



# OHIO LEGISLATIVE SERVICE COMMISSION

Jason Glover

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## Fiscal Note & Local Impact Statement

**Bill:** S.B. 246 of the 132nd G.A.

**Status:** As Passed by the Senate

**Sponsor:** Sens. Lehner and Manning

**Local Impact Statement Procedure Required:** Yes

**Subject:** Student discipline procedures

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### State & Local Fiscal Highlights

- The bill provides \$2.0 million from lottery profits in FY 2019 to fund competitive grants for public districts and schools to implement positive behavior intervention and supports (PBIS) frameworks or social and emotional learning initiatives in buildings serving any of grades K through three. Individual grant awards are limited to \$5,000 per eligible school building served in the applicant's grant proposal or \$50,000, whichever is less.
- The bill prohibits out-of-school suspension or expulsion of students in grades pre-K through three for relatively minor offenses but delays full implementation of the prohibition until FY 2021. Over the course of the phase-in period, the bill will shift more students into an educational setting at the school during the period of a suspension, which may lead to a potentially significant increase in district or school costs associated with in-school suspension instruction or monitoring.
- The bill requires all teacher preparation programs to include PBIS instruction in a course for students pursuing a teaching license for grades pre-K through five. State institutions of higher education that currently do not provide such courses may incur additional costs to develop and offer them. These costs may be offset by revenue from student tuition payments.
- The bill may increase the administrative costs of school districts and the Ohio Department of Education to comply with certain reporting and other requirements.

### Detailed Fiscal Analysis

The bill makes various changes to school discipline procedures. Notably, the bill gradually prohibits suspension and expulsion for students in grades pre-K through three for relatively minor offenses. The bill also clarifies the objectives and contents of the positive behavioral intervention and supports (PBIS) frameworks that each public school must adopt under current law and administrative rule and appropriates \$2.0 million from lottery profits in FY 2019 for competitive grants to assist public

districts and schools in implementing PBIS or social and emotional learning initiatives. Provisions with notable fiscal effects are discussed in more detail below.

### **Suspension and expulsion of students in grades pre-K through three**

In general, current law permits public districts and schools to suspend students from school for up to ten school days and, subject to certain exceptions, expel students for up to 80 school days for violations of the district's or school's code of conduct. Current law generally provides district boards of education and school governing authorities with discretion in determining the types of misconduct for which a student may be suspended, expelled, or removed from school, though the board or governing authority must adopt a policy that specifies the district or school's guidelines.

The law also specifies a number of serious offenses for which year-long expulsions are required or may be authorized, such as: (1) bringing a firearm or knife to school, (2) possessing a firearm or knife at school, (3) making a bomb threat, or (4) causing serious physical harm to persons or property.

The bill prohibits a public district or school from issuing an out-of-school suspension or expulsion for a student in grades pre-K through three except, as authorized or required under continuing law, for serious offenses unless necessary to protect the immediate health and safety of the students, staff, teachers, and other school employees.

As a point of reference, public districts and schools reported a statewide total of about 34,000 out-of-school suspensions and expulsions for students in grades K through three for the 2016-2017 school year (i.e., FY 2017) to the Ohio Department of Education (ODE).<sup>1</sup> The table below displays the number and percentage of such suspensions and expulsions and the reason for the discipline.

<b>Public School Out-of-School Suspensions and Expulsions and the Reason for Discipline, Grades K-3, 2016-2017 School Year</b>		
<b>Reason</b>	<b>Occurrences</b>	<b>Percentage</b>
<b>Relatively Minor Offenses</b>		
Disobedient or disruptive behavior	16,441	48.3%
Fighting or violence	11,890	35.0%
Harassment or intimidation	1,665	4.9%
Theft	719	2.1%
Vandalism	439	1.3%
Unwelcome sexual conduct	382	1.1%
Firearm look-a-likes	107	0.3%
Truancy	85	0.2%
Use or possession of tobacco or other drugs	34	0.1%
<b>Subtotal</b>	<b>31,762</b>	<b>93.4%</b>

<sup>1</sup> When a district or school reports less than ten cases of discipline in a particular category, ODE masks the data to protect student privacy. The masked data is not reflected in this analysis. In addition, no disciplinary occurrences were reported for preschool students.

