

Legal Update

March 2022

Sunshine Law Training

It's almost spring, which means it's time again to think about getting trained on Ohio's Open Meetings and Public Records laws!

As you may have heard, the Ohio Auditor of State issued a Bulletin in October 2021 stating that for the 2023 year-end audits of charter schools the AOS will begin testing compliance with Ohio Rev. Code § 3314.03 by considering whether the training completed by community school officials has been approved by the Attorney General. The AOS bulletin carries no legal authority and the interpretation is legally erroneous. Nonetheless, our office on behalf of clients will continue to pursue resolution of the ambiguity in time for the FY23 audits.

In the meantime, moving forward with sunshine law training as has occurred in the past is advisable so that you meet compliance requirements for FY 22 audits and sponsorship compliance.



This Edition

House Bill 51

Updated School COVID Tracing
Update Bus Masking Requirements

Virtual Meetings – House Bill 51

Last month House Bill 51 became law allowing public bodies to meet virtually through June 30, 2022.

This temporary adjustment to Ohio Open Meetings Act's requirement that members of a public body must attend in-person to count toward quorum and voting mirrors the previous law passed earlier in the COVID pandemic. Under HB 51 members of bodies such as community school boards may hold and attend meetings by teleconference, video conference, or any other similar electronic technology.

If your board decides to use the temporary law and hold meetings by phone or video conference, you can establish quorum by board members participating in any combination of in-person or virtual attendance. For example, if your board consists of five members, two members could be in-person at the school and one could dial in by phone.

It is important to note that all other requirements of the Open Meetings Act are still in effect.

Public bodies are still required to provide notification of meetings as under permanent law: "by reasonable methods by which any person may determine the time, location, and the manner by which the meeting or hearing will be conducted".

The public must be provided access to the meeting in a manner "commensurate with the method in which the meeting or hearing is conducted." The bill provides examples of public access mediums such as livestreaming by means of the internet, local radio, television, cable, or public access channels, call in information for a teleconference, or by means of any other similar electronic technology. The public body must ensure that the public can observe, when applicable, and hear the discussions and deliberations of all the members of the public body, whether the member is participating in person or electronically.



Updated Contact Tracing Guidance for Schools

As COVID-19 has evolved, public health mitigation strategies have had to adjust periodically to new challenges. The quick spread of the Omicron variant and its rapid clinical course have made universal contact tracing, case investigation and exposure notification impractical when combined with newly reduced timelines for quarantine and isolation.

As such, the Ohio Department of Health recently released new contact tracing and case investigation guidance for K-12 schools.

ODH recommends that local health departments

shift from universal contact tracing, case investigation and exposure notification to a cluster or outbreak-based model. This strategy prioritizes people in high-risk settings, such as congregate residential settings (i.e. shelters, correction facilities, and nursing homes) or for certain circumstances such as outbreaks or clusters in specific settings or in relation to initial cases or clusters associated with new variants, as appropriate.

K-12 schools should continue to follow “Mask to Stay, Test to Play,” protocol which allows asymptomatic students to attend school while wearing a mask if they have been

exposed to someone with COVID-19 in a school setting.

ODH reduced the school case reporting timing to weekly. Starting February 4th, schools should report positive student and staff cases to local departments of health each Friday rather than daily. Local health departments will continue to report on the same weekly basis.

The complete guidance can be accessed at:

<https://odh.ohio.gov/static/docs/memo-contact-tracing-final-012622.pdf>

Updated CDC School Bus Masking Rules

Effective February 25, 2022, the Centers for Disease Control and Prevention exercised its enforcement discretion to not require people to wear masks on buses or vans operated by public or private school systems, including early care and education/child care programs.

The CDC made the change to align with updated guidance that no longer recommends universal indoor mask wearing in schools in areas with a low or medium COVID-19 community risk level.

School systems at their discretion may choose to require that people wear masks on buses or vans.

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Q & A

Q: What can our school do to help ensure students get bussing?

A: To ensure your school’s students receive transportation services from their resident school districts, your school must provide relevant school districts with your school’s 2022-2023 school year daily start and end times by April 1, 2022.

After timely receiving your school’s information the school district must use that information to develop a

plan with schedules and routes. This transportation plan must be provided to your school within sixty days of receiving your start and end times. If your school does not meet the April 1st deadline, district responsibility falls from an obligation to simply making an attempt to make a plan. Thus, it is important that your school submits the required information timely.

If your school is not going to use district transportation and rather provide your own, please consult legal counsel regarding requirements.