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# OHIO LEGISLATIVE SERVICE COMMISSION

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**H.B. 436\***  
**133<sup>rd</sup> General Assembly**

## Occupational Regulation Report

[Click here for H.B. 436's Bill Analysis / Fiscal Note](#)

**Primary Sponsor:** Rep. Baldrige

**Impacted Profession:** Public school teachers

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LSC is required by law to issue a report for each introduced bill that substantially changes or enacts an occupational regulation. The report must: (1) explain the bill's regulatory framework in the context of Ohio's statutory policy of using the least restrictive regulation necessary to protect consumers, (2) compare the regulatory schemes governing the same occupation in other states, and (3) examine the bill's potential impact on employment, consumer choice, market competition, and cost to government.<sup>1</sup>

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### SUMMARY OF PROPOSED REGULATIONS

The bill requires all public schools to establish a structured literacy certification process for teachers providing instruction in grades K-3. The certification process must align with the dyslexia guidebook (to be produced by the Department of Education in collaboration with the Ohio Dyslexia Committee) and require completion of a practicum. Each school annually must increase the number of teachers with structured literacy certificates, culminating with a minimum of one certified teacher per every 100 students by the end of the 2024-2025 school year.

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\*This report addresses the "As Introduced" version of H.B. 436. It does not account for changes that may have been adopted after the bill's introduction.

<sup>1</sup> R.C. 103.26, not in the bill.

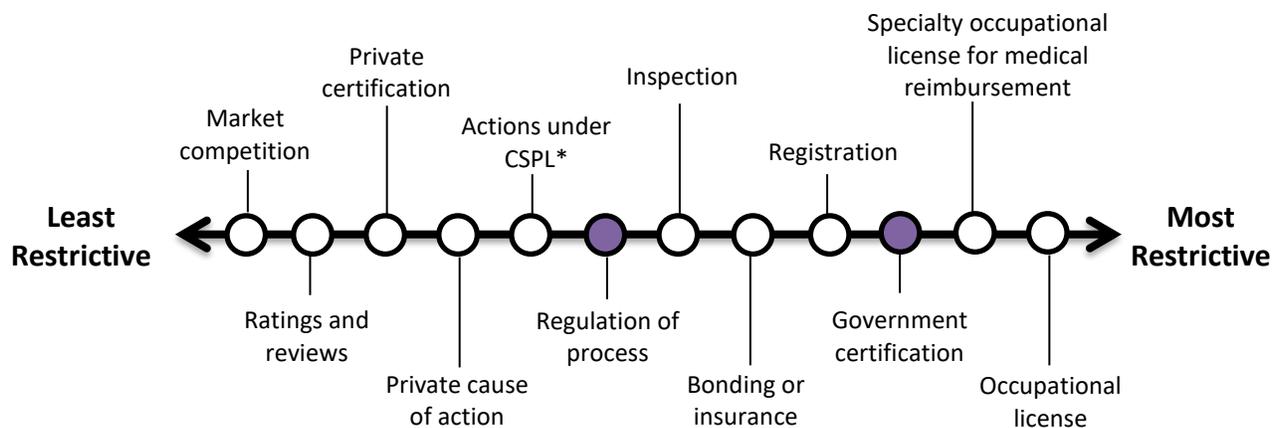
The bill requires all public school teachers in grades K-12 to take an 18-hour professional development course on instructing students with dyslexia. In addition, public schools must comply with certain dyslexia screening, intervention, and remediation requirements.<sup>2</sup>

## LEAST RESTRICTIVE REGULATION COMPARISON

### Ohio's general regulatory policy

The general policy of the state is reliance on market competition and private remedies to protect the interests of consumers in commercial transactions involving the sale of goods or services. For circumstances in which the General Assembly determines that additional safeguards are necessary to protect consumers from “present, significant, and substantiated harms that threaten health, safety, or welfare,” the state’s expressed intent is to enact the “least restrictive regulation that will adequately protect consumers from such harms.”<sup>3</sup>

The degree of “restrictiveness” of an occupational regulation is prescribed by statute. The following graphic identifies each type of occupational regulation expressly mentioned in the state’s policy by least to most restrictive:



\*CSPL – The Consumer Sales Practices Law

H.B. 436 creates a new certification for K-3 teachers. The certification is voluntary but could be required by the public school employer. The bill’s professional development and screening, intervention, and remediation requirements are regulations of process that would seemingly introduce compliance hurdles for all public school teachers.

<sup>2</sup> R.C. 3319.077, 3319.078, and 3323.25. Applies to community schools, STEM schools, and college-preparatory boarding schools through references in R.C. 3314.03(A)(11)(d), 3326.11, and 3328.24.

