



# Ohio Legislative Service Commission

## Final Analysis

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### **Am. Sub. H.B. 70** 131st General Assembly (As Passed by the General Assembly)

**Reps.** Driehaus and Brenner, Henne, Strahorn, Blessing, Curtin, R. Smith, Amstutz, Anielski, Baker, Barnes, Butler, Derickson, Green, Grossman, Hackett, Hambley, Hayes, Huffman, T. Johnson, Kunze, LaTourette, McClain, Perales, Ruhl, Schaffer, Scherer, Slaby, Slesnick, Terhar, Young, Rosenberger

**Sens.** Hite, Coley

**Effective date:** October 15, 2015

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## ACT SUMMARY

### Community learning center process

- Authorizes a school district or community school to transition any of its school buildings into a community learning center to participate in a coordinated, community-based effort to provide comprehensive services to students, families, and community members.
- Requires a school district or community school that initiates the community learning center process for a building to hold public hearings and hold a vote among parents, teachers, and nonteaching employees on whether to initiate the process.
- Requires a district board or community school governing authority to create a school action team, which must conduct a performance audit of a community learning center building, review the building's needs with regard to school restructuring provisions, and create and implement an improvement plan.
- Requires the Department of Education to adopt rules regarding the elections required for the community learning center process, to develop appropriate interventions that may be used by a school action team, and to provide other services to districts and schools.

- Requires a community learning center, prior to providing health services to a student, to obtain the written consent of the student's parent, guardian, or custodian, or the written consent of the student if the student is at least 18 years old.
- Requires a community learning center and any employee, contractor, or volunteer to maintain, in accordance with state and federal laws, the confidentiality of patient-identifying information obtained in the course of providing health services.
- States that it is not the intent of the act to impact or otherwise limit any provisions of state law relating to parental consent for an abortion.

### **Academic distress commissions**

- Revises the law regarding school district academic distress commissions by providing for specific, graduated consequences for prolonged poor performance, including possible replacement of a school's principal or a majority of the school's teaching staff, reorganization of a district-operated school as a community or STEM school, or permanent closure of a school.
- Requires an academic distress commission to appoint a chief executive officer (CEO), who has complete operational, managerial, and instructional control of the district.
- Permits an academic distress commission, in consultation with the Superintendent of Public Instruction, to create an entity to act as a "high-quality school accelerator" for schools not operated by the district.
- Requires reorganization of the board of education of a district that has been subject to an academic distress commission for four or more years and subjects that board to mayoral appointment rather than election.
- Requires a referendum on mayoral appointment of a district's board three years after the district is no longer subject to an academic distress commission.
- Suspends parts of collective bargaining agreements to varying degrees, depending on how long a district has been subject to an academic distress commission, and grants the CEO the authority to limit, suspend, or alter contracts.
- Gives the CEO the authority to exempt employees of a conversion community school sponsored by a school district for which an academic distress commission has been established from future collective bargaining.
- Qualifies students of a district subject to an academic distress commission for the Ed Choice scholarship.



- Subject to appropriations, provides for academic performance bonuses for other public schools and nonpublic schools that enroll the students of a district that has an academic distress commission.
- Requires the state Superintendent, by January 15, 2016, to submit to the General Assembly recommendations regarding how to make academic performance bonus payments.
- Permits the Department's support system for low-performing districts and schools to provide for appointment of an improvement coordinator.
- Terminates the position of an improvement coordinator appointed for a school district when it becomes subject to an academic distress commission, but permits the CEO to employ the person who served in that position to perform similar duties.
- Provides equivalencies for the Department to use to determine whether a district is subject to an academic distress commission in school years for which there is no overall grade on the state report card.

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## **CONTENT AND OPERATION**

### **COMMUNITY LEARNING CENTER PROCESS**

#### **Community learning centers**

Beginning with the 2015-2016 school year, the act authorizes a school district board or community school governing authority to initiate the transition of any school building under its control into a community learning center. A "community learning center" is defined under the act as a school that "participates in a coordinated, community-based effort with community partners to provide comprehensive educational, developmental, family, and health services to students, families, and community members during school hours and hours in which school is not in session."<sup>1</sup>

#### **Public hearings**

The act prescribes several procedural steps for a district board or community school governing authority to initiate the process for a school building to become a community learning center. First, the board or governing authority must conduct a public information hearing at the school building to inform the community of the process, and must ensure that information about the hearing is broadly distributed throughout the community. In regard to the hearing, the act authorizes, but does not require, the board or governing authority to do the following:

(1) Announce the meeting at least 45 days in advance at the school and on the district's or school's websites, using tools to ensure effective communication with individuals with disabilities;

(2) Schedule the meeting for an evening or weekend time;

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<sup>1</sup> R.C. 3302.16(A)(1).



