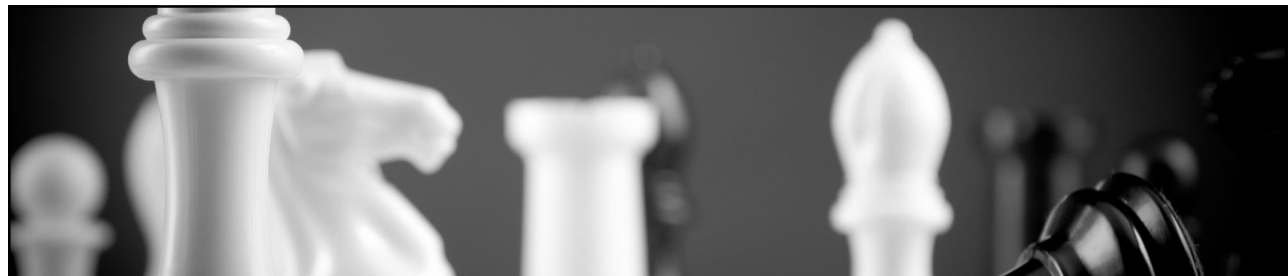
Cuts in the US Dept of Education

- March 3 “final mission” message from Sec. McMahon emphasizing intent to dismantle ED
- March 11 announcement of closure of ED facilities at 6 PM and continuing through March 12 for “security” reasons.
- Significant layoffs (approximately 1,300) announced later on March 11, along with the closure of more than half the Office for Civil Rights regional offices (closed offices are Cleveland, Chicago, Philadelphia, NYC, Dallas, San Francisco, Boston).
- These closed offices were handling 6,850 complaints as of January 14. The offices not closed were handling 5,229 complaints.
- As of August 1 many ED employees were officially laid off (after litigation had held up process)

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Internal

Discrimination/
harassment complaint
Grievance
Due Process

OCR

Complaint
investigated by
federal government

Litigation

Lawsuit filed in federal
court

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Internal 504 Processes

- Harassment/Discrimination Complaint
 - Informal vs. Formal
 - Typically involves an investigation and report
 - Report often submitted to Superintendent for final decision
- Grievance
 - Investigation often by building compliance officer
 - Appeal often to district compliance officer
 - Due process hearing (if involves ID, evaluation, or placement)
- Mediation (?)

Internal 504 Processes

- Due Process Hearing
 - HO must be impartial
 - » No personal or professional interest that would cause a conflict of interest)
 - Perhaps subject to IDEA timelines (“State Rules for Special Education”)
 - » AG says 90 calendar days with at least 21 days advance notice of the hearing
 - Present evidence, cross examine, subpoena witnesses
 - Verbatim record kept and provided to parent
 - Written decision
 - “Appeal” to federal court

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State Court Case Updates

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Columbus City Schools v. State of Ohio

- The Franklin County Court of Common Pleas held that the Ohio Ed Choice program violates the Ohio Constitution.
 - Funding discrepancy violates Article VI, Section 2, of the Ohio Constitution, which mandates that the state provide a "thorough and efficient" system of common schools.
 - Created a system of uncommon private schools by directly providing private schools with over \$700 million in funding.
 - Article VI, Section 2 also mandates that "...no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this state." Because taxpayer dollars are funding religious schools as part of the Ed Choice program, this part of Article VI, Section 2 has been violated as well.
- The decision has been stayed (put on hold) pending appeal.

Columbus City Schools v. State of Ohio

- Most case law updates we give are somewhat static in terms of parties and who is involved
 - This case is more like the *DeRolph* litigation in that hundreds of districts have joined together to contribute toward the litigation costs and to guide the litigation (Vouchers Hurt Ohio)
- Nearly 400 districts or other education entities have contributed in the past 3 years
- This joint effort aligns with what is happening in some other states where public schools are using litigation to stop or limit privatization efforts

State ex rel. Ruble v. Switzerland of Ohio Local School District

- The Ohio Supreme Court affirmed the authority of local boards of education to suspend administrative contracts under their own policies, provided those policies were adopted under R.C. 3319.171.
 - Recognizes that a RIF'd employee may be eligible for recall only into the position they lost, not another administrator position for which they might be eligible.
 - Schools have a valid argument that management level employees are chosen for specific positions for specific reasons.
- R.C. 3319.171 provides authority for board of education to develop local procedures for suspending/RIF'ing administrative personnel contracts.
- Caution is still advised on misusing the administrator RIF policy.

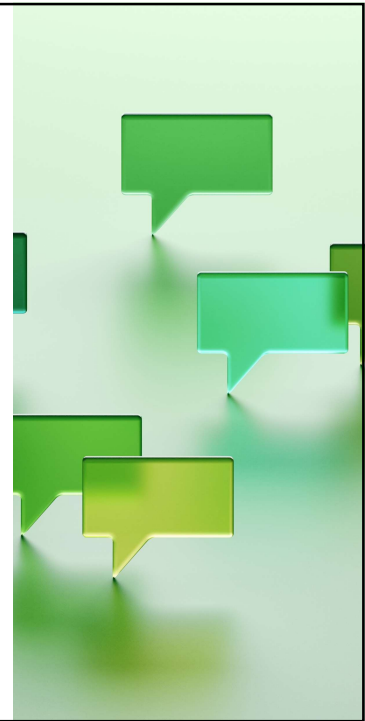
State ex rel. Johnston v. N. Olmsted City School Dist.

- The Ohio Supreme Court held that an employee who failed to file a grievance under CBA procedures over a salary dispute before filing in court is not entitled to relief.
 - "[Employee] waited nearly five years before seeking extraordinary relief even though an opportunity to challenge her salary schedule placement through the grievance procedure cropped up with every paycheck".
- The Court held that even though the CBA remedy does not offer backpay, had the employee filed a grievance upon her first incorrect paycheck, no backpay would have been required, so the remedy under the CBA is adequate.

State ex rel. Platt v. Montgomery Cnty. Bd. Of Elections

- Plaintiff sought an action compelling the Board and its deputy director to produce various emails as public records.
- The Ohio SC held that an email from the deputy director's board email to his personal email that documented board activity is a public record.
- The Court held, however, that an email from the deputy director's private email forwarding a memo to the chairman of the Democratic Party is not a public record because it is not a record "kept" by the board of elections.

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Questions?

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Contact Us

Jeremy J. Neff
jneff@ennisbritton.com
[linkedin.com/in/jneff-esq](https://www.linkedin.com/in/jneff-esq)



Cincinnati Office

1714 West Galbraith Road
Cincinnati, Ohio 45239

Phone: (513) 421-2540
Toll-Free Number: (888) 295-8409
Fax: (513) 562-4986

Cleveland Office

6000 Lombardo Center | Suite 145
Cleveland, Ohio 44131

Phone: (216) 487-6672
Fax: (216) 674-8638

Columbus Office

8740 Orion Place | Suite 315
Columbus, Ohio 43240

Phone: (614) 705-1333
Fax: (614) 423-2971

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