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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 409  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 409's Bill Analysis](#)

**Version:** As Enacted

**Primary Sponsor:** Rep. Koehler

**Local Impact Statement Procedure Required:** No

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### Highlights

- Under the bill's safe harbor provision on report card ratings, some school districts and schools would not bear the expense of potentially costly sanctions or penalties to which they may otherwise have been subject. Although, other districts and schools under sanction would not have the opportunity for relief from such sanctions.
- Absence intervention program costs for general education internet- or computer-based community schools (e-schools) may decrease if students who are failing to participate are disenrolled more quickly than under current law. However, costs for these schools may increase to carry out additional administrative duties.
- The bill's restriction on a disenrolled student re-enrolling in the same or another general education e-school may limit the state funding transferred to those schools.

### Detailed Analysis

In general, the bill extends various provisions of law enacted in response to the COVID-19 pandemic and ordered school closure during the 2019-2020 school year to cover the 2020-2021 school year. These provisions involve safe harbor on report cards and other accountability measures, community school sponsors, and the third-grade reading guarantee. The bill also concerns substitute teacher qualifications for the remainder of the 2020-2021 school year and student attendance at internet- or computer-based community schools that are not dropout prevention and recovery schools<sup>1</sup> ("general education e-schools"). The bill

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<sup>1</sup> A dropout prevention and recovery school is a school in which a majority of the students are enrolled in a dropout prevention and recovery program.

declares an emergency with respect to its safe harbor and substitute teacher provisions, so those will go into immediate effect.

## **Safe harbor provisions**

### **Report cards**

The bill prohibits the Ohio Department of Education (ODE) from publishing state report card ratings and assigning overall or component letter grades on the state report cards for the 2020-2021 school year and prohibits any report card ratings for this school year from being considered in determining whether a district or school is subject to sanctions or penalties. Although, while the bill prohibits the publishing of ratings and assignment of overall and component letter grades, it specifies that ODE is still required to report any performance data that it has for schools and districts by September 15 2021, as under current law.

Effectively, until the release of 2021-2022 school year report cards, those for the 2018-2019 school year will be the most recent used for provisions and programs dependent on report card grades. Thus, the bill prevents some schools and districts from beginning to be subject to potentially costly state sanctions for low performance, including the creation of academic distress commissions (ADCs), state interventions for school improvement purposes, locations of start-up community schools, community school closure provisions, community school restrictions with respect to sponsor changes, and other school restructuring requirements. On the other hand, districts and schools that were on track to improve their report card grades may be subject to such sanctions longer than they otherwise would have.

### **Third-grade reading guarantee**

In addition to safe harbor from report card-related sanctions, the bill prohibits schools from retaining a student in the third grade under the third-grade reading guarantee based on reading performance in the 2020-2021 school year unless the principal of the student's school and the student's reading teacher agree that the student is reading below grade level and not prepared to be promoted to fourth grade.

### **Community school sponsors**

The bill creates a safe harbor period from community school sponsor penalties and sanctions based on ratings for the 2020-2021 school year. Instead, ratings from previous and subsequent years will be considered. This may prevent some sponsors, which include school districts, educational service centers (ESCs), and other nonprofit organizations, who would otherwise have received ratings of "ineffective" or "poor" for the 2020-2021 school year from having sponsorship authority revoked. Sponsorship authority is revoked, subject to an available appeals process, for sponsors that receive a poor rating or three consecutive ineffective ratings. Since no schools will lose sponsorship authority due to ratings for the 2020-2021 school year, the administrative costs of ODE's Office of School Sponsorship may decrease. The Office of School Sponsorship is authorized to take over sponsorship for a school having a sponsor rated as "poor" or "ineffective" for three consecutive years until the school finds a new sponsor. The Office's operations are financed by a sponsorship fee of up to 3% of each sponsored school's operating revenue.

