



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Final Analysis

Carol Napp

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**Effective date:** November 2, 2018

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## **ACT SUMMARY**

### **Ohio Teacher Evaluation System**

- Effective with the 2020-2021 school year, revises the state framework for teacher and administrator evaluations, based on the recommendations of the Educator Standards Board.
- Requires the State Board of Education to adopt the revised framework by May 1, 2020, and requires school districts and schools to update their teacher evaluation policies by July 1, 2020.
- Makes several changes to the specifications for the revised framework, including eliminating the requirement that student academic growth count for half of an evaluation; prohibiting the use of student learning objectives; prohibiting the use of shared attribution; and requiring professional growth plans or improvement plans.
- Eliminates the alternative evaluation framework.
- Establishes a one-year pilot program for the 2019-2020 school year to guide implementation of the revised framework.

## **Educator licensure and employment**

### **Educator license grade bands**

- Requires the State Board, when issuing new resident, professional, senior professional, and lead professional educator licenses, to specify whether the educator is licensed to teach grades pre-K through 5, 4 through 9, or 7 through 12, except in specified circumstances.

### **Supplemental teaching license**

- Requires the State Board to establish rules for issuing supplemental teaching licenses to temporarily allow a licensed teacher under specified conditions to teach a subject area for which the person is not licensed.

### **License to teach in Early College High Schools**

- Requires the State Board to adopt rules for obtaining a nonrenewable four-year initial educator license for teaching grades 7 through 12 at an Early College High School if specified conditions are met.
- Permits a person teaching in an Early College High School for four years under the initial license to apply for a renewable five-year professional educator license in the same subject area if the person passes a prescribed professional knowledge assessment.

### **Nonteaching employee tenure**

- Requires regular nonteaching school employees who are newly hired by noncivil service school districts to be employed for seven years prior to receiving a continuing contract (tenure).

### **Licenses for substitute teaching**

- Requires the State Board to establish new standards and requirements for obtaining an educator license for substitute teaching.
- Bases the duration that a substitute may teach under the new license on whether the post-secondary degree is related to the subject area taught.
- Expressly does not apply the post-secondary degree requirement to an individual who holds a career-technical workforce development license to work as a substitute teacher for career-technical education classes.



- Provides that any license issued under former law that is still in force on the act's effective date remains in force for the remainder of the term for which it was issued or renewed.

### **Professional development for gifted student service providers**

- Requires the State Board to revise its rules for professional development related to gifted education in accordance to prescribed hours of instruction based on whether a teacher is or is not an Advanced Placement or International Baccalaureate teacher.

### **"Highly qualified teacher" requirement – replaced**

- Repeals the state law requirement that teachers of core subject areas are "highly qualified," as formerly prescribed by federal law.
- Replaces the "highly qualified teacher" provision with "properly certified or licensed teacher" and "properly certified paraprofessional" requirements and applies the new provision to all public schools.

### **Retesting teachers – repealed**

- Repeals the requirement that public school teachers of core subject areas take exams to prove their knowledge of the subject when certain circumstances are triggered.

### **State achievement assessments**

- Permits public and chartered nonpublic schools to administer the third-grade state achievement assessments in English language arts or math, or both, in a paper format.
- Requires the Department of Education to request each assessment vendor to provide an annual analysis explaining how questions on each of the state achievement assessments, including high school end-of-course exams, are aligned to the statewide academic content standards.
- Requires the Department to request each assessment vendor to provide information and materials for assistance with the assessments, including providing practice assessments and other preparatory materials.

### **Kindergarten readiness assessment**

- Requires the Early Childhood Comprehensive Assessment Advisory Group to make recommendations to the Superintendent of Public Instruction on the use and administration of the kindergarten readiness assessment.



- Requires the state Superintendent to report final recommendations to the General Assembly by September 1, 2019.

### **Community schools**

- Clarifies that the terms "operator" and "management company" are synonymous.
- Reduces from 105 to 72 the number of consecutive hours of learning opportunities a community school student must fail to participate in before being automatically withdrawn from the school.
- Makes other changes regarding the operation of Internet- or computer-based community schools (e-schools).
- Creates a legislative committee to study and report recommendations on a competency-based payment structure for e-schools and the categories of expenses for which a community school operator must provide a detailed accounting.

### **Safe harbor for schools enrolling displaced e-school students**

- For the 2017-2018 and 2018-2019 school years, excludes from the academic performance component of a community school sponsor's evaluation students who, prior to enrolling in the sponsor's community school, were enrolled in an e-school that was suspended by its sponsor in the 2017-2018 school year.
- For the 2017-2018 through 2019-2020 school years, excludes a community school from closure and a school district from being considered a new challenged school district if a specified percentage of its students are displaced enrollees from a suspended e-school.

### **College Credit Plus study**

- Requires the Department to conduct a study on the results and effectiveness of the College Credit Plus Program.

### **Gifted student service plans**

- Adds International Baccalaureate instruction as an option for a school district's gifted student service plan.

### **Special education preschool staffing**

- Requires that a minimum of ten hours of services per week be provided for each preschool special education student served by a center-based teacher unless otherwise specified in the child's individualized education program.