(3) Provide interpretation services and written materials in all languages spoken by 5% or more of the students enrolled in the school;

(4) Provide child care services for parents attending the meeting;

(5) Provide parents, students, teachers, nonteaching employees, and community members with the opportunity to speak at the meeting; and

(6) Comply with the Public Records Law.<sup>2</sup>

The board or governing authority must conduct a follow-up hearing at least once annually until action is taken with regard to the community learning center process.

To support the implementation of the community learning center process, the board or governing authority may enter into an agreement with any civic engagement organizations, community organizations, or employee organizations.

### **Public vote on community learning centers**

At least 45 days after the first public information hearing, the district board or community school governing authority must conduct an election by paper ballot. The act restricts those who may vote in the election to (1) parents or guardians of students enrolled in the building, (2) parents or guardians of students who are otherwise entitled to attend school in the building but are enrolled in a different school operated by a joint vocational school district, and (3) teachers and nonteaching employees who are assigned to the building. The ballots must be distributed by mail and made available at the school building and on the building's website. The ballots also may be given directly to teachers and nonteaching employees and sent home with every student enrolled in the school.<sup>3</sup>

The district board or community school governing authority must initiate the transition of the building to a community learning center, if at least 50% of parents or guardians and at least 50% of the teachers and nonteaching employees cast ballots and, of those ballots, at least 67% from each group are in favor of it.<sup>4</sup>

### **School action teams**

If a school building becomes a community learning center, the district board or community school governing authority must create a "school action team."

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<sup>2</sup> R.C. 3302.17(B).

<sup>3</sup> R.C. 3302.17(C).

<sup>4</sup> R.C. 3302.17(D).



## Membership

The team must consist of 12 voting members as follows:

(1) Seven individuals who are parents or guardians of students enrolled in the school and members of the community but are not teachers or nonteaching employees, as elected by their peers; and

(2) Five teachers and nonteaching employees who are assigned to the building and are not parents or guardians of students enrolled in the building, as elected by their peers.<sup>5</sup>

Each member has a three-year term of office.

The members may not be compensated for their service.

The act does not specify procedures to follow in the event of a vote that results in a tie among members of the school action team.

## Duties

The team, in consultation with community partners, must conduct a performance audit of the school. (The act defines a "community partner" as a provider to students, families, or community members of health care services, on-site resource coordinators, and any other services or programs determined appropriate by a school action team.<sup>6</sup>) With parental input, the team also must review the school's need for restructuring.<sup>7</sup>

The team also has the following ongoing duties:

(1) Monitor and assist in the implementation of the community learning center improvement plan (see "**Improvement plans**," below), if adopted;

(2) Meet with candidates for the principal and other administrative positions and make recommendations to the district superintendent and board or community school governing authority;

(3) Advise on school budgets;

(4) Establish ongoing mechanisms that engage students, parents, and community members in the school;

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<sup>5</sup> R.C. 3302.18(A)(1).

<sup>6</sup> R.C. 3302.16(A)(2).

<sup>7</sup> R.C. 3302.17(E).



(5) Continue to collect feedback and information from parents using an annual survey;

(6) Develop and approve a written parent involvement policy;

(7) Monitor school progress related to academic achievement; attendance, suspensions, and expulsions; graduation rates; and reclassifications disaggregated by major racial and ethnic groups, limited English proficient students, economically disadvantaged students, and students with disabilities;

(8) Receive regular updates from the principal on policy matters affecting the school and provide advice on those matters;

(9) Meet regularly with parents and community members to discuss policy matters affecting the school;<sup>8</sup> and

(10) Determine appropriate services or programs that may be provided by a community partner to students, families, or community members.<sup>9</sup>

The team must provide quarterly updates of its work in a public hearing.<sup>10</sup>

### **Improvement plans**

Upon completion of the performance audit and restructuring review, the school action team must create an improvement plan that designates appropriate interventions. If a federally mandated school improvement planning process exists for the school, the team must coordinate its work with that plan.<sup>11</sup> Once the plan has been approved by the school action team, the team must submit the plan for approval to the parents or guardians and teachers and nonteaching employees. Ballots must be distributed and an election must be conducted in the same manner as required for the creation of a community learning center described above.

If at least 30% of parents or guardians and at least 30% of the teachers and nonteaching employees cast ballots and, of those ballots, at least 50% from each group are in favor of the improvement plan, the school action team must submit the improvement plan for approval to the district board or community school governing

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<sup>8</sup> R.C. 3302.18(C).

<sup>9</sup> R.C. 3302.16(A)(2).

<sup>10</sup> R.C. 3302.17(E).

