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## **OHIO LOCAL UPDATE OVERVIEW FOR THE BOARD**

### **VOLUME 42 NUMBER 1**

### **AUGUST 2023**

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#### **BYLAWS AND POLICIES**

##### **Bylaw 0141.2 - Conflict of Interest (Revised)**

This bylaw has been revised to include the expanded scope of potential conflicts that must be disclosed by a Board member and require a Board member to refrain from debating or voting upon a contract.

This revised bylaw reflects current Ohio law and should be adopted to maintain accurate policies.

##### **Policy 2623.02 - Third Grade Reading Guarantee (Revised)**

The House proposed a version of the budget bill that eliminated student retention under the third-grade reading guarantee. The final version of the bill maintained retention but with one important change. Beginning in the 2024-2025 school year, parents will have the authority to request that their children be promoted after consulting with the building principal and reading teacher even if their children are not reading at grade level. This appears to give parents the final decision on whether a child is retained based on their performance on the third-grade reading guarantee assessments. However, districts still have broad authority to retain or promote students in third grade for other reasons. The policy and administrative guidelines which cover third grade reading and school promotion and retention have been updated accordingly. Districts should also be aware that an uncodified section of HB 33 prohibits schools from retaining students in the 2023-2024 school year for failure to achieve the required score on the third-grade reading assessment during the 2022-2023 school year unless the parents request that the students be retained. The language appears to be a stop gap for this year that gives parents some authority about promotion and retention until the permanent changes take effect the following school year. Other changes to the third grade reading guarantee include a requirement that districts provide reading intervention services to students until they are reading at grade level, a requirement that districts provide "high-dosage" tutoring that meets certain statutory requirements, a directive that intervention services be aligned with the newly defined science of reading, and an addition to the notice that parents receive when their children are reading below grade level. All changes have been incorporated in board policy and administrative guideline.

This revised policy reflects current Ohio law and should be adopted to maintain accurate policies.

##### **Policy 3120.08/4120.08 - Employment of Personnel for Co-Curricular/Extra-Curricular Activities (Revised)**

##### **Policy 8120 - Volunteers (Revised)**

Qualifications for initial and renewal pupil activity/coach permits have been modified under HB 33 revising R.C. 3319.303 to require that individuals who coach interscholastic athletic programs complete a sudden cardiac arrest training course approved by the Department of Health whenever they apply for an initial permit or a permit renewal. They must also complete a student mental health training course approved by the Department of Mental Health and Addiction Services

for both initial and renewal permits. The mental health training course may be combined with or a part of another training course. Training for renewal permits may be completed at any time during the previous permit. Initial permit holders are still required to complete a training program in brain trauma and brain injury management, and permit renewal applicants must complete a training in recognizing the symptoms of concussions and head injuries as was required under the previous version of the law.

These revised policies reflect current Ohio law and should be adopted to maintain accurate policies.

### **Policy 5320 - Immunization (Revised)**

This policy has been revised to reflect changes in immunization requirements, adjusting age/grade-level groupings and vaccines as recommended by the U.S. Department of Health and Human Services. Additionally, pre-school immunization requirements are provided in AG 2280.03 (Revised) and AG 2280.09 (NEW). These requirements are provisions of R.C. 5104.014 as overseen by the Ohio Department of Jobs and Family Services. The Department's form for the Child Medical Statement may be accessed at <http://www.odjfs.state.oh.us/forms/num/JFS%2001305/>

These revisions are consistent with current Ohio law and regulations and should be adopted to maintain accurate policies.

### **Policy 5330 - Use of Medications (Revised)**

### **Policy 5337 - Care of Students with Seizure Disorders (NEW)**

Beginning this school year, school districts will be required to create a seizure action plan for all students who have been diagnosed with an active seizure disorder. The plan is developed in consultation with the parents or legal guardians and must be renewed annually. The plan must address administration of seizure medications that have been prescribed to the students. Staff and volunteers to regularly work with the student must be notified that the plan exists and must be properly trained to support the student's needs. There are additional training requirements as well. Each building in the district must have one individual who does not serve as the school nurse to be trained every two years in seizure care and implementation of the plans. Further, all administrators, guidance counselors, teachers, and bus drivers must complete one (1) hour of in-person or self-study training on seizure disorders. Provisions in the law recognize the training as professional development that may be used for renewal of educator licenses. This new policy has been developed to incorporate these provisions of H.B. 33.