## **Reading improvement plans**

- Requires a school district, community school, or STEM school in which 80% or fewer of its students attain a passing score on the third-grade English language arts assessment to establish a reading improvement plan supported by reading specialists.

## **Student performance data on state report card**

- Changes the minimum number of students ("N-size") in a group for calculation of the annual measurable objectives grade (AMO) on the state report card as follows:
  - For the 2017-2018 school year, 25 students;
  - For the 2018-2019 school year, 20 students; and
  - Beginning with the 2019-2020 school year, 15 students.

## **Consolidated school mandate report**

- Requires the Department to establish a consolidated school mandate report for school districts and schools.
- Requires each school district or school to complete and file the report annually by November 30 and provide a written explanation to its board of education if an item within the report was not completed.

## **Five-year financial forecasts**

- Prohibits requiring school districts, community schools, and STEM schools to submit their annual five-year financial forecasts prior to November 30.

## **Joint Education Oversight Committee data requests**

- Establishes specific procedures for the chairperson and vice-chairperson of the Joint Education Oversight Committee to request information from the state Superintendent.

## **Academic distress commission report**

- Requires the state Superintendent to review all policies and procedures regarding academic distress commissions and issue a report to the General Assembly by May 1, 2019.



- Requires the Committee to review, and hold at least one public hearing on, the report after it is submitted to the General Assembly.

### **Stark State College District**

- Creates the Stark State College District by adding Summit County to the territory of the technical college district of Stark County.
- Adds two members to the board of trustees of the college district so that the board of the new college district consists of nine members.

### **Title**

- Entitles the act the "Ohio Public School Deregulation Act."

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## CONTENT AND OPERATION

### Ohio Teacher Evaluation System

Continuing law requires school districts, some community and STEM schools, and state agencies that employ teachers to evaluate the performance of each teacher generally on an annual basis. The evaluations must be conducted in accordance with a state framework and statutorily prescribed frequency known as the Ohio Teacher Evaluation System (OTES). The same framework also generally applies to administrator evaluations. The act revises OTES based on 2017 recommendations of the Educator Standards Board.<sup>1</sup> The new system must be implemented beginning with the 2020-2021 school year.<sup>2</sup>

#### State framework

The act changes the specifications for the state framework and requires the State Board of Education to revise the framework accordingly and hold at least one public hearing at which its full text must be available. The State Board must adopt the revised framework by May 1, 2020, and each district and school must update its evaluation policies by July 1, 2020, to conform to the revised framework. The act also establishes a one-year pilot program for the 2019-2020 school year to guide implementation of the revised framework (see below).

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<sup>1</sup> <http://education.ohio.gov/getattachment/Topics/Teaching/Educator-Standards-Board/OTES-Recommendations-By-ESB-Jan2017-FINAL.pdf.aspx>. Or at the Department of Education home page, click on "Topics" then "Teaching" then "Educator Evaluations" then "Educator Standards" and finally "ESB OTES Revision Recommendations."

<sup>2</sup> R.C. 3319.111 and 3319.112 and Section 7.



## **Student academic growth**

The act eliminates the requirement that 50% of an evaluation consist of student academic growth. Instead, it requires the revised framework to include at least two measures of "high quality student data" to provide evidence of student learning attributable to the teacher being evaluated. One of those two measures must be the value-added progress dimension, when applicable to the grade level or subject area taught by a teacher.<sup>3</sup>

The act also requires the Department of Education to provide guidance to districts and schools on how "high quality student data" may be used as evidence of student learning attributable to a particular teacher, including examples of appropriate use of that data within the framework.<sup>4</sup>

While the act eliminates the requirement that a district or school administer assessments from a list developed by the State Board when evaluating teachers of grade levels and subjects for which value-added is not applicable, it maintains the requirement that the State Board develop that list. A district or school may use the data from the assessments on that list as "high quality student data."<sup>5</sup>

However, the act also requires the State Board to define "high quality student data."<sup>6</sup>

## **Additional features of the state framework**

The act makes the following additional changes to the framework:

(1) Prohibits the shared attribution of student performance data among all teachers in a district, building, grade, content area, or other group;

(2) Prohibits use of student learning objectives; and

(3) Requires development of a professional growth plan or improvement plan for the teacher that is (a) based on the results of the evaluation, (b) aligned to any school

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<sup>3</sup> R.C. 3319.111(B) and 3319.112(A).

<sup>4</sup> R.C. 3319.112(D)(3).

<sup>5</sup> R.C. 3319.111(B) and 3319.112(B)(2).

<sup>6</sup> R.C. 3319.112(A)(6).





district or building improvement plan required under federal law, and (c) guided by the state professional development standards.<sup>7</sup>

Finally, the act states that "high quality student data" may be used as evidence in any component of the evaluation related to the following:

- (1) Knowledge of the students to whom the teacher provides instruction;
- (2) The teacher's use of differentiated instructional practices based on the needs or abilities of individual students;
- (3) Assessment of student learning;
- (4) The teacher's use of assessment data; and
- (5) Professional responsibility and growth.<sup>8</sup>

#### **Alternative framework – repealed**

The act repeals the alternative framework for the evaluation of teachers.