<sup>11</sup> R.C. 3302.17(F).



authority.<sup>12</sup> The board or governing authority must evaluate the plan and determine whether to adopt the plan. The board or governing authority may adopt the plan in full or only portions of it. If the board or governing authority does not adopt the plan in full, it must provide a written explanation of why portions of the plan were rejected.<sup>13</sup>

### **Resource coordinator**

To assist the school action team, the act requires the district board, community school governing authority, or community partner to select an individual to serve as the resource coordinator to assist in the development and coordination of programs and services for the community learning center. The resource coordinator is not a member of the school action team but is an employee of the district, school, or community partner. The school action team must make recommendations to the district board, governing authority, or community partner on potential candidates for resource coordinator.<sup>14</sup>

### **Department of Education duties**

The Department of Education must adopt rules regarding the elections required for the community learning center process, to develop appropriate interventions for a community learning center improvement plan that may be used by a school action team, and to publish a menu of programs and services that may be offered by a community learning center. To publish this menu, the Department must solicit input from resource coordinators of existing community learning centers. The menu of programs and services must be posted on the Department's website.<sup>15</sup>

The Department also must provide information regarding implementation of comprehensive community-based programs and supportive services, including the community learning center model, to the following categories of schools:

(1) School buildings in improvement status under the federal "No Child Left Behind Act of 2001" or under an agreement between the Ohio Department of Education and the U.S. Secretary of Education;

(2) Secondary school buildings that are among the lowest achieving 15% of secondary schools statewide, as determined by the Department;

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<sup>12</sup> R.C. 3302.17(G).

<sup>13</sup> R.C. 3302.17(G)(2), second paragraph.

<sup>14</sup> R.C. 3302.18(A)(2).

<sup>15</sup> R.C. 3302.17(H)(1).





(3) Secondary school buildings with graduation rates of 60% or lower for three or more consecutive years; and

(4) School buildings determined by the Department to be persistently low-performing.<sup>16</sup>

Finally, the act authorizes, but does not require, the Department to do the following:

(1) Provide assistance, facilitation, and training to a school action team for conducting the team's audit;

(2) Provide opportunities for members of school action teams from different schools to share school improvement strategies with parents, teachers, and other relevant stakeholders in higher performing schools; and

(3) Provide financial support in a school action team's planning process and create a grant program to assist in the implementation of a qualified community learning center plan.<sup>17</sup>

### **Collective bargaining**

The act specifies that its provisions regarding the community learning center process prevail over any conflicting provisions of a collective bargaining agreement entered into on or after October 15, 2015 (the act's effective date). However, the act also authorizes a district board or community school governing authority and its teachers' labor organization to negotiate additional factors to be considered in the adoption of a community learning center plan.<sup>18</sup>

### **Consent and confidentiality regarding health services**

The act requires that, prior to providing health services to a student, a community learning center must obtain the written consent of the student's parent, guardian, or custodian, or the written consent of the student if the student is at least 18 years old.<sup>19</sup>

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<sup>16</sup> R.C. 3302.17(H)(1)(d).

<sup>17</sup> R.C. 3302.17(H)(2).

<sup>18</sup> R.C. 3302.17(I).

<sup>19</sup> R.C. 3302.16(B).

The act also requires a community learning center and any employee, contractor, or volunteer of a community learning center to maintain, in accordance with state and federal laws, the confidentiality of patient-identifying information obtained in the course of providing health services.<sup>20</sup>

### **Intent language**

The act states that it is not the intent of the act to impact or otherwise limit any provisions of state law relating to parental consent for an abortion.<sup>21</sup>

## **ACADEMIC DISTRESS COMMISSIONS**

The act substantially revises the law regarding school district academic distress commissions. It revises the membership of a commission and gives each commission more of an advisory role in the improvement of a district's performance, rather than a direct leadership role as under prior law. The act requires that each commission appoint a chief executive officer (CEO) who, then, has "complete operational, managerial, and instructional control" of the district. It also creates progressive consequences for districts that remain subject to an academic distress commission, including possible changes to collective bargaining agreements and mayoral appointment of the district board.

### **Establishment of an academic distress commission**

The act prescribes the establishment of an academic distress commission for a school district under two separate conditions. First, it requires the Superintendent of Public Instruction to establish a commission for any district that has received an overall grade of "F" on the state report card for three consecutive years.<sup>22</sup> The act prescribes grade equivalencies for those years for which there is not an overall grade on the state report card (see below).

Second, the act requires the establishment of a new academic distress commission in accordance with its provisions for a district that, on October 15, 2015 (the act's effective date), already has a commission established under prior law that has been in existence for at least four years.<sup>23</sup>

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<sup>20</sup> R.C. 3302.16(C).

<sup>21</sup> Section 3.

<sup>22</sup> R.C. 3302.10(A)(1).

<sup>23</sup> R.C. 3302.10(A)(2) and (B)(2).