On the other hand, some sponsors may not be able to newly take advantage of certain incentives for "effective" or "exemplary" ratings. For example, entities with an overall rating of

“exemplary” or “effective” for at least three consecutive years are evaluated by ODE once every three years, instead of annually. Entities with an overall rating of “exemplary” for at least two consecutive years may sponsor an unlimited number of schools with no territorial restrictions and also receive exemptions from certain requirements on contracts with ODE and the sponsored schools.

## **Substitute teacher qualifications**

The bill allows school districts, educational service centers, community schools, STEM schools, and chartered nonpublic schools, for the remainder of the 2020-2021 school year, to hire, in accordance with the district’s own educational requirements, an individual who does not hold a postsecondary degree as a substitute teacher. Under the bill, the State Board of Education must issue a temporary substitute teacher license to such an individual provided the individual satisfies other requirements set in law and administrative code. These substitute teacher licenses will be valid only for the 2020-2021 school year. Generally, educator licenses, permits, or certificates issued by the State Board of Education for teaching grades K-12, including serving as a substitute teacher, require at least a bachelor’s degree. The bill will generally have no effect on school district expenditures as it simply gives districts and schools more flexibility in hiring substitute teachers for the rest of the school year. There may be a minimal one-time increase in fee revenue to the Teacher Licensure and Certification Fund (Fund 4L20) if additional licenses are issued. As a point of reference, a one-year substitute teacher license carries a fee of \$25.

## **Attendance at general education e-schools**

The bill also makes changes to the law regarding attendance at general education e-schools. Currently, six general education e-schools operate in the state. In FY 2020, these schools collectively educated about 19,400 full-time equivalent (FTE) students and received about \$142 million in state foundation aid.<sup>2</sup> In FY 2021, general education e-school enrollment and funding is slated to increase to about 30,000 students and about \$206 million, respectively (as of December 2020), as more parents have opted to enroll their children in e-schools for the 2020-2021 school year in the wake of the COVID-19 pandemic.

The bill contains provisions that may increase and decrease general education e-school operating costs. The net effect likely depends on the specifics of the policy that these schools must adopt regarding a student’s failure to participate in instructional activities (in lieu of the policy regarding addressing and ameliorating student absences which all public schools must adopt under current law). The policy must include intervention strategies and certain consequences, including disenrollment, for noncompliance.

Notably, the bill permits a general education e-school’s policy to authorize disenrollment of a student at an earlier stage than under current law, which authorizes a community school student to be disenrolled after 72 hours of consecutive unexcused absences. Under the bill, when a student has 30 or more hours of unexcused absences in any semester, the general education e-school must submit a written report to the student’s parent, guardian,

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<sup>2</sup> One of the six current schools had not yet opened. It began operations in FY 2021.

or custodian. Following this notification, the school may disenroll the student if the student fails to comply with attendance policies within a reasonable time period determined by the school and other intervention strategies fail to correct the attendance issues. The bill does not affect current law's automatic disenrollment requirement. Any student disenrolled under the provisions of the bill is ineligible for re-enrollment in the same, or enrollment in another, general education e-school for a period of one school year, but may enroll in an e-school that is designated as a dropout prevention and recovery school.

General education e-schools may spend less on programs to increase student attendance and engagement if they disenroll students more quickly and on the associated administrative expenses to enroll and re-enroll students. Any savings would likely be offset at least partially by the increased expense of compliance with certain other provisions of the bill. For example, general education e-schools must prepare the written report described above, provide a disenrolled student's parent, guardian, or custodian with a list of alternative educational options available to the student, and provide written notice to a disenrolled student's resident school district within 48 hours of the disenrollment.

The bill's student attendance provisions will not have a direct fiscal effect on the state. Since e-school students are funded based on the number of hours of documented learning opportunities in which the student participates, an earlier disenrollment would generally not have an impact on the amount of state funding a student generates. However, the restriction on a disenrolled student re-enrolling in a general education e-school may limit the state funding transferred to those schools.