That framework required the teacher performance measure to account for 50% of each evaluation, the student academic growth measure to account for 35%, and one or any combination of student surveys, teacher self-evaluations, peer review evaluations, and student portfolios to account for the remaining 15%.<sup>9</sup>

#### **Evaluation of "skilled" or "accomplished" teachers**

Under the act, a teacher's professional growth plan replaces the academic growth measure in determining how often a "skilled" or "accomplished" teacher must be evaluated. The act also makes changes to how often an "accomplished" teacher must be observed.

#### **Frequency of evaluations**

Under the act, an "accomplished" teacher may be evaluated once every three years, if the teacher submits a self-directed professional growth plan to the evaluator that focuses on specific areas identified in the observations and evaluation and the evaluator determines that the teacher is making progress on that plan. A "skilled"

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<sup>7</sup> R.C. 3319.075(H) and 3319.112(A)(7), (8), and (11).

<sup>8</sup> R.C. 3319.112(A)(6).

<sup>9</sup> Repealed R.C. 3319.114.



teacher may be evaluated once every two years, if the teacher and the evaluator jointly develop a professional growth plan that focuses on specific areas identified in the observations and evaluation. Additionally, the evaluator must determine that the teacher is making progress on that plan.<sup>10</sup>

### **Frequency of observations**

Continuing law requires that, during any year a teacher is evaluated, an evaluator must conduct at least two formal observations for at least 30 minutes each time.<sup>11</sup> While the act retains this requirement, it eliminates an exception authorizing only one formal observation of a teacher being evaluated if the teacher: (1) received an "accomplished" rating on the teacher's most recent evaluation and (2) completed an approved project demonstrating the teacher's continued growth and practice at the "accomplished" level.<sup>12</sup> Accordingly, during any year that any teacher is being evaluated, regardless of rating, an evaluator must conduct two formal observations of that teacher.

During any year a teacher is not being evaluated due to the teacher's receipt of an "accomplished" or "skilled" rating, continuing law requires an evaluator to conduct at least one observation of, and hold at least one conference with, that teacher. The act specifies that the conference must include a discussion of the teacher's progress on the teacher's professional growth plan.<sup>13</sup>

### **Miscellaneous duties**

The act requires the Department to provide guidance to districts and schools on how student surveys, student portfolios, peer review evaluations, teacher self-evaluations, and other components may be used as part of the evaluation process.<sup>14</sup>

In addition, the act requires the State Board to consult with the Educator Standards Board when revising the standards and criteria that distinguish between performance levels for teachers and principals for the purpose of assigning evaluation ratings. Continuing law specifically requires the State Board to consult with experts,

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<sup>10</sup> R.C. 3319.111(C)(2).

<sup>11</sup> R.C. 3319.112(A)(3).

<sup>12</sup> R.C. 3319.111(E)(2).

<sup>13</sup> R.C. 3319.111(C)(3).

<sup>14</sup> R.C. 3319.112(D)(4).



teachers, principals, and stakeholders when revising those same standards and criteria.<sup>15</sup>

### **One-year pilot program**

The act requires the Department of Education to establish a pilot program for the 2019-2020 school year to guide implementation of the revised state framework. The Department must issue a request for school districts to volunteer to participate, but also make a good faith effort to ensure a participant pool of adequate size and diversity.<sup>16</sup> Presumably, participants will be using parts or all of the act's revised framework prior to its adoption and implementation for the 2020-2021 school year, but the act does not state so explicitly.

The Department must provide professional development and technical assistance to teachers and evaluators in participating school districts prior to their use of the revised framework. It also must collect feedback from participating districts, teachers, and evaluators on the framework's implementation and use that feedback to make recommendations on the framework and to improve professional development. Finally, it must work with stakeholder groups in conducting the pilot program.<sup>17</sup>

### **Educator license grade bands**

The act requires the State Board, when issuing resident, professional, senior professional, and lead professional educator licenses, to specify whether the educator is licensed to teach grades pre-K through 5, 4 through 9, or 7 through 12. But the act further specifies that its grade band provisions do not apply to persons (1) licensed prior to the act's effective date, (2) licensed to teach in certain prescribed subject areas (listed below), (3) licensed as intervention specialists, including gifted intervention specialists, or (4) with "any other license that does not align to the grade band specifications." The prescribed subject areas to which the act's grade bands do *not* apply are computer information science, bilingual education, dance, drama or theater, world languages, health, library or media, music, physical education, teaching English to speakers of other languages, career-technical education, and visual arts.<sup>18</sup>

Former statutory law did not require educator licenses to be issued for particular grade bands. However, the State Board's rules in effect prior to the act's effective date

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<sup>15</sup> R.C. 3319.112(B)(1) and (C).

<sup>16</sup> Section 6(A).

<sup>17</sup> Section 6(B) and (C).