<sup>3</sup> R.C. 4798.01 and 4798.02, neither in the bill.

## Necessity of regulations

Representative Baldrige, the bill's sponsor, testified that H.B. 436 is needed to establish a framework for early dyslexia screening and intervention that are essential in helping affected students learn and succeed in school. According to his testimony, dyslexia affects 20% of the population, including approximately 350,000 Ohio students. A number of Ohio school districts have already implemented screening and remediation programs similar to those proposed by the bill. Representative Baldrige asserts that those programs produce "dramatic" results and often do not result in additional costs for the school district.<sup>4</sup>

## Restrictiveness of regulations

Voluntary certification is a moderately restrictive option within the continuum of occupational regulations. According to the state's policy, it is an appropriate means to protect consumers against asymmetrical information between a seller and a buyer. The policy favors privately offered certifications when available.<sup>5</sup>

The buyer-seller relationship described in the state's policy is not a precise fit for a public school setting. However, if a teacher is regarded as a service provider (a seller) and students and parents as the consumers of that service (the buyers), the certification established by H.B. 436 appears to be consistent with the policy. The certification might help to inform the education-related decisions of students and parents by alerting them that a particular teacher has met certain thresholds for knowledge and competency in serving the needs of dyslexic students.

There are several private certifications for individuals who work with dyslexic students. The Center for Effective Reading Instruction (CERI) offers a structured literacy classroom teacher knowledge certificate, a structured literacy/dyslexia interventionist certificate, and a structured literacy/dyslexia specialist certificate.<sup>6</sup> The International Dyslexia Association (IDA) offers certifications for dyslexia practitioners (level 1) and dyslexia therapists (level 2).<sup>7</sup> Whether these certifications are suitable alternatives to a state certification is a policy decision.

The state's policy does not provide specific guidance as to when a regulation of process is the best means of protecting the health, safety, and welfare of consumers. However, the policy as a whole suggests that regulations of process are the most preferred method of regulation when market competition, ratings and reviews, private certifications, private causes of actions, and actions under the state's Consumer Sales Practices Law (CSPL) do not provide sufficient protection. Private remedies are somewhat limited for dyslexic students who do not receive adequate instruction in public schools. Accordingly, the screening, intervention, and

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<sup>4</sup> Representative Brian Baldrige, [House Bill 436 Sponsor Testimony](#), January 14, 2020.

<sup>5</sup> R.C. 4798.02(B)(5), not in the bill.

<sup>6</sup> CERI, [About CERI](#).

<sup>7</sup> Suzanne Carreker and Elsa Cárdenas-Hagan, [Structured Literacy Certification for Dyslexia Practitioners and Therapists: What? Why? How?](#) (October 2016).

remediation requirements established by H.B. 436 appear to be consistent with the state's policy.

### **Other regulatory policies**

Under current law, there are no statutorily required certificates for teachers providing instruction to dyslexic students. There is, however, a provision that permits the governing board of an educational service center (ESC) to hire a dyslexia specialist certified in a multisensory structured language program to provide training for K-4 teachers on the indicators of dyslexia and the types of instruction that children with dyslexia need to learn, read, write, and spell. ESCs that provide this training must make it available to school districts within their territories and to other school districts, community schools, and STEM schools that have contracted for the training.

If an ESC governing board does not provide such training, a group of local school districts within an ESC's territory may engage the services of a dyslexia specialist to provide training for teachers independently. School districts or other public schools may require dyslexia training for its teachers as part of their regular in-service training programs.<sup>8</sup>

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## **IMPACT STATEMENT**

### **Opportunities for employment**

Instituting the new requirement for 18 hours of professional development instruction may create a need for trainers to provide classroom instruction. Fewer trainers may be needed if training is conducted primarily online.

The bill's certification requirement represents an increased cost, in both money and time, to teachers who must complete the course, which may reduce employment prospects for some teachers.

### **Consumer choice**

The requirement for professional development education represents an increased barrier to entry for teachers, although the size of such a barrier is difficult to assess. A barrier to entry will reduce the choice of teachers available to the consumer.

### **Market competition**

The requirement for professional development education represents an increased barrier to entry for teachers, decreasing the number of teachers supplied and therefore decreasing market competition. The amount of any reduction is likely to be small. There may be

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<sup>8</sup> R.C. 3319.80, not in the bill.

a financial burden associated with any professional development education, however in some cases training, especially online training, may be offered free of charge to teachers.<sup>9</sup>

## Cost to government

For any potential costs to government see the [fiscal note](#).

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## STATE-BY-STATE COMPARISON

Of the surrounding states, only Indiana statutorily prescribes a certification for providing literacy instruction to dyslexic students. Kentucky, Michigan, Pennsylvania, and West Virginia have varying screening and remediation programs – including professional development requirements for teachers – but none of them mandate a certificate or license for such purposes.

