



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Holly Cantrell Gilman and other LSC Staff

Sub. H.B. 491*

132nd General Assembly
(As Reported by S. Education)

Reps. Edwards, Butler, Householder, Hambley, Anielski, Antonio, Boyd, Brenner, Brown, Craig, Cupp, Dever, Fedor, Hughes, Lang, Lepore-Hagan, Miller, O'Brien, Patterson, Patton, Perales, Reineke, Roegner, Romanchuk, Ryan, Schuring, Seitz, Sheehy, Stein, Thompson, Wiggam, R. Smith

BILL SUMMARY

Substitute licenses for pupil services personnel

- Requires the State Board of Education to issue substitute licenses to speech-language pathologists, audiologists, registered nurses who hold bachelor's degrees in nursing, physical therapists or physical therapist assistants, occupational therapists or occupational therapist assistants, and social workers who satisfy certain conditions.

Counselor education

- Allows the Counselor, Social Worker, and Marriage and Family Therapist Board to temporarily approve a counseling education program created after January 1, 2018, that has not been accredited by the Council for Accreditation of Counseling and Related Educational Programs.
- Specifies that a degree from a Board-approved counseling education program satisfies the degree and training requirements to receive a professional clinical counselor's license or a professional counselor's license for the time period approved by the Board.
- Requires the Board, if it elects to approve unaccredited programs, to adopt rules regarding the approval process, educational requirements, and time period during which completion of the program will satisfy licensure requirements.

* This analysis was prepared before the report of the Senate Education Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

School treasurer liability.

- Protects from liability for loss of public funds a school district or educational service center treasurer whose official duties have been performed without negligence or wrongfulness.
- Requires each teacher to file the required reports and a valid educator license with the district or service center superintendent prior to receiving payment for services.
- Requires a district or service center superintendent to provide a written statement to the school treasurer confirming the superintendent's receipt of the required reports and a valid educator license from each teacher.
- Protects from liability for loss of public funds for payments made to a teacher a school treasurer or superintendent unless the loss results from the negligence or wrongfulness of that treasurer or superintendent.

Provision of specialized school resource officer training program

- Removes the requirement that the Ohio Peace Officer Training Commission must develop and conduct a *basic* school resource officer training course.
- Permits any one of three entities to conduct the *specialized* school resource officer training required under continuing law, provided that the program the entity intends to teach has been approved by the Ohio Peace Officer Training Commission.
- Removes the requirement that the Ohio Peace Officer Training Commission must adopt rules for the approval of one entity to conduct the *specialized* training and instead requires the adoption of rules for approval of the program that will be taught by each of the three permitted entities.

Alternative high school graduation requirements

- Extends the alternative graduation pathways for two additional years to the classes of 2019 and 2020.
- Modifies the requirements of the main alternative pathway for the class of 2020.

Recommendations for new permanent graduation requirements

- Requires the Department of Education to make recommendations for new permanent graduation requirements and to present them to the House and Senate Education committees by April 1, 2019.



Policy on assignments missed because of a student's suspension.

- Requires school districts and schools to adopt a policy on completing and grading assignments missed as a result of a student's suspension that provides the student an opportunity to receive at least partial credit.

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CONTENT AND OPERATION

Substitute licenses for pupil services personnel

The bill requires the State Board of Education to issue substitute licenses to speech-language pathologists, audiologists, registered nurses who hold bachelor's degrees in nursing, physical therapists or physical therapist assistants, occupational therapist or occupational therapist assistants, and social workers who (1) are licensed in Ohio, (2) wish to be employed to work in a substitute capacity by a school district or school, and (3) submit to the State Board a copy of the current valid occupational license and all materials required to complete a criminal records check.¹ The bill prohibits the

¹ R.C. 3319.2210(A) and (C).

State Board from adopting a rule that establishes any additional qualifications for the substitute license.²

Additionally, the bill states that a substitute license may be issued upon the request and recommendation of the superintendent of a school district or educational service center, the governing authority of a community school, the governing body of a STEM school, the board of trustees of a college-preparatory boarding school, or the governing body of a chartered nonpublic school.³ It is unclear whether this type of request and recommendation is required in order for the State Board to issue a license under the bill's provisions.