<sup>18</sup> R.C. 3319.22(A)(1).



specified that licenses be issued for "Early Childhood" (grades pre-K through 3), "Middle Childhood" (grades 4 through 9 in named curriculum areas), and "Adolescence to Young Adult" (grades 7 through 12 in named curriculum areas).<sup>19</sup>

### **Supplemental teaching license**

The act requires the State Board to establish rules for supplemental teaching licenses, which permit teachers to temporarily provide instruction in subject areas for which they are not permanently licensed. These licenses must be issued at the request of the superintendent of a school district or educational service center, or the governing authority of a STEM school, chartered nonpublic school, or community school. Prior to the act's effective date, the State Board issued supplemental teaching licenses under an administrative rule that prescribes the same licensure requirements that the act now specifies.<sup>20</sup>

To qualify for the supplemental license, an individual must meet the following criteria:

- (1) Hold a current Ohio educator license;
- (2) Be of good moral character;
- (3) Be employed in a supplemental licensure area, as defined by the State Board;
- (4) Complete an examination prescribed by the State Board; and

(5) While employed under the supplemental license and subsequent renewals, complete additional coursework and testing requirements for full licensure in that area.<sup>21</sup>

The act requires the employing district, service center, or school to assign a mentor to the licensee. The mentor must be an experienced teacher who currently holds a license in the same, or a related, content area as the supplemental license.<sup>22</sup>

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<sup>19</sup> Ohio Administrative Code (O.A.C.) 3301-24-05(A)(1) to (3).

<sup>20</sup> O.A.C. 3301-24-14.

<sup>21</sup> R.C. 3319.361(A).

<sup>22</sup> R.C. 3319.361(B).



## License to teach in an Early College High School

The act requires the State Board to adopt rules for obtaining a nonrenewable four-year initial educator license for teaching grades 7 through 12 at an Early College High School. To qualify, an applicant must:

(1) Have a graduate or terminal degree from an accredited institution of higher education in a field related to the subject area to be taught;

(2) Have obtained a passing score on an exam in the subject area to be taught prescribed by the State Board;

(3) Have experience teaching students at any grade level, including postsecondary students; and

(4) Have proof that an Early College High School intends to employ the applicant.<sup>23</sup>

After teaching at an Early College High School for four years under the provisional license, the person may apply for a renewable five-year professional educator license in the same subject area. The act requires the State Board to issue that license if the applicant attains a passing score on an assessment of professional knowledge prescribed by the State Board.<sup>24</sup>

An Early College High School is a partnership between at least one school district or school and at least one institution of higher education that allows participants to simultaneously complete requirements toward a high school diploma and the opportunity to earn at least 24 credits that are transferable to the institution of higher education. The program must prioritize students (1) who are underrepresented in regard to completing post-secondary education, (2) who are economically disadvantaged, or (3) whose parents did not earn a college degree.<sup>25</sup>

## Nonteaching employee tenure

The act requires regular nonteaching school employees who are newly hired by noncivil service school districts to be employed for seven years, rather than three years as under former law, to be eligible for a continuing contract (tenure). Under the act, they must have an initial limited contract of not more than one year and three

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<sup>23</sup> R.C. 3319.262(A).

<sup>24</sup> R.C. 3319.262(B).

<sup>25</sup> R.C. 3313.6013, not in the act.



subsequent limited contracts of two years each before they may qualify for tenure. Under former law, they had to have only an initial one-year contract and a single two-year contract to qualify.<sup>26</sup>

## **Licenses for substitute teaching**

The act requires the State Board to adopt rules establishing standards and requirements for obtaining an educator license for substitute teaching. These rules generally must require an applicant to hold a post-secondary degree but not in any specified subject area. The duration for which the holder of a new substitute license may work in a school under that license is based on whether the post-secondary degree is related to the subject area taught, as follows:

--If the license holder's degree is either in education or in a subject area directly related to the subject being taught, the holder may teach under that license for an unlimited number of school days.

--If the license holder's degree is not directly related to the subject being taught, the holder may teach under that license only for one full semester at a time, subject to the approval of the employing school district board. However, a district superintendent may request an unlimited number of subsequent semester-long approvals for that substitute from the district board.<sup>27</sup>

The act also specifies that the post-secondary degree requirement does not apply at all to an individual who holds a career-technical workforce development license and works as a substitute teacher for career-technical education classes.<sup>28</sup>

The State Board must begin issuing educator licenses for substitute teaching under these rules on July 1, 2019.<sup>29</sup>

The act's requirements replace law repealed by the act that requires the State Board to issue educator licenses for substitute teaching that are valid for one year, five years, and any other length of time up to five years as determined by the State Board.<sup>30</sup> The act specifies that any license that was issued or renewed under that former law and still in force on the act's effective date must remain in force for the remainder of the

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<sup>26</sup> R.C. 3319.081.

<sup>27</sup> New R.C. 3319.226(B).

<sup>28</sup> R.C. 3319.229(F).

<sup>29</sup> New R.C. 3319.226(A).

<sup>30</sup> Repealed R.C. 3319.226.

term for which it was issued or renewed. At the end of that term, the license holder is subject to the act's requirements for licensure.<sup>31</sup>

### **Professional development for gifted student services providers**

The act requires the State Board, by July 1, 2019, to revise its rules for professional development for general education teachers designated as providers of services to gifted students, based on whether a teacher is or is not a qualified Advanced Placement (AP) or International Baccalaureate (IB) teacher.<sup>32</sup>

The table below indicates how many hours of ongoing gifted professional development the act prescribes for the first four years a teacher is designated as a gifted student service provider.