<b>Public School Out-of-School Suspensions and Expulsions and the Reason for Discipline, Grades K-3, 2016-2017 School Year</b>		
<b>Reason</b>	<b>Occurrences</b>	<b>Percentage</b>
<b>Serious Offenses</b>		
Serious bodily injury	1,606	4.7%
Use or possession of weapon other than gun or explosive	427	1.3%
False alarm or bomb threats	104	0.3%
Use or possession of a gun	82	0.2%
Use or possession of explosive, incendiary, or poison gas	29	0.1%
<b>Subtotal</b>	<b>2,248</b>	<b>6.6%</b>
<b>TOTAL</b>	<b>34,010</b>	<b>100%</b>

As the table above shows, about 31,750, or 93%, of out-of-school suspensions and expulsions ultimately would be prohibited under the bill and the remaining 2,250 (7%) offenses would appear to fall under the bill's exceptions for more serious matters.<sup>2</sup> In contrast, public districts and schools reported about 12,500 in-school suspensions or in-school alternative discipline for students in grades K through three that school year, mostly for relatively minor offenses.

The bill, therefore, will shift a large number of students into an educational setting at the school during the period of a suspension, which may lead to a potentially significant increase in costs associated with in-school suspension instruction or monitoring. The fiscal effects of these provisions will vary by district and school based on the frequency of out-of-school suspensions and expulsions and the manner in which districts and schools will opt to supervise the students given an in-school suspension or alternative form of in-school discipline instead of an out-of-school suspension. In particular, urban districts tend to have the highest rates of discipline and, thus, may incur higher costs due to the bill than other types of districts. It is possible some districts or schools may find it necessary to hire additional staff to comply with the bill. If so, the statewide average salary of a teacher in Ohio was about \$58,000 in FY 2017 while that for a teaching aide was about \$19,700. Assuming that fringe benefit costs amount to about 39% of salary, the total payroll costs for each new position would be about \$82,000 and \$27,400, respectively.

### **Delayed implementation; reports**

Any new costs to supervise students disciplined in an in-school setting in lieu of an out-of-school suspension will likely be phased in over time, as the bill delays full implementation of this provision until FY 2021. For the three years prior (FY 2018-FY 2020), each public district or school must report to ODE the number of out-of-school suspensions and expulsions of students in grades pre-K through three for both minor and serious offenses. Using the numbers reported in FY 2018 as a base, each district or school must decrease the number of suspensions and expulsions of pre-K

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<sup>2</sup> All but 20 of the disciplinary occurrences were handled through out-of-school suspensions.

through three students by 25% in FY 2019, 50% in FY 2020, and 100% in FY 2021 and report this data to ODE. In turn, ODE must submit an annual report to the General Assembly that includes the data from the districts on pre-K through three suspensions and expulsions and a summary of the best practices of implementing a PBIS framework by district throughout Ohio. There may be minimal administrative costs for districts, schools, and ODE to report this data.

### **Consultation with mental health professional**

The bill requires the principal of a school, beginning in FY 2019, to consult with a mental health professional under contract with the district or school prior to issuing an out-of-school suspension or expulsion for a student in any of grades pre-K through three. If the events leading up to suspension or expulsion indicate a need for additional mental health services, the principal or the mental health professional must, in any manner that does not result in a financial burden to the school district or school, assist the student's parent or guardian with locating providers or obtaining those services, including referral to an independent mental health professional.<sup>3</sup> The bill may increase the administrative workload of districts to make these consultations and referrals.

## **Positive behavior intervention and supports frameworks**

### **State Board of Education and district policies**

Under current law and administrative rule, school districts are required to implement PBIS on a system-wide basis.<sup>4</sup> The bill clarifies that each public district or school's PBIS framework may focus on certain specified objectives and contents and requires the State Board of Education to update its current policy and standards for the implementation of a PBIS framework to reflect the bill's changes. There may be some administrative costs incurred by ODE and school districts to examine current PBIS policies and, for those districts and schools that opt to do so, to modify them to incorporate the elements specified in the bill.