Finally, the bill specifies that a person licensed under the bill may not be employed in a nonsubstitute capacity without satisfying the licensure or permit requirements applicable to the person's prospective position of employment established in rules of the State Board.⁴

Counselor education

The amendment allows the Counselor, Social Worker, and Marriage and Family Therapist Board to temporarily approve a counseling education program created after January 1, 2018, that has not been accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP). A degree from a temporarily approved program satisfies the degree and counselor training requirements for a clinical counselor's license or a professional counselor's license (a "counselor's license") during the time period specified by the Board.⁵

Under continuing law, a person seeking a counselor's license from the Board must hold a graduate degree in counseling, complete specific counselor training, and satisfy other requirements. Current law requires a counseling graduate degree from an Ohio mental health counseling program created after January 1, 2018, to be from a clinical mental health counseling program, a clinical rehabilitation counseling program, or an addiction counseling program accredited by CACREP.⁶

Current law also requires all counselor training programs either to be CACREP accredited or approved by the Board in accordance with rules the Board must adopt.

² R.C. 3319.2210(D).

³ R.C. 3319.2210(B).

⁴ R.C. 3319.2210(E).

⁵ R.C. 4757.22(G) and 4757.23(G).

⁶ R.C. 4757.22(B)(1) and (2) and 4757.23(B)(1) and (2).

Under the amendment, the Board may adopt rules to approve a non-CACREP accredited counselor training program, but the Board is not required to do so.⁷ If the Board adopts rules to approve a program, the amendment requires the Board to do all of the following in the rules:

- Create an application process under which the program's administrator may apply for Board approval;
- Identify the educational requirements that an individual must satisfy to receive a graduate degree in counseling from the program;
- Establish a time period during which an individual may use an unaccredited degree granted under the program to satisfy the degree and training requirements for a counselor's license;
- Specify that, if the program is denied accreditation, a student enrolled in the program before the accreditation is denied may apply for licensure before completing the program and, on receiving a degree from the program, be considered to satisfy the degree and training requirements for a counselor's license.⁸

School treasurer liability

Performance of official duties generally

The bill provides an exception to the general rule of strict liability for loss of public funds for the treasurer of a school district or educational service center (ESC) who has performed all official duties with reasonable care. As such, a treasurer will not be held liable unless the funds were lost as a result of the treasurer's own negligence or other wrongful act. This new standard applies to the performance of duties generally, and to a treasurer's reliance on the accuracy of nonfinancial information or data found in the Education Management Information System (EMIS), student transportation reports, and licensure or other credentialing information.⁹

Performance of professional duties

If the treasurer has performed all the treasurer's official duties with reasonable care, the bill prohibits the Department of Education from considering any loss of public

⁷ R.C. 4757.22(B)(3) and (F) and 4757.23(B)(3) and (F).

⁸ R.C. 4757.22(G)(1) and 4757.23(G)(1).

⁹ R.C. 3313.25(B)(1) and 3313.31.



funds not resulting from the treasurer's negligence or other wrongful act as a violation of the treasurer's professional duties.¹⁰

Payment for teacher services

Procedure

Under current law, a school district or ESC treasurer may pay a teacher for services only after the teacher files (1) all reports required by the State Board of Education and the district or ESC board or superintendent and (2) a written statement from the superintendent that the teacher has filed with the treasurer a valid educator license to teach the subjects or grades to which the teacher is assigned. The bill makes each teacher's payments contingent upon a written statement from the district or ESC superintendent or a designee that the teacher has filed with the superintendent or designee (and not the treasurer) the required reports and the valid educator license. The bill also expressly requires each teacher to file the reports and license.¹¹

Liability for loss

A treasurer who makes any payment in compliance with this new procedure cannot be held liable for a loss of public funds for that payment, unless the loss results from the treasurer's own negligence or other wrongful act.¹² This protection also extends to the district or ESC superintendent or designee, unless the loss results from the superintendent's or designee's own negligence or wrongful act.¹³

The bill does not address whether the ability to recover from a treasurer's (or superintendent's) bond is affected when the treasurer's (or superintendent's) actions do not rise to at least negligence.

Effect on pending proceedings

The bill's provisions specifically apply to any proceeding, investigation, or citation involving a school treasurer that, as of the bill's effective date, has not been finally resolved. For these purposes final resolution of a matter includes all available appeals.¹⁴

¹⁰ R.C. 3313.25(B)(2).

¹¹ R.C. 3319.36(A).

¹² R.C. 3319.36(D).

¹³ R.C. 3319.36(E).

¹⁴ Section 6 of the bill.