## **Existing academic distress commissions**

If, on October 15, 2015, a school district already has an academic distress commission established under prior law, and that commission has been in existence for *less* than four years, the district must remain subject to the oversight of that commission in accordance with the provisions of the prior law. This condition continues until either the district's performance improves to that extent that it is no longer subject to an academic distress commission under the provisions of that prior law (see below) or until the district qualifies for the establishment of a new commission under the act.<sup>24</sup>

## **Prior conditions for academic distress commissions**

Prior law subjected a district to an academic distress commission if it met any combination of the following conditions for three or more consecutive school years: (1) a rating of academic emergency (under the former school rating system) and failure to make adequate yearly progress under federal law, (2) for the 2012-2013 or 2013-2014 school year, a report card grade of "F" for the performance index score and "D" or "F" for the overall value-added progress dimension, and (3) an overall grade of "F."<sup>25</sup>

Under prior law, an academic distress commission would cease to exist once the district received either a rating of "continuous improvement" or better (under the former rating system) or a report card grade of "C" or better for the performance index score and overall value-added progress dimension measures for two of the three prior school years. Further, prior law permitted the state Superintendent to dissolve a commission earlier if the state Superintendent determined that the district could perform adequately without the supervision of the commission.<sup>26</sup>

## **Commission membership**

The number of members on a commission remains the same as under prior law, at five, but the act makes a slight change in membership makeup. It requires three members to be appointed by the state Superintendent, one of whom is a resident in the county in which a majority of the district's territory is located, one teacher to be appointed by the president of the district board, and one member to be appointed by the mayor of the municipality in which the majority of the district is located.<sup>27</sup> Under prior law, three members were appointed by the state Superintendent and two residents of the districts were appointed by the district superintendent.

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<sup>24</sup> Section 4.

<sup>25</sup> Former R.C. 3302.10(A).

<sup>26</sup> Former R.C. 3302.10(L).

<sup>27</sup> R.C. 3302.10(B)(1).



Appointments to the commission must be made within 30 days after the district is notified that it is subject to an academic distress commission. The state Superintendent must designate a chairperson, who is responsible for calling and conducting meetings and acting as a liaison between the commission and the CEO.<sup>28</sup>

### **Powers and duties of the commission**

Under prior law, an academic distress commission was responsible for creating a plan for the failing district and could appoint, reassign, and terminate administrators and administrative personnel and create a budget for the district. Under the act, the commission, instead, appoints a CEO to determine and execute reforms for the district. The commission must appoint the CEO within 60 days after the state Superintendent has designated a chairperson.<sup>29</sup>

The academic distress commission, in consultation with the state Superintendent and the CEO, is also responsible for expanding "high-quality" school choice options in the district. In doing so, the commission, in consultation with the state Superintendent, may create an entity to act as a "high-quality school accelerator" for schools not operated by the district. This accelerator must be an independent entity, over which the CEO has no authority. The act states that the accelerator's role is to promote "high-quality" schools in the district, lead improvement efforts for underperforming schools not operated by the district, recruit "high-quality" sponsors for community schools, attract new "high-quality" schools to the district, and increase the overall capacity of schools to deliver a "high-quality" education for students.<sup>30</sup> The act does not define "high quality" for these purposes.

Finally, the act gives the commission an advisory role in the development of the district's improvement plan and in other actions the CEO may take to reform the district.

### **Chief executive officer (CEO)**

The CEO must have high-level management experience in the public or private sector. The CEO must be paid by the Department of Education but serves at the pleasure of the academic distress commission. The act grants the CEO complete operational, managerial, and instructional control of the district and allows the CEO to delegate specific powers or duties to the district board or district superintendent. If the CEO delegates any powers or duties, the CEO must do so in writing.

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<sup>28</sup> R.C. 3302.10(B)(1).

<sup>29</sup> R.C. 3302.10(C).

<sup>30</sup> R.C. 3302.10(D).



## **CEO's powers and duties**

Under the act, the general powers and duties of the CEO include, but are not limited to, the following:

- (1) Replacing school administrators and central office staff;
- (2) Assigning employees to schools and approving transfers;
- (3) Hiring new employees;
- (4) Defining employee responsibilities and job descriptions;
- (5) Establishing employee compensation;
- (6) Allocating teacher class loads;
- (7) Conducting employee evaluations;
- (8) Making reductions in staff;
- (9) Setting the school calendar;
- (10) Creating a budget for the district;
- (11) Contracting for services for the district;
- (12) Modifying policies and procedures established by the district board;
- (13) Establishing grade configurations of schools;
- (14) Determining the school curriculum;
- (15) Selecting instructional materials and assessments;
- (16) Setting class sizes; and
- (17) Providing for staff professional development.<sup>31</sup>

### **Academic improvement plan**

The act requires the CEO to create a plan to improve the academic performance of the district. To do so, the CEO must convene and consult with a group of community stakeholders. The CEO must convene the group of stakeholders within 30 days after the

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<sup>31</sup> R.C. 3302.10(C)(1).



