

# Legal Update

February 2023

## Sunshine Law Training...it's time again!

It's difficult to believe that it's time again to think about getting trained on Ohio's Open Meetings and Public Records laws, but it is indeed!

While a legislative fix is still in process for the future to clarify community school board members training obligations, it is clear for now that board members, fiscal officers, the chief administrative officer and other administrative employees of the school must complete training by June 30, 2023 if not sooner as required by your specific sponsor contract.

You may contact board counsel to provide this required training.



## This Edition

Senate Bill 1  
House Bill 123  
Governor's Education Priorities

## Threat Assessment Teams & Plan/Policy Deadline

In accordance with House Bill 123, all Ohio schools must have a Threat Assessment Plan/Policy in place by March 24, 2023. All schools serving grades six and higher must also have a trained threat assessment team in place by that same date.

HB 123 went into effect last school year requiring several new actions on the part of schools to enhance safety. Beginning in the 2021-2022 school year, schools were required to adopt an anonymous safety reporting system.

This school year, HB 123 requires schools to delve more deeply into threat assessment, which is the process of identifying students of concern, assess their risk for engaging in violence or other harmful activities, and identifying intervention strategies to manage that risk.

Schools must upload into the state Safety Plan System a Threat Assessment Policy, a threat assessment team, and certificates documenting completion of approved training of team members.

Schools are permitted to adopt the state "model policy" which can be accessed at:

<https://ohioschoolsafetycenter.ohio.gov/pre-k-12-schools/threat-assessment/>

However, the model "policy" reads more as a guide on to how to create a plan, rather than a ready-to-adopt policy. As such, if your school would like assistance in creating a policy or would like a review of one administration has created, please consult legal counsel.

Team members are required to have training approved by the Department of Public Safety upon their appointment to the team and once every three years thereafter.

Approved training programs can be found via the Ohio School Safety Center at:

<https://ohioschoolsafetycenter.ohio.gov/pre-k-12-schools/threat-assessment/>



## State Board Resolution Regarding Title IX

On December 14<sup>th</sup> the State Board of Education adopted a resolution regarding Title IX interpretation. Title IX is the federal law that protects individuals from sex-based discrimination in education programs or activities that receive federal financial assistance. (For example, Title IX applies to public schools, including charters, who receive National School Lunch funds.)

The resolution supports the Ohio Attorney General's current lawsuit challenging proposed federal rules that interpret Title IX as prohibiting discrimination based on sexual orientation and gender identity.

The resolution goes on to state the USDOE guidance documents have been enjoined by a U.S. District Court and are unenforceable.

Further, the resolution sets out that the Board disagrees with the rule promulgated by the Department of Agriculture that the USDA will interpret the prohibition on discrimination based on sex found in Title IX and in the federal food programs, to include discrimination based on sexual orientation and gender identity. (Under which federal lunch funds could be denied to schools that do not prohibit discrimination based on gender identity and sexual orientation.)

The resolution directs the state superintendent to send the resolution to every Ohio public school district and to every K-12 school and preschool program licensed by ODE and which receives federal funds.

As such, your school either has or will receive this letter.

The resolution does not require action on the part of any school. In fact, the resolution itself states that "this correspondence is intended to inform schools and districts, not to compel them to take a particular course of action."

## Governor's Education Focus

During his 2023 State of the State address, Governor DeWine noted the following education priorities:

- Additional \$3,000 for each economically disadvantaged student attending a "high-quality" charter school
- Increase in per pupil funding for charter school facilities from \$500 to \$1,000
- \$300 million for capital improvements and equipment for career tech education.
- Provision of school resources officers at state expense
- Funding to pay for curriculum based on the Science of Reading
- Expanding eligibility for EdChoice voucher program to families with incomes at or below 400% of the Federal Poverty Level

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## Q & A

### Q: What is Senate Bill 1?

A: Senate Bill 1 proposes to transfer most of Ohio's day-to-day education decision-making power from the State Board of Education to a new department under the governor's control.

Currently, the Ohio Department of Education is overseen by the state superintendent who answers to the 19-member body of elected and appointed members of the state BOE.

SB 1 proposes to replace ODE with a new agency - the Department of Education and Workforce. The new DEW would be operated by two directors appointed by the governor. One division would focus on elementary and secondary education, the other on career-technical education.

Under SB 1 the state board and the state superintendent would still be responsible for a few administrative functions, such as the adoption of requirements for educator licensure, disciplinary actions, and school district territory transfer determinations.