The suggested revisions are consistent with the current state of the law and should be adopted.

### **Policy 6240 - Board of Revision Complaints and Countercomplaints (NEW)**

This new policy is offered at the request as a means to comply with the statutory provisions of HB 126 (R.C. 5715.19). Districts are limited in their ability to challenge tax valuation of properties in the District. Boards now have a limited role in real estate valuation appeals. This policy authorizes the Treasurer/CFO to act within the limits of the law.

This proposed policy is consistent with the current state of the law and should be considered.

### **Policy 6240 - Tax Abatement (Renumbered)**

This current policy is being renumbered to 6240.03 because Neola has a new policy 6240.

### **Policy 6700 - Fair Labor Standards Act (FLSA) (Revised)**

On December 29, 2022, President Biden signed the PUMP Act into law, which expands the rights granted by the Break Time for Nursing Mothers Act to include exempt employees of covered employers. This change, which expands coverage to over nine million workers, now grants all salaried employees, such as teachers and administrators, similar protections. Board policy and administrative guidelines have been updated to remove language which allowed school employers to limit break time for nursing mothers to only those employees eligible to receive overtime under the FLSA. The PUMP Act requires employers to provide a reasonable break time to express milk in a private location that is not a bathroom.

Legal alerts were issued in August 2022 and in April 2023 were issued describing a board of education's duties with regard to this topic.

### **Policy 7440 - Facility Security (Revised)**

This policy has been updated to include an optional list of security measures that are utilized throughout school facilities. Language has also been added to declare that staff, students, and visitors who intentionally circumvent, interfere with, or disable security measures, systems, and devices may be subject to discipline, up to and including termination of employment, suspension, or expulsion from work or school, and may also face criminal charges.

These revisions are offered for client consideration.

### **Policy 8210 - School Calendar (Revised)**

Under HB 33, R.C. 3313.482 which previously governed use of blizzard bags was repealed and rewritten. This change completely eliminated blizzard bags as an option to make up calamity days, and replaced it with a new option to provide virtual/online education to students when schools are closed due to disease epidemic, hazardous weather conditions, law enforcement emergencies, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for use. Just as with the old law, schools are required to adopt a plan by August 1st each year. The plan must incorporate certain elements, including how the district will notify staff and parents about online instruction, how the district will track and encourage participation, and how teachers may be contacted during online learning. Consent must be obtained from the teacher's bargaining unit if one exists. Local, exempted village and city school districts with compliant plans may count up to three school days toward the minimum school year requirement. In addition to the three (3) permissible days, joint vocational schools may include other options to make up any number of additional hours missed as a result of one (1) or more of their member districts being closed for one of the permissible reasons.

Revisions to this policy are recommended for adoption.

### **Policy 8330 - Student Records (Revised)**

A new law was enacted with passage of HB 33 that requires school districts to forward a student's cumulative records to a new public or nonpublic school upon request within five school days. The law defines records to include academic records, student assessment data, "or other information for which there is a legitimate educational interest." If a district receives a request for a student's records and there is no record of that student's attendance, the district must alternatively provide written notice to the requesting school within five school days indicating that no records exist. The law further authorizes a school district to withhold the student's records if the student has an outstanding debt of \$2,500 or more. The district is required to transmit the records once the debt has been paid. School districts should note that the current law, R.C. 3313.642, still permits the district to withhold grades and credits for students who have outstanding fees and charges even if the amount is less than \$2,500. However, districts should be cautioned about withholding special education records for students with disabilities who transfer to a new school and should consult with legal counsel when questions arise.

These revisions are recommended for adoption.