### **PBIS implementation competitive grant program**

The bill appropriates \$2.0 million from lottery profits in FY 2019 for competitive grants to assist public districts and schools to implement PBIS frameworks, evidence- or research-based social and emotional learning initiatives, or both in buildings that serve any of grades K through three. The bill limits individual grant awards to \$5,000 per eligible school building served in the applicant's grant proposal or \$50,000, whichever is less. ODE, which will administer the program, must give highest priority to districts and schools whose grant proposal serves at least one school building in which the

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<sup>3</sup> The bill specifies that this provision does not limit the district's current law responsibilities to provide special education and related services.

<sup>4</sup> PBIS is defined by the bill as a multi-tiered, schoolwide, behavioral framework developed and implemented for the purpose of improving academic and social outcomes and increasing learning for all students.

percentage of economically disadvantaged students is greater than the statewide average. Next, secondary priority must be given to districts and schools whose grant proposal serves at least one building that has a high suspension rate, as determined by the Superintendent of Public Instruction. Finally, the remaining funds must be awarded to other applicants on a first-come, first-served basis. There may be a minimal increase in administrative workload for ODE to operate the grant program.

## **Teacher training**

### **Teacher preparation programs**

The bill requires each institution in the state that provides a teacher preparation program to include a semester course, or the equivalent, for all students pursuing a license to teach in any of grades pre-K through five that provides instruction on PBIS; social-emotional development; the impact of trauma, toxic stress, and other environmental variables on learning behavior; and other related topics. Some teacher preparation programs at state institutions require this type of course already, but some do not. For those that do not, there may be some additional cost to develop and offer the course. These costs may be offset by revenue from student tuition payments.

### **Continuing education**

The bill also requires school districts, within three years, to provide professional development or continuing education in PBIS as part of the school-wide implementation of the PBIS framework to (1) any teachers who teach in buildings that serve students in any of grades pre-K through three and who completed a teacher preparation program prior to the requirement's effective date and (2) all administrators who serve students in any of grades pre-K through three who have not already completed a course in PBIS. Additionally, the bill requires each school district's local professional development committee to monitor compliance with these requirements and establish model professional development courses to assist in that compliance.

PBIS professional development or continuing education courses may substitute for other potential continuing education topics. If not, professional development costs for school districts may increase to provide this training. School districts may also incur some additional administrative expenses to develop the model courses and fulfill their monitoring responsibilities.

### **Report card indicator**

The bill requires ODE to include on a school district or building's report card an ungraded measure indicating whether or not the district or building has implemented a PBIS framework that complies with the bill. Thus, the bill may increase ODE's administrative workload in producing the report cards.

## **Other provisions related to school discipline**

### **Discipline for bringing a knife to school**

As noted above, current law permits a public district or school to expel a student from school for up to one year for bringing a knife to school. The bill specifies that a student may be expelled for bringing a knife to school only if that knife is capable of causing serious bodily injury. Fewer students may be expelled as a result. The fiscal effects of this provision are unlikely to be significant, as a relatively small number of students are expelled for such an offense each year. For example, in the 2016-2017 school year, public districts and schools reported a total of 227 students in grades K through 12 that were expelled for use or possession of a weapon other than a gun or explosive, which presumably includes knives.

### **Emergency removal**

Under continuing law, a building principal or teacher, without prior notice and hearing, may remove a student (regardless of grade level) whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process taking place. That law requires written notice as soon as practicable prior to the post-removal hearing, which must be held within three school days from the time the initial removal was ordered. The bill reduces the time limit for the post-removal hearing to one school day. Most principals hold these hearings the next day under current practice, so this provision is not likely to have a significant fiscal impact.

### **Ability to make up work required**

The bill requires, rather than permits as under current law, a school district to permit a student to complete classroom assignments missed during both in-school and out-of-school suspensions. For districts that do not already do so under current law, this provision may minimally increase the workload for teachers to prepare classroom assignment materials for suspended students.