<b>Qualifications of teacher</b>	<b>First year of designation</b>	<b>By end of fourth year of designation</b>
<b>Not an AP or IB teacher</b>	15 hours	45 additional hours
<b>An AP or IB teacher who has earned at least 24 hours of certified AP or IB professional development within the five years prior to receiving the designation</b>	7.5 hours	22.5 additional hours

The act also provides that professional development hours earned in the 24 months prior to the rule revision count toward satisfying those requirements.

Under the State Board's rules in effect prior to July 27, 2018, a general education teacher providing gifted student services was required to complete 30 hours of professional development related to gifted education during the first and second year and additional hours each year thereafter, as determined by the district or school.

However, the State Board adopted a revised rule effective on that date that essentially complies with the act. On the other hand, the new rule specifically requires 15 hours of professional development for each of the first four years for a non-AP or

<sup>31</sup> New R.C. 3319.226(C).

<sup>32</sup> Section 4.



non-IB general education teacher and 7.5 hours for each of the first four years for an AP or IB general education teacher.<sup>33</sup>

### **"Highly qualified teacher" requirement – replaced**

The act repeals the requirement that teachers of core subject areas are "highly qualified," as formerly required under federal law, and replaces it with a new state designation: "properly certified or licensed."<sup>34</sup>

### **"Properly certified or licensed" teachers and paraprofessionals**

Beginning July 1, 2019, the act prohibits school districts, community schools, and STEM schools from employing teachers of a core subject area unless they are "properly certified or licensed teachers," and from hiring paraprofessionals to provide support in a core subject area unless they are "properly certified paraprofessionals."

The act defines a "properly certified or licensed teacher" as a classroom teacher who has successfully completed all requirements for certification or licensure that apply to the subject areas and grade levels in which the teacher provides instruction. It defines a "properly certified paraprofessional" as a paraprofessional who holds an educational aide permit and either (1) has a designation of "ESEA qualified" on the permit, (2) has completed two years of coursework at an accredited higher education institution, (3) holds an associate degree or higher from an accredited higher education institution, or (4) meets a rigorous standard of quality as demonstrated by attainment of a qualifying score on an academic assessment specified by the Department of Education. Further, it redefines "core subject area" to include only reading and English language arts, math, science, social studies, foreign language, and fine arts.<sup>35</sup>

Unlike the new requirement, the former highly qualified teacher requirement did not apply to community schools.

### **Background**

Former law required that a teacher of a "core subject area" (English, math, science, foreign language, government, economics, fine arts, history, and geography) must be "highly qualified" to teach in a school funded with federal Title I funds (for disadvantaged students). This provision was based on the former No Child Left Behind

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<sup>33</sup> O.A.C. 3301-51-15(D)(8)(b).

<sup>34</sup> Repealed R.C. 3319.074.

<sup>35</sup> R.C. 3314.03(A)(11)(d), new R.C. 3319.074(A) and (B), and R.C. 3326.13. Conforming changes in R.C. 3302.03(J), 3311.78(D), 3311.79(A), 3313.603(C), 3317.141(B), and 3319.283(B).



Act of 2001, which was replaced by the Every Student Succeeds Act of 2015. The replacement act no longer includes the highly qualified teacher requirement related to Title I funding.

## **Retesting teachers – repealed**

The act repeals a law that required public school teachers of core subject areas to take exams to prove their knowledge of the subject when certain circumstances are triggered, such as low teacher ratings or low school building academic performance rankings.<sup>36</sup>

## **State achievement assessments**

### **Paper administration**

Beginning with the 2019-2020 school year, the act permits a public school or chartered nonpublic school to administer state achievement assessments in English language arts or math, or both, in a paper format to its third grade students. The district or school must submit a copy of a resolution to do so to the Department of Education by May 1 prior to the school year for which it will apply. The district or school then must administer the paper assessments to all of its third grade students, except for students with disabilities whose individualized education programs or Section 504 plans specify that an online assessment is an appropriate accommodation.<sup>37</sup>

The Department must submit a report to the General Assembly that compares the results of state assessments administered online and in a paper format using data from the 2019-2020 and 2020-2021 school years. The report must be submitted "as soon after the end of the 2020-2021 school year as possible."<sup>38</sup>

### **Analysis and assistance**

Beginning with the 2019-2020 school year, the act requires the Department to request each state assessment vendor to provide an annual analysis of how questions on the assessments, including high school end-of-course exams, are aligned to the statewide academic content standards. The analysis must be provided to all school districts and schools for all grade levels for which assessments are prescribed.<sup>39</sup>

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<sup>36</sup> Repealed R.C. 3319.58.

<sup>37</sup> R.C. 3301.0711(G)(4).

<sup>38</sup> Section 9.

<sup>39</sup> R.C. 3301.078(C).

