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S.B. 358
(I_133_3062-10)
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 358's Bill Analysis](#)

Version: In Senate Education

Primary Sponsors: Sens. Fedor and Manning

Local Impact Statement Procedure Required: Yes

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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.
- If the East Cleveland or Youngstown city school districts receive approval to transition out of their academic distress commission's (ADC's) control through the process created by the bill, state expenditures may decrease as the state will no longer need to pay the salary of each ADC's chief executive officer.
- The bill's ADC provisions may lead to higher revenues and expenditures for the Lorain City School District, whose ADC is dissolved, and potentially East Cleveland and Youngstown, if they successfully request a transition out of their ADC, as fewer students in the districts may qualify for scholarships under the performance-based Educational Choice (EdChoice) Scholarship Program. If a student receives a scholarship, the district does not incur the expense of educating the student and funding is deducted from the district's state aid.

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 provisions on report cards and other accountability measures and end-of-course examinations. The bill also dissolves the academic distress commission (ADC) for the Lorain City School District and requires the Ohio Department of Education (ODE) to establish a process by which the other school districts subject to an ADC may submit a proposal to transition out of the ADC's control. The bill declares an emergency so it will go into immediate effect.

Safe harbor provisions

Report cards

The bill prohibits 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 each of those years, as under current law. H.B. 166 appropriates \$7.6 million from the GRF in FY 2021 for the administration of the state's accountability system and report cards, the majority of which is used to contract with SAS Institute, Inc. for the production of value-added reports.

Effectively, until the release of 2022-2023 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 (while the report cards resume for the 2021-2022 school year, the bill freezes sanctions through the 2022-2023 school year). 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, designation of buildings for the EdChoice Scholarship Program,¹ 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, graduation, and other adjustments

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. Similarly, until September 30, 2021, the bill requires schools and districts to grant a diploma to any student in the twelfth grade or who was on track to graduate this year (regardless of grade) but has not completed the requirements as long as the student's principal, in consultation with teachers and counselors, determines that the student has successfully completed the high school curriculum or the student's individualized education program.

Community school sponsors

The bill prohibits ODE from issuing any community school sponsor ratings for the 2020-2021 school year, extending a provision in effect for the 2019-2020 school year. Additionally, the bill creates a safe harbor period from sponsor penalties and sanctions based on the absence of ratings for the 2019-2020 and 2020-2021 school years. Instead, ratings from previous and subsequent years will be considered.

¹ This provision may conflict with the recently enacted S.B. 89 of the 133rd General Assembly, which modifies student eligibility criteria for first-time performance-based EdChoice scholarships beginning with the 2021-2022 school year. The result is uncertain.

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 2019-2020 or 2020-2021 school years 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 2019-2020 and 2020-2021 school years, 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.

Testing administration

End-of-course examinations

H.B. 164 of the 133rd General Assembly generally allowed students to substitute a final course grade for an end-of-course examination grade in the event the examination for the 2019-2020 school year was cancelled due to the COVID-19 pandemic. The bill extends this provision to cover the 2020-2021 school year and qualifying students, who are defined as meeting the following criteria:

- The student is being quarantined;
- The student cannot attend school or another testing location outside the home because the student or a family member is medically compromised;
- The student’s geographic area is subject to an order requiring all persons remain in their residence; or
- The student is receiving remote instruction up to and through an assessment deadline and the assessment cannot be administered remotely.

Specifically, students scheduled to take or retake an end-of-course examination in the 2020-2021 school year, but do not do so because the administration of that examination is cancelled, or qualifying students, may use a final course grade to satisfy graduation requirements prescribed under continuing law in lieu of an examination score. The bill allows students to take the relevant end-of-course examination in a subsequent year if they so choose. Thus, the bill may increase a school district or other public school’s administrative workload to inform and advise students of their options. It also may decrease state test costs by reducing the number of students that take or retake in a subsequent school year an end-of-course examination for a course taken during the 2020-2021 school year. The table below shows the bill’s designated achievement levels

for each corresponding course grade. The first column includes any corresponding letter grade for each letter (e.g., “A” includes both “A-” and “A+,” and so on).

2019-2020 and 2020-2021 School Year Final Course Grade and End-of-Course Examination Equivalent Achievement Levels	
Final Course Grade	End-of-Course Examination Performance Level Equivalent
A	Advanced
B	Accelerated
C	Proficient
D	Basic
F	Limited

Any grades “C” or higher are deemed equivalent to a competency score for purposes of graduation requirements. For pass-fail courses, the bill specifies that failure is equivalent to an “F” grade and limited level of skill, while passing is equivalent to a level of skill that the student’s district or school determines, though a pass designation is equivalent to a competency score.

Testing exemptions

The bill prohibits students from being excluded from their district’s 2021-2022 school year enrollment for funding purposes or deemed ineligible for any scholarships solely because the student was not administered an assessment.

Academic distress commissions

The bill dissolves any academic distress commission (ADC) for a school district that received a “D” or higher report card grade for the 2018-2019 school year and requires the ADC to transition operational, managerial, and instructional control back to district board of education. This provision applies to the Lorain City School District. Under the bill’s transition period, a district remains under the ADC’s control until May 30, 2021. Additionally, ODE is required to pay the remainder of the chief executive officer’s contract upon the ADC’s dissolution. The chief executive officer (CEO) compensation for each ADC is approximately \$350,000 annually. ADC CEO compensation is supported by the state through an earmark of GRF line item 200550, Foundation Funding, in the ODE budget.

The bill also requires ODE to establish a process by which a school district subject to an ADC may submit a proposal to transition out of the ADC’s control. ODE’s administrative costs may increase to create the transition process and support a committee established by the bill, consisting of the Governor and the chairpersons of the House and Senate primary and secondary education committees, to review proposals. Districts choosing this option must describe their academic progress and provide a rationale for the requested transition. The East Cleveland City School District and Youngstown City School District are the other two districts subject to an ADC. The bill requires the committee to review the proposal and permits it to use additional data from the 2019-2020

school year state report cards in its review. Final approval of the transition proposal rests with the Superintendent of Public Instruction if the committee votes to recommend the transition. If approval is granted, the ADC must transition operational, managerial, and instructional control back to the district by June 30, 2021. If East Cleveland or Youngstown receive approval to transition out of their ADC's control, state expenditures may decrease as the state will no longer need to pay the salary of the CEO (there is no requirement for ODE pay the remainder of the CEO's salary under this transition process).

The Lorain City School District may have higher revenues and expenditures under the bill (as will East Cleveland and Youngstown if they successfully request a transition), as fewer students in the district may qualify for scholarships under the performance-based EdChoice Scholarship Program. If a student receives a scholarship, the district does not incur the expense of educating the student and funding is deducted from the district's state aid.

Columbus City School District pilot program

The bill repeals a pilot program for schools in the Columbus City School District that rank in the bottom 5% of the Performance Index for three or more consecutive years. Generally, the program permits parents or guardians of 50% of the students enrolled in the school to petition the district board of education to reopen the school as a community school, replace at least 70% of the school's personnel related to the building's poor performance, transfer operation of the school to ODE, contract with another district or a nonprofit or for-profit entity to operate the school, or any other school restructuring that makes fundamental reforms to staffing or governance. Current law requires the board to implement the requested restructuring if the petition is certified. The program has not been used by parents or guardians.