

Legal Update

February 2021

School Vaccines

School staff are considered in Phase 1B of Ohio's phased approach to COVID vaccine distribution. In order for school staff to be prioritized schools were required in January to indicate their intent to return to an in-person or hybrid learning model by March 1st. (In-person is defined as all students having the *option* of in-person instruction, even if all do not, in fact, do so or even if schedules are adjusted.)

All but one public school district in the state has committed to return in-person in some manner by March 1st.

Vaccines for school staff are slated to begin this month with the goal to have all first doses administered by the end of February.



This Issue

COVID Law & Finance

New Secretary of Education

Ohio House Bill 409 – Additional COVID Flexibility

Recently enacted HB 409 provides the following additional Covid-19 school flexibility measures:

- Prohibits Local Report Card letter grades from being issued for the 20-21 school year.
- Establishes safe harbor from penalties and sanctions against schools based on the state report card data for the 20-21 school year. Similarly, allows community school sponsors to remain eligible in 21-22 school year for any incentives for which the sponsor was eligible in 20-21.
- Allows schools to employ substitute teachers who do not have post-secondary degrees for the 2020-2021 school year. (in order to help ensure schools can employ an adequate number of substitutes due to increasing needs arising from the virus)
- Prohibits schools for the 20-21 school year from retaining a student under the Third Grade Reading Guarantee based solely on the student's reading performance, unless the principal and the student's reading teacher determine the student is not reading at grade level and is not prepared for fourth grade.
- Allows state superintendent to waive the requirements of teacher evaluations (OTES) in 2020-2021.
- Allows non-dropout recovery e-schools to require student engagement and to withdraw students who do not meet school-designed participation expectations.



COVID Federal Funding

Additional funding, similar to CARES Act funding Ohio schools received earlier in the pandemic, is expected soon. Ohio is expected to receive nearly two billion dollars from ESSERII funds. (Approximately \$54 billion was allocated nationwide with state distributions ranging from \$127 million to Vermont to almost \$7 billion to California.)

According to ODE, \$489 million in CARES Act dollars were distributed to Ohio schools in May, 2020.

As was the first round of federal funds, the new amounts will be distributed using the Title I formula. (U.S. Census data is used to identify low-income communities.)

The new funds can be used for the same purposes as the original allocation – for “preventing, preparing for, and responding to COVID-19”. However, the new money can also be used additionally for addressing learning loss, preparing schools for reopening, and testing and upgrading school building air quality.

Also on a positive note for Ohio school funding, Governor DeWine recently restored \$260 million in pandemic-related cuts to K-12 schools and universities. Last month the governor signed an executive order rolling back cuts he originally ordered due to pandemic-related budget concerns. The order restores \$160 million to K-12 schools’ basic state aid.

This year is a budget year for Ohio, so the overall school funding plan will emerge throughout this spring.

Q: With the change in the Presidential Administration who will now head the United States Department of Education?

A: Former U.S. Secretary of Education Betsy DeVos left office on January 8th after resigning due the violent protests at the US Capitol.

Miguel Cardona, a former teacher, principal, district administrator, and Connecticut education commissioner has been chosen to lead the US DOE. President Biden made a campaign promise to appoint a public school educator to the role.

Cardona has created a positive reputation for himself as a supporter of English Language Learners. Cardona learned English at school as he moved to the mainland US with his parents from Puerto Rico knowing only Spanish.

Numerous media outlets report he is being received well by “both sides”. The effect of his leadership on charter schools and school choice remains to be seen. A member of the Connecticut superintendent group said Cardona “will be a champion of public schools” without being an “enemy” of school choice.

Arming Ohio Teachers

The Ohio Supreme Court heard oral arguments last month in a case regarding what training is required of teachers or other school staff in order to legally carry a firearm on school property.

A school district in southwest Ohio is urging the court to decide that state law which requires 728 hours of training for special police officers, security guards, and others armed with guns while on duty at school does not apply to teachers and staff who receive permission to carry weapons. The district contends its requirement of 24 hours of training is sufficient and in compliance with law.

A group of parents, on the other side, argue that not requiring the extensive training endangers students and the law applicable to peace officers should apply to any staff member who is to be armed at the school.

This publication will provide an update on this case once the Ohio Supreme Court issues a decision.

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