Additionally, the Department annually must request each vendor to provide information and materials to assist districts and schools with the assessments, including practice assessments and other preparatory materials.<sup>40</sup>

### **Kindergarten readiness assessment**

The act requires the Early Childhood Comprehensive Assessment Advisory Group convened by the Department of Education to make recommendations to the Superintendent of Public Instruction on the use and administration of the kindergarten readiness assessment. The Superintendent must review those recommendations and report final recommendations to the General Assembly by September 1, 2019.<sup>41</sup>

### **Community schools**

The act revises the law on the operation of both brick-and-mortar community schools and "Internet- or computer-based community schools" (referred to as "e-schools"). An e-school is a community school in which the students work primarily from their residences through an Internet- or other computer-based instructional method that does not rely on regular classroom instruction.<sup>42</sup>

#### **Provisions applicable to all community schools**

##### **"Operator" or "management company"**

Many community schools, both e-schools and brick-and-mortar schools, are run by for-profit or nonprofit entities under a separate contract with the schools' governing authorities. Historically, the Revised Code has used the term "operator" to describe this entity; however, the term "management company" is sometimes used in the Code and has become preferred by some stakeholders. The act clarifies that the terms "operator" and "management company" are synonymous.<sup>43</sup>

##### **Automatic withdrawal of a community school student**

Under former law, a community school was required to withdraw a student who failed to participate in 105 consecutive hours of learning opportunities. The act reduces

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<sup>40</sup> R.C. 3301.078(D).

<sup>41</sup> Section 5.

<sup>42</sup> R.C. 3314.02(A)(7).

<sup>43</sup> R.C. 3314.02(A)(8).

that number to 72 consecutive hours. Under continuing law, a full school year for any community school student must consist of at least 920 hours of learning opportunities.<sup>44</sup>

### **Indemnification for certain financial losses**

If there is a relationship between the governing authority of a community school and its management company (operator), the act requires the management company to agree to indemnify the school for financial losses up to the amount of money received by the management company. This requirement applies in the case of any business or familial relationship between a governing authority, or any of its officers or employees, and the management company contracted by the school, or any of the company's officers or employees, other than the operator agreement itself.<sup>45</sup>

### **Provisions applicable to e-schools only**

#### **Nomenclature used when calculating full-time equivalency**

The act requires the Superintendent of Public Instruction, by November 30, 2018, to recommend to the Joint Education Oversight Committee definitions of the following terms that the Department uses in its manual for determining full-time equivalency for e-school students: "documentation of online learning," "idle time," "educational," "noneducational," "participation," and "classroom." The Superintendent's recommendations must include alternatives and options, and the advantages and disadvantages of each. In developing the recommendations, the Superintendent must:

- (1) Review other states' methods and procedures;
- (2) Analyze the feasibility of each recommendation;
- (3) Consider whether each recommendation is effective in assuring participation by e-school students;
- (4) Research the availability, effectiveness, and affordability of monitoring technology; and
- (5) Consider any other matters that the Superintendent determines necessary to provide a clear and accurate analysis of the effects of the recommendations.

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<sup>44</sup> R.C. 3314.03(A)(6)(b) and 3314.08(H).

<sup>45</sup> R.C. 3314.043.



The Committee must conduct at least one hearing on the Superintendent's recommendations. The Committee, by December 31, 2018, may make its own recommendations.<sup>46</sup> The act does not state how to publish those recommendations.

### **Study of e-school funding and operator accounting categories**

The act creates a legislative committee to study and report on specific recommendations regarding (1) a payment system for e-schools based on a student's competency of subject matter, in addition to, or instead of, full-time enrollment in coursework and log-on and log-off times, and (2) the categories of expenses for which an operator must provide a detailed accounting under continuing law. The committee must submit its recommendations to the General Assembly by November 15, 2018.

Regarding competency-based funding, the committee must examine funding models of other states.

The committee consists of:

(1) Two members of the House, appointed by the Speaker, one of whom the Speaker must designate as co-chair;

(2) One member of the House, appointed by the Minority Leader of the House;

(3) Two members of the Senate, appointed by the Senate President, one of whom the President must designate as co-chair; and

(4) One member of the Senate, appointed by the Minority Leader of the Senate.<sup>47</sup>

### **Safe harbor for schools enrolling displaced e-school students**

The act creates temporary exemptions from specified laws for community schools and school districts that enrolled significant numbers of students displaced by an e-school that was suspended by its sponsor in the 2017-2018 school year. As noted below, some of these exemptions are amended by H.B. 87 of the 132nd General Assembly, which, like this act, also passed on June 27, and takes effect November 2, 2018.<sup>48</sup>

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<sup>46</sup> R.C. 3314.231.

<sup>47</sup> Section 10.

<sup>48</sup> See LSC's H.B. 87 final analysis at <https://www.legislature.ohio.gov/download?key=10201&format=pdf>, pp. 3-4.