CEO's appointment. The purpose of the group is to develop expectations for academic improvement in the district and to assist the district in building relationships with organizations in the community that can provide needed services to students. The members of the group must include at least educators, civic and business leaders, and representatives of institutions of higher education and government service agencies. The act also requires the CEO, within 90 days after the CEO's appointment, to convene a smaller group of community stakeholders for each school operated by the district to develop expectations for academic improvement in that school. That smaller group must include teachers employed in the school and parents of students enrolled in that school.<sup>32</sup>

The improvement plan must establish clear, measurable goals for the district and for each school operated by the district that include the performance measures under the state report card.<sup>33</sup> In creating the plan, the CEO also must consider the availability of funding to ensure sustainability of the plan.

The CEO must submit the plan to the academic distress commission within 90 days after the CEO's appointment. Within 30 days after submission of the plan, the commission must either approve the plan or suggest modifications to make it acceptable. If the commission suggests modifications, the CEO may revise the plan before resubmitting it. However, regardless of whether the CEO revises the plan or not, the CEO must resubmit the plan within 15 days after receiving the suggestions. The commission must approve the plan within 30 days after the plan is resubmitted, and the CEO then must implement it. It appears then, that the commission must approve the plan regardless of whether the CEO revises it based on the commission's recommendations.<sup>34</sup>

The CEO must review the plan annually to determine if changes are needed. The CEO may modify the plan accordingly upon the approval of the modifications by the academic distress commission.<sup>35</sup>

### **Innovative education programs**

The act authorizes the CEO to implement "innovative education programs" that do any of the following:

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<sup>32</sup> R.C. 3302.10(E)(1).

<sup>33</sup> See R.C. 3302.03, not in the act.

<sup>34</sup> R.C. 3302.10(E)(2).

<sup>35</sup> R.C. 3302.10(G)(1).

- (1) Address the physical and mental well-being of students and their families;
- (2) Provide mentoring;
- (3) Provide job resources;
- (4) Disseminate higher education information;
- (5) Offer recreational or cultural activities; or
- (6) Provide any other services that will contribute to a successful learning environment.

The CEO must establish a separate fund to support these programs into which the CEO must deposit any moneys appropriated for that purpose by the General Assembly. The act states that the CEO has sole authority to disburse such moneys, which must be used to support the improvement plan.<sup>36</sup>

### **Collective bargaining**

The act declares that any part of a collective bargaining agreement that was entered into, modified, or renewed on or after October 15, 2015, in which the district board relinquishes one or more rights or responsibilities having to do with the management and direction of the district is not enforceable. Under the act, the CEO and district board retain those duties until the commission ceases to exist and the district board agrees to relinquish those rights in a new collective bargaining agreement entered into after the district is no longer subject to an academic distress commission. The act also provides that the district board and CEO are not required to bargain on subjects reserved to the management and direction of the school district.<sup>37</sup>

The CEO also may reopen, limit, suspend, or alter any provision of a collective bargaining agreement entered into, modified, renewed, or extended on or after October 15, 2015, as a component of the progressive consequences imposed for failure to improve the district's academic performance (see below).

Finally, the act gives the CEO the authority to exempt employees of a conversion community school sponsored by the school district from future collective bargaining. Under the act, the CEO may submit to the district board and the State Employment Relations Board a statement requesting that the employees be removed from their collective bargaining units. If the CEO submits such a request, the employees remain

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<sup>36</sup> R.C. 3302.10(G)(2).

<sup>37</sup> R.C. 3302.10(F). See R.C. 4117.08(C), not in the act.

subject to their current collective bargaining agreements until the agreements expire on their own terms. Once the agreements expire, the employees are no longer covered by the state Collective Bargaining Law.<sup>38</sup>

### **Administrator contracts**

The act provides that the CEO may limit, suspend, or alter any contract with an administrator that is entered into on or after October 15, 2015. However, the CEO may not reduce any salary or base hourly rate of pay or insurance benefits for an administrator unless the reductions are part of a uniform plan that affects all district employees.<sup>39</sup>

### **Progressive consequences for failure to improve**

Each year a school district subject to an academic distress commission fails to improve, the act expands the actions the CEO may take to aid in improving the academic performance of the school district and other consequences.

#### **End of year 1**

If the district does not receive an overall grade of at least a "C" or higher (or the equivalent for years for which there is not an overall grade) on the state report card for the first school year that the district is subject to an academic distress commission, the CEO may reconstitute any school operated by the district. To do so, the CEO must present the academic distress commission with a plan that lists each school designated for reconstitution and explains how the CEO intends to reconstitute each school. Actions the CEO may take include:

- (1) Changing the school's mission or the focus of its curriculum;
- (2) Replacing the school's principal or administrative staff or both;
- (3) Replacing a majority of the school's staff, including teaching and nonteaching employees;
- (4) Contracting with a nonprofit or for-profit entity to manage the school's operations. The contract may provide for the entity to supply all or some of the staff for the school.
- (5) Reopening the school as a community school or a STEM (science, technology, engineering, and mathematics) school; and

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<sup>38</sup> R.C. 3314.102.