### **Policy 8600 – Transportation (Revised)**

### **Policy 8650 - Transportation by School Van (Revised)**

A number of transportation-related changes were adopted in the budget bill. After October 3rd, 2023, school districts will be permitted to transport nonpublic school students to and from school using a van. The van must be designed to carry nine (9) or less students plus a driver and be inspected not less than two (2) times a year by a qualified mechanic. No more than nine (9) students can be transported at the same time, and a driver must meet certain statutory requirements. Hopefully, this change will provide districts with more flexibility as the state continues to face shortages in bus drivers and other transportation resources. However, another change might further strain limited transportation resources. As of October, the District will be required to provide transportation as a related service to students with disabilities who live in the district and attend a nonpublic school if the school district is provided with supporting documentation from the child's individualized education program or an individual service plan developed by the county board of developmental disabilities. Additionally, the law now declares that students may not be delivered late to school. This does not alter the change in the previous budget bill that allows delivery of students up to thirty (30) minutes before school start and pickup of students up to thirty (30) minutes after school dismissal. And, because of other changes in HB 33, the stakes for violating transportation rules have gotten higher. New language in the revised code redefines "out of compliance"/noncompliance as to occur after five (5) consecutive days or ten (10) days total within a school year in which one (1) of the following violations occur: 1) students are dropped off at least thirty (30) minutes late to school; 2) students are picked up more than thirty (30) minutes after the end of the school day; 3) students are not transported at all because the bus does not show up; or 4) the district is considered noncompliant with any other transportation requirements under Chapter 3327. After the first occurrence of noncompliance, a district has one (1) week to submit a corrective action plan. For a subsequent occurrence, DEW will withhold twenty-five percent (25%) of the district's transportation funding for each day of noncompliance. Two (2) more occurrences are permitted before DEW withholds 100% of the district's transportation funding. The funds will be withheld until DEW determines the district is back in compliance. The count of noncompliance days resets each school year.

Revisions to this policy should be adopted in order to maintain accurate policies.

### **Policy 9160 - Public Attendance at School Events (Revised)**

HB 33 adopted a new law which requires school districts that elect to participate in athletic events regulated by an interscholastic conference/organization to either accept cash at any school-affiliated event where admission is charged, or alternatively to provide a free ticket, if any remain available, to an individual who is able to demonstrate that they have sufficient cash to cover the cost of the ticket on the day of the event. School districts must also accept cash in at least one location per floor where concessions are sold.

This revision reflects the current state of Ohio law and should be adopted in order to maintain accurate policies.

### **Policy 9211 - District Support Organizations (Revised)**

Optional language has been added to PO 9211 that declares school employees and board members will not manage or have access to funds of a district support organization or serve as a voting member or officer of the organization. This language more concretely defines safe levels of involvement and helps to insulate school employees and board members from being placed in situations where their activities with support organizations creates a potential conflict of interest or might even implicate them in acts of misconduct. Staff that hold licenses or permits issued by the state might also place their professional certifications at risk if they become too involved in support organizations. Concerns about support organization involvement occur frequently enough that the optional language was created.

This option is offered for consideration.

### **Policy 9270 - Equivalent Education Outside the Schools & Participation in Extra-Curricular for Students Not Enrolled in the District (Revised)**

HB 33 significantly modified the law governing home school student education in Ohio, and the policy and administrative guideline have been updated to reflect the changes. District superintendents will no longer be required to approve applications for home schooling, which is now officially referred to as "home education." Instead, superintendents will be provided with a simplified notice from a student's parent or legal guardian within five days after the student begins home education or moves into the district. The notice provides more limited information than prior applications, specifically limited to the parent's name and address, the child's name, and an assurance that the child will receive education in all of the required subjects. The number of required subjects has been reduced to include only English language arts, mathematics, science, history, government, and social studies. Parents are no longer required to meet certain qualifications to instruct their children at home, and do not need to provide a minimum number of instructional hours. The superintendent is required to send written acknowledgment that the notice has been received within fourteen (14) calendar days. The law also modifies academic eligibility for home-educated students who participate in extracurricular activities. The law takes effect October 3rd, 2023. A legal alert accompanies this release and provides additional information.