Background

Strict liability

A general provision of the Revised Code states that "[a]ll public officials are liable for all public money received or collected by them or by their subordinates under color of office."¹⁵ The Ohio Supreme Court has held public officials strictly and individually liable for the loss or misuse of public money under their control, regardless of blame.¹⁶

Recovery for loss of funds

Like most public officials in Ohio, a school district or ESC treasurer must obtain a bond conditioned on the treasurer's faithful performance of all official duties. When the Auditor of State finds that public money has been lost or misspent, the state may file an action for recovery of that money.¹⁷ The law specifies that in addition to the liability of any public official who can be sued, the bonding entity is liable and may be sued in the same action in which the public official is sued.¹⁸ The law further prohibits any legislative, executive, or judicial action to abate or compromise a claim for the loss of public funds made by the Auditor of State without written approval of the Attorney General.¹⁹

Provision of specialized school resource officer training program

Law enacted by H.B. 318 of the 132nd General Assembly in 2018 requires each newly appointed school resource officer to complete at least 40 hours of *specialized* training. That training must be conducted by only one of three possible entities, as determined by the Ohio Peace Officer Training Commission: (1) The National Association of School Resource Officers, (2) The Ohio School Resource Officers Association, or (3) A peace officer certified by the Ohio Peace Officer Training Commission to conduct a course of instruction that is approved by the Commission. The commission is tasked with selecting which entity will conduct the *specialized* training, also must develop and conduct a *basic* school resource officer training course that is aligned with the *specialized* training. Finally, the Commission must adopt rules

¹⁵ R.C. 9.39, not in the bill.

¹⁶ See for example, *Cordray v. International Preparatory School*, 128 Ohio St.3d 50 (2010) and *Seward v. National Surety Co.*, 120 Ohio St.47 (1929).

¹⁷ R.C. 117.28, not in the bill.

¹⁸ R.C. 117.32, not in the bill.

¹⁹ R.C. 117.33, not in the bill.

for the approval of the entity that will conduct the *specialized* training.²⁰ In practice, this means that the Commission must conduct a *basic* training course regardless of whether it selects a different entity to conduct the *specialized* training. Thus, it is reasonable to assume that it might select the peace officer already certified to teach its own training course to avoid the need for two training courses that teach the same principles.

The bill streamlines the process of providing school resource officer training by removing the *basic* training course and permitting any one of three entities to conduct the *specialized* training, provided that the *specialized* training has been approved by the Ohio Peace Officer Training Commission. It also replaces the certified peace officer with the Ohio Peace Officer Training Academy generally, as an entity that may conduct the training. Instead of adopting rules for the approval of the entity to conduct the training, the Ohio Peace Officer Training Commission must, under the bill, adopt rules for approving the training.²¹ In practice, this means that the newly appointed school resource officer will be able to select the entity from which he or she will receive the training, provided the entity has had its program approved by the Ohio Peace Officer Training Commission.

Alternative graduation requirements

The bill extends the two alternative graduation pathways for public and chartered nonpublic high schools established by H.B. 49 of the 132nd General Assembly (the main operating budget act for the 2017-2019 biennium) for an additional two years. Under current law, students in the class of 2018 may choose certain graduation pathways as alternatives to those afforded under continuing law (see "Background – graduation requirements" below). The bill extends the alternatives to the classes of 2019 and 2020. Additionally, the bill modifies one of the alternative pathways for the class of 2020.²²

Main alternative pathway

The first pathway qualifies a student for graduation if the student (1) takes all of the end-of-course exams required for the student or takes an alternate assessment for chartered nonpublic school students, (2) retakes, at least once, any end-of-course exam in English language arts or math for which a student received an equivalent score of lower than "3," (3) completes the district's or school's required units of instruction, and (4) meets at least *two* of the following other conditions:

²⁰ R.C. 3313.951.

²¹ R.C. 3313.951.

²² Section 733.67 of H.B. 49 of the 132nd General Assembly, amended in Sections 3 and 4 of the bill.

(a) Has an attendance rate of at least 93% during the twelfth grade (for classes of 2018 and 2019 only);

(b) Takes at least four full-year or equivalent courses during the twelfth grade and has a grade point average of at least 2.5 for those courses;

(c) Completes a capstone project during the twelfth grade;

(d) Completes, during the twelfth grade, 120 hours of work in a community service role or in a position of employment, including internships work study, co-ops, and apprenticeships;

(e) Earns three or more transcribed credit hours under the College Credit Plus program at any time during high school;

(f) Passes an Advanced Placement (AP) or International Baccalaureate (IB) course, and receives a score of 3 or higher on the corresponding AP exam or a score of 4 or higher on the corresponding IB exam, at any time during high school;

(g) Earns at least a level 3 score on each of the "reading for information," "applied mathematics," and "locating information" components of WorkKeys assessment;

(h) Obtains an industry-recognized credential or a group of credentials equal to at least three total points; or

(i) Satisfies the conditions required to receive an OhioMeansJobs-Readiness Seal.