<sup>39</sup> R.C. 3302.10(G)(4).





(6) Permanently closing the school.

If the CEO intends to reconstitute a school by reopening it as a community or STEM school or by permanently closing it, the academic distress commission must review the plan for that school and either approve or reject the plan "by June 30 of the school year" (presumably meaning the school year just prior to the year the CEO intends to take that action). If the commission approves the plan, the CEO must reconstitute the school as outlined in the plan.<sup>40</sup>

It appears that the CEO may take the action described in (1) through (4), above without commission approval.

In addition to the actions described above, in consultation with the chair of the academic distress commission, the CEO may reopen any collective bargaining agreement entered into, modified, renewed, or extended after October 15, 2015, to renegotiate the terms of the agreement to reconstitute a school. The act grants the CEO sole discretion to designate any provisions of a collective bargaining agreement as subject to reopening by providing written notice to the bargaining representative. Any changes to the agreement take effect on the following July 1 or on another date agreed to by the parties.<sup>41</sup>

## **End of year 2**

If the district does not receive an overall grade of at least a "C" or higher (or the equivalent) on the state report card for the second school year that the district is subject to an academic distress commission, the CEO may take any of the actions authorized for the end of year 1. In addition, the CEO may limit, suspend, or alter any provision of a collective bargaining agreement entered into, modified, renewed, or extended on or after October 15, 2015. However, the CEO may not reduce any base hourly rate of pay or reduce any insurance benefits (districtwide or otherwise).<sup>42</sup>

## **End of year 3**

If the district does not receive an overall grade of at least a "C" or higher (or the equivalent) on the state report card for the third school year that the district is subject to an academic distress commission, the CEO may take any of the actions authorized for

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<sup>40</sup> R.C. 3302.10(H)(1).

<sup>41</sup> R.C. 3302.10(H)(2).

<sup>42</sup> R.C. 3302.10(I).



the end of years 1 and 2. The act also states that the CEO may continue in effect a limitation, suspension, or alteration of a provision of collective bargaining agreement.<sup>43</sup>

#### **End of year 4; required mayoral appointment of district board**

If the district does not receive an overall grade of at least a "C" or higher (or the equivalent) on the state report card for the fourth school year that the district is subject to an academic distress commission, the CEO may take any of the actions authorized for the end of years 1, 2, and 3.<sup>44</sup>

The act further requires that a new board of education be appointed for the district by the mayor of the municipality in which a majority of the territory of the district is located. If no such municipality exists, the state Superintendent must select a mayor of a municipality in which the district has some territory to appoint the board members. The act specifies that the mayor must appoint a new five-member board "on" January 1 following the fourth year the district is subject to an academic distress commission. The mayor must select the members based on a slate of candidates nominated by a separate panel, as described below. However, the CEO retains complete operational, managerial, and instructional control of the district until the CEO relinquishes that control once the district transitions out of being subject to an academic distress commission.<sup>45</sup>

Under the act, the state Superintendent must convene a nominating panel not later than 30 days after the state report cards have been issued. The panel must consist of the following members:

(1) Two persons appointed by the mayor, one of whom must be a representative of the business community or an institution of higher education located in the district;

(2) One principal employed by the district, who must be selected by a vote of the district's principals conducted by the state Superintendent;

(3) One teacher appointed by the bargaining representative for teachers employed by the district;

(4) One parent of a student enrolled in the district appointed by the parent-teacher association, or a similar organization selected by the state Superintendent; and

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<sup>43</sup> R.C. 3302.10(J).

<sup>44</sup> R.C. 3302.10(K)(1).

<sup>45</sup> R.C. 3302.10(K)(2) and 3302.11(B) and (C).



(5) The chairperson of the academic distress commission and the CEO (for as long as the district has a commission).<sup>46</sup>

The state Superintendent is a nonvoting member of the panel and must serve as the chairperson of the panel for the first two years of its existence. After that time, the panel must select a chairperson from its membership. The panel must meet at the call of the chairperson as necessary to make nominations.<sup>47</sup>

Not later than 30 days after convening, the panel must nominate a slate of at least ten candidates for possible appointment to the district board. Candidates must be residents of the districts and hold no elected public office. At least two of the candidates must reside outside of the municipal corporation served by the mayor, if that municipal corporation does not contain all of the district's territory.<sup>48</sup>

The appointing mayor must select five members from the slate for appointment to the district board within 30 days after receiving the slate of candidates. Initial members of the board take office on the January 1 following appointment, and terms of office for initial members expire on June 30 following the referendum election required by the act.<sup>49</sup>