The table below summarizes the law in Indiana and four other (not surrounding) states that have an occupational license, certificate, or endorsement for providing literacy instruction to dyslexic students.

State	Occupational license, certificate, or endorsement	Qualifications
Alabama <sup>10</sup>	Dyslexia therapist certification endorsement	<ol style="list-style-type: none"> <li>1. A valid Professional Educator Certificate;</li> <li>2. Completion of an International Multisensory Structured Language Education Council (IMSLEC) endorsed training course;</li> <li>3. A passing score on the Academic Language Therapy Association's (ALTA) Certified Academic Language Therapy assessment or the International Dyslexia Association's (IDA) Knowledge and Practice Examination of Effective Reading Instruction.</li> </ol>

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<sup>9</sup> The state of Texas imposes a similar professional development requirement and online training is available free of charge to teachers. [https://www.myprofessionallearning.com/visitor\\_catalog\\_class/show/201534/Dyslexia-Characteristics-Identification-and-Effective-Strategies](https://www.myprofessionallearning.com/visitor_catalog_class/show/201534/Dyslexia-Characteristics-Identification-and-Effective-Strategies).

<sup>10</sup> Code of Alabama § 16-6G-6.

State	Occupational license, certificate, or endorsement	Qualifications
Colorado <sup>11</sup>	Reading specialist endorsement	<ol style="list-style-type: none"> <li>1. A teacher license with an endorsement in an approved content area;</li> <li>2. A master's degree or higher;</li> <li>3. Completion of an approved graduate program for the preparation of reading specialists;</li> <li>4. Three or more years of full-time teaching experience;</li> <li>5. Knowledge in research-based literacy instruction;</li> <li>6. Knowledge of dyslexia and other learning disorders;</li> <li>7. Completion of a minimum of three graduate-level studies in relevant supporting areas;</li> <li>8. Knowledge in student instruction methods;</li> <li>9. Ability to assess effectiveness of instruction.</li> </ol>

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<sup>11</sup> Colorado Revised Statutes §§ 22-20.5-103 and 22-60.5-201; Colorado Code of Regulations 301.101(6.04).

State	Occupational license, certificate, or endorsement	Qualifications
Connecticut <sup>12</sup>	<p>Remedial reading, remedial language arts, or reading consultant endorsement</p> <p>Comprehensive special education or integrated early childhood and special education endorsement</p>	<ol style="list-style-type: none"> <li>1. A satisfactory score on the reading instruction examination approved by the State Board of Education, or a comparable reading instruction examination approved by the State Board;</li> <li>2. Completion of a program of study in diagnosis and remediation of reading and language arts that includes instruction in detection and recognition of, and structured literacy interventions for, students with dyslexia.</li> </ol> <p>Completion of a program of study in the diagnosis and remediation of reading and language arts that includes instruction in the detection and recognition of, and structured literacy interventions for, students with dyslexia.</p>
Florida <sup>13</sup>	Certification in Exceptional Student Education	<ol style="list-style-type: none"> <li>1. At least a bachelor's degree with a major in exceptional student education, special education, mental disabilities, specific learning disabilities, emotional disabilities, physically impaired or varying exceptionalities; or</li> <li>2. At least a bachelor's degree with 30 semester hours in exceptional student education.</li> </ol>

<sup>12</sup> Connecticut General Statutes §§ 10-145a, 10-145b, and 10-145d and 10-220a. Also note, since July 1, 2015, teacher preparation programs must include at least 12 hours of instruction in detection of dyslexia and evidence-based structured literacy intervention for affected students.

<sup>13</sup> Florida law includes students with dyslexia in the definition of "exceptional students.;" Florida Statutes §§ 1003.01 and 1007.02; Florida Administrative Code § 6A-4.01795.

State	Occupational license, certificate, or endorsement	Qualifications
Indiana <sup>14</sup>	<p>Reading specialist trained in dyslexia</p> <p>Authorized reading specialist trained in dyslexia</p>	<ol style="list-style-type: none"> <li>1. Expertise in and an endorsement or certification (or is working toward an endorsement or certification) in providing training for certain reading skills;</li> <li>2. Fluency in the response to intervention processes;</li> <li>3. Training in the identification of and intervention for dyslexia.</li> </ol> <p>Completion of training in a dyslexia program approved by the Department of Education, and includes a reading specialist trained in dyslexia, a teacher who has completed the training, and a tutor or paraprofessional working under supervision of a trained teacher.</p>

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<sup>14</sup> Indiana Code §§ 20-35.5-1-2 and 20-35.5-1-6.