Changes to the main alternative pathway for the class of 2020

The bill modifies the conditions for the class of 2020 under the main alternative pathway, including:

(a) A student in the class of 2020 may not use the attendance in twelfth grade as a condition to graduate (as noted above).

(b) A student in the class 2020 must have a cumulative grade point average of 2.5 of courses taken during eleventh and twelfth grades (instead just the twelfth grade).

(c) A capstone project completed by a student in the class of 2020 must comply with guidance issued by the Department of Education. The bill specifies that the guidance must be issued by May 31, 2019, and must describe the components of a successful capstone project and the process for evaluating each component, and ensure that each project is designed as a culmination of the student's high school experience.

(d) The student's completion of 120 hours of work in a community service role or a position of employment must comply with guidance developed by the Department in consultation with the Governor's Office of Workforce Transformation. That guidance must be issued by May 31, 2019. It must describe the requirements for school district or school approval and verification of the work and must indicate that it is preferable that students complete the work with a business or nonprofit organization registered in Ohio.

Career-technical alternative pathway

The second pathway applies equally to the classes of 2018, 2019, and 2020. It qualifies a student for graduation if the student (1) takes all of the end-of-course exams required for the student or takes an alternate assessment for chartered nonpublic school students, (2) completes the district's or school's required units of instruction, (3) completes a career-technical training program approved by the Department that includes at least four career-technical courses, and (4) completes *one* of the following other conditions:

(a) Attains a cumulative score of at least proficient on career-technical education exams, or test modules, that are required for a career-technical education program;

(b) Obtains an industry-recognized credential, or a group of credentials equal to at least 12 points; or

(c) Demonstrates successful workplace participation, as evidenced by documented completion of 250 hours of workplace experience and by regular, written, positive evaluations from the workplace employer or supervisor and representative of the district or school. (This condition must be based on a written agreement signed by the student, a representative of the district or school, and an employer or supervisor.)

Background – graduation requirements

Graduation pathways

The term "graduation pathways" refers to three general options under which a student can graduate from high school. The pathways for both public and chartered nonpublic schools are: (1) score at "remediation-free" levels in English, math, and reading on nationally standardized assessments, (2) attain a cumulative passing score on the state high school end-of-course exams, or (3) attain a passing score the WorkKeys job skills assessment and obtain either an industry-recognized credential or a state agency- or board-issued license for practice in a specific vocation.²³ A fourth option –

²³ R.C. 3313.618, not in the bill.

attaining a passing score on an alternate assessment approved by the Department – is available only to students in chartered nonpublic schools.²⁴

High school achievement assessments

The high school state achievement assessments are referred to in the Revised Code as the College and Work-Ready Assessment System and consist of the following: (1) a nationally standardized assessment that measures college and career readiness, such as the SAT or ACT, and (2) seven end-of-course exams in English language arts I, English language arts II, biology, Algebra I, geometry, American history, and American government.²⁵

Recommendations regarding diploma requirement revisions

The bill states that the General Assembly intends to engage in ongoing discussions about modifying high school graduation requirements for students in the classes of 2020 and later. For that purpose, the bill requires the Department of Education, in consultation with the business community, to make recommendations, as confirmed by the State Board of Education, to the General Assembly about revising diploma requirements for students in public or chartered nonpublic high schools. The recommendations must include a long-term proposal for diploma requirements that reduces reliance on state testing, encourages local innovation, and supports student readiness for a career, college, and life. They also must include a transition plan to allow time for the implementation of the new requirements. The Department must present the recommendations to the House and Senate Education committees by April 1, 2019, for consideration for inclusion in the main operating budget of the 133rd General Assembly.²⁶

Policy on assignments missed because of a student's suspension

The bill replaces a provision of H.B. 318, enacted in 2018, requiring that students be permitted to complete classroom assignments missed during a suspension with a requirement that each district or school adopt a policy for completing and grading those assignments. Each policy must provide the student an opportunity to (1) complete missed classroom assignments and (2) receive at least partial credit for any assignment completed. While the policy may permit grade reductions on account of the student's

²⁴ R.C. 3313.619, not in the bill.

²⁵ R.C. 3301.0712, not in the bill.

²⁶ Section 5 of the bill.



suspension, it must not permit the receipt of a failing grade solely on account of the student's suspension.²⁷

HISTORY

ACTION	DATE
Introduced	01-13-18
Reported, H. Education & Career Readiness	03-21-18
Passed House (86-2)	06-07-18
Reported, S. Education	---

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²⁷ R.C. 3313.66(B)(3).