The act requires that a mayoral appointed district board membership include, at any given time, at least two members who have significant expertise in education, finance, or business management and at least one member who resides outside of the municipal corporation served by the mayor, if the municipal corporation does not contain all of the district's territory. The board must designate one of its members as chairperson. The mayor may remove any member of the board with the advice and consent of the nominating panel.<sup>50</sup>

### **Referendum**

Article VI, Section 3 of the Ohio Constitution requires that each "city" school district has the right of a referendum vote on the number of members and organization of the district board. Accordingly, the act requires that a referendum election be held to approve mayoral appointment of the district board at the general election in the first even-numbered year occurring at least three years *after* the date on which the district's

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<sup>46</sup> R.C. 3302.11(D)(1).

<sup>47</sup> R.C. 3302.11(D)(2).

<sup>48</sup> R.C. 3302.11(E).

<sup>49</sup> R.C. 3302.11(F).

<sup>50</sup> R.C. 3302.11(H).



academic distress commission ceases to exist.<sup>51</sup> (See "**Transitioning out of academic distress commission control**" below.)

If the majority of voters approve mayoral appointment of the district board, the mayor must appoint a new board on the immediately following July 1 from a slate of candidates from the nominating panel. Three of the members will be appointed to four-year terms, and two members will be appointed for two-year terms. Thereafter, terms of office will be for four years. The nominating panel must provide the mayor a slate of candidates that is twice the number to be appointed to the board, including two candidates who reside outside the municipal corporation served by the mayor if that municipal corporation does not contain all of the district's territory.<sup>52</sup>

If a majority of the voters disapprove mayoral appointment, a new board must be elected at the next general election of an odd-numbered year.<sup>53</sup>

### **End of year 5 and subsequent years**

If the district does not receive an overall grade of at least a "C" or higher (or the equivalent) on the state report card for the fifth school year or any subsequent school years that the district is subject to an academic distress commission, the act states that the CEO may take any of the actions authorized for the end of years 1 through 4.<sup>54</sup>

### **Ed Choice scholarships for the district's students**

The act qualifies students entitled to attend school in a school district that is subject to an academic distress commission (other than the Cleveland municipal school district) for scholarships under the Educational Choice Scholarship Program (Ed Choice). In order to qualify, the student must either (1) be enrolled in a school building operated by the district or in a community school or (2) be enrolling in any of grades K through 12 in the state for the first time and be at least five years old by January 1 of the school year for which a scholarship is sought.<sup>55</sup>

Ed Choice operates statewide in every school district except Cleveland to provide scholarships for students who are assigned or would be assigned to district schools that have persistently low academic achievement or are from low-income

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<sup>51</sup> R.C. 3302.11(G)(1).

<sup>52</sup> R.C. 3302.11(G)(2).

<sup>53</sup> R.C. 3302.11(G)(3).

<sup>54</sup> R.C. 3302.10(L).

<sup>55</sup> R.C. 3302.10(G)(3), 3310.02, and 3310.03.



families. Under the program, students may use their scholarships to enroll in participating chartered nonpublic schools. The scholarship amount is deducted from the state aid account of the student's resident district. The maximum Ed Choice scholarship for a student in grades K through 8 is \$4,650. The maximum scholarship for a high school student is \$5,900 in the 2015-2016 school year, and \$6,000 in subsequent school years.<sup>56</sup> (Cleveland students may qualify for the Pilot Project Scholarship Program currently operating only in Cleveland.)

### **Transitioning out of academic distress commission control**

When the district receives an overall grade of "C" or higher on the state report card, it begins the transition period to move out of being subject to an academic distress commission. This period continues until the district has received an overall grade higher than "F" on the state report card for two consecutive school years, not including the year that initiates the transition. During the transition period, the CEO retains all powers granted by the act and must work closely with the district board and district superintendent to increase their ability to resume control of the district and to sustain its academic improvement over time. The act requires the CEO to relinquish all control of the district to the district board and superintendent upon completion of the transition. At that point, the academic distress commission is dissolved. If at any time during the transition period the district receives an overall grade of "F," the district must return to being fully subject to the academic distress commission provisions and control by the CEO until its performance improves enough to again trigger a new transition period.<sup>57</sup>

### **Academic performance bonus; recommendations**

When a district has been subject to an academic distress commission for two or more consecutive school years, other public schools not operated by the district and nonpublic schools that enroll the district's students may be eligible for an academic performance bonus in each fiscal year for which the General Assembly appropriates funds for it. The act states that the bonuses are intended to give students residing in the district access to a "high-quality" education by encouraging "high-quality" schools to enroll those students.<sup>58</sup>

The act does not prescribe how to determine the amount of the bonus or how they are to be paid, but it does require the state Superintendent to submit

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<sup>56</sup> R.C. 3310.09, not in the act.