First, for community school sponsor evaluations for the 2017-2018 and 2018-2019 school years, the act excludes those displaced enrollees from the community schools in a sponsor's portfolio when calculating the academic performance component of the sponsor's evaluation.<sup>49</sup>

Next, the act exempts a community school from mandatory closure based on poor performance for two out of three years, as required under continuing law,<sup>50</sup> in the 2017-2018 through 2019-2020 school years, if the school's enrollment increased by more than 10% in the 2017-2018 school year due to displaced enrollees. However, if that school meets the conditions for closure for three consecutive years, it still must close. H.B. 87 changes this exemption to apply only if the community school's enrollment increases by 20% due to displaced enrollees. Furthermore, it additionally stipulates that if the scores of displaced enrollees are omitted from the school's report card calculations, and the community school still meets the conditions for closure for two out of three years, the school must close.<sup>51</sup>

Finally, for the 2018-2019 and 2019-2020 school years, the act exempts school districts that had more than a 10% increase in enrollment in the 2017-2018 school year due to displaced enrollees from being considered a new challenged school district, where new start-up community schools may be located under continuing law. H.B. 87 changes the threshold for this exemption to a 20% enrollment increase.<sup>52</sup>

### **College Credit Plus study**

The act requires the Department of Education to conduct a study on the results and cost-effectiveness of the College Credit Plus (CCP) Program and submit its findings within one year after the act's effective date to the Governor, Chancellor of Higher Education, each General Assembly member, and each school district and educational service center superintendent. The study must include the cost-effectiveness for secondary schools and participants and whether participants save money on college tuition and reduce the amount of time to degree completion.<sup>53</sup>

The CCP Program allows high school students to enroll in nonsectarian college courses to receive high school and college credit. CCP courses may be taken at any state

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<sup>49</sup> Section 11(B)(1). See R.C. 3314.016, not in the act.

<sup>50</sup> See R.C. 3314.35, not in the act.

<sup>51</sup> Section 11(B)(2), as amended by Section 3 of H.B. 87 of the 132nd General Assembly.

<sup>52</sup> Section 11(C), as amended by Section 3 of H.B. 87.

<sup>53</sup> Section 3.

institution of higher education or participating private or out-of-state college or university.

### **Provision of gifted education services**

The act adds International Baccalaureate instruction as an option for a district's gifted student service plan.<sup>54</sup>

Continuing law requires each school district to have a plan for the service of identified gifted students. The law also permits, but specifically does not require, a district to implement its plan. The law lists services that may be included in a district's plan, such as differentiated instruction, mentorships, accelerated coursework, Advanced Placement courses, and independent study.

### **Special education preschool staffing**

The act specifies that the State Board's rules regarding staffing for preschool children with disabilities must require a minimum of ten hours of services per week be provided for each child served by a center-based teacher, unless otherwise specified in the child's individualized education program.<sup>55</sup>

### **Reading improvement plans**

Beginning with the 2019-2020 school year, the act requires a school district, community school, or STEM school in which less than 80% of its students attain proficient scores on the third-grade English language arts assessment to establish a reading improvement plan supported by reading specialists. Prior to implementation, a reading improvement plan must be approved by the district's board of education or school's governing authority or body.<sup>56</sup>

A separate section of continuing law, not changed by the act, already requires a school district or community school that fails to meet a specified level of achievement on reading-related measures, as reported on the past two consecutive state report cards, to submit a reading achievement improvement plan to the Department of Education. Specifically, that requirement applies if, for those report cards, both (1) the district or school received a grade of "D" or "F" on the literacy progress measure, and (2) less than

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<sup>54</sup> R.C. 3324.07.

<sup>55</sup> R.C. 3323.022(C).

<sup>56</sup> R.C. 3301.0715(G), applicable to community schools and STEM schools through references in R.C. 3314.03 and 3326.11, the latter not in the act.

60% of its students who took the third-grade English language arts assessment attained at least a proficient score.<sup>57</sup>

### **Reporting of student performance data on the state report card**

For purposes of the state report cards for school districts and schools, to avoid both statistically unreliable data and the identification of individual students, continuing law prohibits the Department of Education from reporting student performance data for any group that has less than a specified number of students. This minimum number is often called the "N-size." The act changes that minimum number for the calculation of the annual measurable objectives (AMO) measure of the report card from ten students to the following:

- (1) For the 2017-2018 school year, 25 students;
- (2) For the 2018-2019 school year, 20 students; and
- (3) For the 2019-2020 school year and each subsequent school year, 15 students.<sup>58</sup>

The result is that no performance data for a specific student group will be reported for AMO if fewer than the indicated number of students for the school year are in that group for a school or district.

Continuing law specifies that the "N-size" for all other report card measures is ten students.<sup>59</sup>

### **Consolidated school mandate report**

The act requires the Department of Education to establish a consolidated school mandate report for school districts. The report must contain the following items:

- (1) Staff training on the use of physical restraint or seclusion on students;
- (2) Staff training on harassment, intimidation, or bullying;
- (3) Staff training on the use of cardiopulmonary resuscitation and automated external defibrillators;
- (4) The establishment of a wellness committee;

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<sup>57</sup> R.C. 3302.13, not in the act.

<sup>58</sup> R.C. 3302.03(C)(1)(a).

<sup>59</sup> R.C. 3302.03(F).