<sup>57</sup> R.C. 3302.10(N).

<sup>58</sup> R.C. 3302.10(M).



recommendations to the General Assembly regarding these matters. Specifically, by January 15, 2016, the state Superintendent must submit recommendations that address (1) the amount of the bonuses, (2) a method for distributing bonus payments in conjunction with other payments to eligible schools (such as payments for open enrollment, Ed Choice scholarships, and community and STEM school state operating funding), and (3) measures and expectations of academic accountability required for eligibility.<sup>59</sup>

### **Improvement coordinator**

Continuing law requires the Department of Education to establish a system of intensive, ongoing support for the improvement of school districts and school buildings, with priority given to low-performing schools and districts. The act permits the system to include the appointment of an improvement coordinator to coordinate a low-performing district's improvement efforts and to build support among the community for those efforts.<sup>60</sup>

However, under the act, if an improvement coordinator was appointed for a district that is subject to an academic distress commission as a part of a prior improvement plan, that position is terminated. The CEO may employ the person who served in that position or other staff to perform duties or functions previously performed by that improvement coordinator.<sup>61</sup>

### **Grade equivalencies in lieu of overall report card grade**

In the event that the issuance of overall grades on the state report card is delayed *beyond* the 2015-2016 school year, the act provides grade equivalencies for the Department to use to determine whether a district is subject to an academic distress commission. These equivalencies are as follows:

(1) A combination of a "C" or higher for performance index and a "C" or higher for the overall value-added progress dimension grades are the equivalent of an overall grade of "C" or higher.

(2) A combination of an "F" for performance index and an "F" for the overall value-added progress dimension grades are the equivalent of an overall grade of "F."<sup>62</sup>

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<sup>59</sup> Section 5.

<sup>60</sup> R.C. 3302.04(A).

<sup>61</sup> R.C. 3302.10(C)(2).

<sup>62</sup> Section 6.

H.B. 64 of the 131st General Assembly, effective September 29, 2015, specifies that the Department may not assign overall grades on the report cards until the 2017-2018 school year.<sup>63</sup> Thus, the overall grades are delayed beyond the 2015-2016 school year, and the Department must use the equivalencies "until such time as the Department is authorized to assign an overall letter grade."

However, the act does not expressly state whether the equivalencies apply to the 2014-2015 and 2015-2016 school years.

## **Other provisions**

The act exempts from the requirement that a district maintain grades K through 12, any school district subject to an academic distress commission that has had a majority of its schools reconstituted or closed.<sup>64</sup>

The act provides that the academic distress commission and the powers of the CEO cease to exist if there are no longer any schools operated by the district<sup>65</sup> or once the district completely transitions out of oversight by a commission through improved academic performance.

The act states that the CEO, members of the academic distress commission, the state Superintendent, and any person authorized to act on behalf of any of those persons are not personally liable or subject to any suit, judgment, or claim for damages resulting from the exercise of or failure to exercise the powers, duties, and functions granted to them by the act. However, it also states that they are subject to mandamus proceedings to compel performance of their duties.<sup>66</sup>

The act requires all collective bargaining agreements entered into after October 15, 2015, to incorporate the provisions enacted by the act regarding academic distress commissions.<sup>67</sup>

Further, the act excludes new academic distress commission districts from the assessment score safe harbor exemptions for schools and districts as provided for under continuing law. Under those provisions, most districts and schools are exempt from

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<sup>63</sup> R.C. 3302.03(C)(3) not in the act. See also the version of R.C. 3302.036 as amended by H.B. 64 of the 131st General Assembly, not the same version as in this act.

<sup>64</sup> R.C. 3311.29(D).

<sup>65</sup> R.C. 3302.10(O).

<sup>66</sup> R.C. 3302.10(Q).

<sup>67</sup> R.C. 3302.10(P).



sanctions and penalties based on report card ratings until after the 2016-2017 school year. The law formerly exempted districts and schools from those sanctions and penalties only for the 2014-2015 school year, but H.B. 64 of the 131st General Assembly, effective September 29, 2015, extended the safe harbor provisions through the 2016-2017 school year.<sup>68</sup> The effect of the act is to permit the creation of new academic distress commissions under the act's criteria during the safe harbor years.

Finally, the act prohibits the state Superintendent from exempting a district from an academic distress commission by approving that district for an innovative education pilot program.<sup>69</sup>

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## HISTORY

ACTION	DATE
Introduced	02-18-15
Reported, H. Education	05-06-15
Passed House (92-6)	05-19-15
Reported, S. Education	06-24-15
Passed Senate (18-14)	06-24-15
House concurred in Senate amendments (55-40)	06-24-15

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<sup>68</sup> R.C. 3302.036, as amended by H.B. 64 of the 131st General Assembly.

<sup>69</sup> R.C. 3302.10(R). See 3302.07, not in the act.