- (5) The reporting of compliance with nutritional standards;
- (6) Screening of students for hearing, vision, speech and communications, and health or medical problems and for any developmental disorders; and
- (7) Compliance with intra-district and inter-district open enrollment provisions.

Annually, by November 30, each district or school must file the report with the Department and specify whether it has or has not complied with the requirements contained within each item. A district or school that specifies it has not complied with the requirements of an item must submit to the district board, within 30 days, a written explanation and plan of action for accurately and efficiently addressing the problem.

The Department may request additional information regarding any item in the report. However, it may not require a separate report for any of the items, except for the public presentation on nutrition standards required by separate law.<sup>60</sup>

### **Five-year financial forecasts**

Continuing law requires each school district, community school, and STEM school annually to prepare and submit to the Department of Education a five-year projection of its operating revenue and expenditures in accordance with joint rules of the Department and the Auditor of State. The act specifies that the Department and the Auditor of State, in their joint rules, may not require districts or schools to submit their projections prior to November 30 of any fiscal year.<sup>61</sup> The act's provision is identical to one enacted in H.B. 87 of the 132nd General Assembly.

The rule in effect prior to the acts' effective dates required districts and schools to submit their forecasts by October 31.<sup>62</sup>

### **Joint Education Oversight Committee requests**

Under continuing law, the chairperson of the Joint Education Oversight Committee (JEOC) may, to the extent permitted by federal student privacy laws, request any state agency or political subdivision to provide data, statistics, and other information that is useful to the Committee's work and purpose. The act establishes specific procedures for data requests to the Superintendent of Public Instruction. Under

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<sup>60</sup> R.C. 3301.68; conforming change in R.C. 3313.814.

<sup>61</sup> R.C. 5705.391, applicable to community schools and STEM schools through references in R.C. 3314.03 and 3326.11, the latter not in the act.

<sup>62</sup> O.A.C. 3301-92-04.





the act, the Superintendent must provide any information or data jointly requested in writing by the chairperson and vice-chairperson of JEOC within a reasonable time, when it is in the Superintendent's possession or readily accessible to the Superintendent. The Superintendent may request clarification regarding the request to facilitate a timely response. The Committee must cooperate with the Superintendent to determine the scope of the data and information requested. In cooperating with the Superintendent, the Committee must take into account:

- (1) The Committee's need and urgency for the information;
- (2) The Superintendent's ease or difficulty of accessing the data and information;
- (3) The quantity of the information requested; and
- (4) Any other practical considerations that apply.

If the Superintendent and the chairperson and vice-chairperson have unresolvable differences regarding a written request, within 30 days of the Superintendent's receipt of the request, the chairperson and vice-chairperson may jointly insist in writing on receiving the data and information. The Superintendent must promptly make that information and data available, unless the Superintendent determines the written request is for a large data set. In that case, the Superintendent may inform them of the determination and request more time to resolve their differences. However, the extended time period must not be longer than 90 days after the Superintendent's receipt of the initial written request.<sup>63</sup>

### **Academic distress commission report**

The act requires the Superintendent of Public Instruction to review all policies and procedures regarding academic distress commissions and issue a report of the findings to the General Assembly by May 1, 2019. The report must include recommendations to improve the following aspects for each academic distress commission:

- (1) The appointment of members to the commission;
- (2) The duties and powers of the commission's chief executive officer, the commission's district performance improvement plan, and any innovative education programs established by the commission;

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<sup>63</sup> R.C. 103.49.

(3) The efficiency of any high-quality teacher accelerator created by the commission; and

(4) The results of the district's most recent report card.

Following the report's submission to the General Assembly, JEOC must review it and hold at least one public hearing on it.<sup>64</sup>

### **Stark State College District**

The act creates the Stark State College District by adding Summit County to the territory of the technical college district of Stark County.<sup>65</sup>

The board of trustees of the new district consists of nine trustees serving three-year terms: three members appointed by the Governor with the advice and consent of the Senate, and six members appointed by a caucus of presidents of school district and educational service center (ESC) boards with territories in the college district. This board is two members larger than the board of the former technical college of Stark County, with one more member appointed by the Governor and one more member appointed by a caucus of district and ESC presidents.<sup>66</sup> The two additional members must be appointed by December 3, 2018.<sup>67</sup> The seven members of the board of the former technical college district of Stark County are members of the new board until their terms expire.<sup>68</sup>

The act also specifies that the requirements for resident tuition that applied to the former technical college district of Stark County also apply to the Stark State College District.<sup>69</sup>

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<sup>64</sup> R.C. 3302.101 and 3302.102.

<sup>65</sup> R.C. 3357.022.

<sup>66</sup> See R.C. 3357.05, not in the act.

<sup>67</sup> Section 8.

<sup>68</sup> R.C. 3357.022(C)(1) and (2).

<sup>69</sup> R.C. 3357.022(D).



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## HISTORY

ACTION	DATE
Introduced	10-10-17
Reported, S. Education	03-07-18
Passed Senate (33-0)	03-21-18
Reported, H. Education & Career Readiness	06-27-18
Passed House (60-33)	06-27-18
Senate concurred in House amendments (28-1)	06-27-18

