

# Legal Update

September 2021

## Safe School Opening

Most Ohio schools have already or plan to open to in-person instruction this fall. The state has not extended the opportunity for brick and mortar community schools to offer an online option for the 2021-2022 school year.

In order to assist in the safe return, the Ohio Department of Health and the Ohio Department of Education have jointly issued a guide for schools which can be accessed at:

<https://coronavirus.ohio.gov/static/responsible/schools/K-12-Schools-Guidance.pdf>

The Centers for Disease Control and Prevention has also issued guidance for COVID-19 prevention in K-12 schools which can be accessed at:

<https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html>



## This Edition

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## Masks in Schools

One of the most asked questions as school starts this fall is whether and how to institute mask/face covering policies.

Currently, no law or governmental order in Ohio requires schools to mandate masks. To the contrary, Senate Bill 209 introduced in the Ohio General Assembly in July proposes to prevent schools from requiring masks. That bill has not been passed into law, so at this time individual school districts and community schools can make their own determination regarding masks.

The American Academy of Pediatrics recommends masking this fall for all school employees and students ages three and older.

The CDC's recent guidance encouraged the return to full-time in-person learning in the fall with layered prevention strategies, including masking, maintaining at least 3 feet of physical distance, screening testing, ventilation, handwashing, contact tracing, quarantine and isolation, and facility cleaning.

Recently in light of new evidence on the Delta variant, the CDC updated its guidance to recommend universal indoor masking for all employees, students, and visitors to K-12 schools, regardless of vaccination status.

Ohio HB 244, which goes into effect October 13<sup>th</sup>, prohibits public schools from "discriminating against an individual who has not received a vaccine (that has not received full FDA approval) ... including by requiring the individual to engage in or refrain from engaging in activities or precautions that differ from the activities or precautions of an individual who has received such a vaccine." Presumably, these means schools cannot require masks of unvaccinated individuals while not requiring masks for those who have received the fully approved FDA vaccines.

The practical effect of this law remains to be seen as vaccines begin to be granted full FDA approval.



## HB 123 – Safer Schools Reporting Requirements

Beginning with the 2021-2022 school year Ohio schools are required to adopt an anonymous safety reporting system which allows students and adults to anonymously share information with school officials and law enforcement about threats to student safety. These threats might involve a mass incident or harm to a single student.

Examples include:

- Bullying incidents
- Verbal or written threats
- Weapon/suspicious devices
- Gang related activities
- Odd/suspicious behavior
- Self-harm/suicidal ideas

Your school may already have an existing tip line with local law enforcement or a private provider. However, under HB 123 your school must now ensure numerous requirements exist within that system.

The new law requires that the reporting system operate 24 hours per day, 7 days a week. The system must forward reported information to and coordinate with the school and law enforcement and public safety agencies.

Schools are required to promote the reporting program to students in order that they be informed about ways of reporting.

If your school does not already have a compliant reporting system, you can register with the Ohio School Safety Center to use their free Safer Ohio School Tip Line and be provided the required promotional materials.

More information and registration can be found at: [Safer Ohio School Tip Line | Ohio School Safety Center](#)

HB 123 imposes additional requirements in future years, such as requiring schools serving grades 6 – 12 to establish threat assessment teams by March 2023.

## Statewide Charter Conference

Buckeye Charter School Boards will be hosting its first ever statewide conference in October. Sessions will include best practices of charter school boards, recent changes in Ohio law, contracts, sessions exclusively for board chairs, sunshine law training, and more.

Keynote speaker will be Lt. Governor Jon Husted

October 15<sup>th</sup> & 16<sup>th</sup>

Quest Conference Center  
9200 Worthington Road  
Westerville, OH 43082

Registration for individuals is \$129 and groups can also provide sponsorship.

For more information, including discounted hotel information and to register visit:

[BuckeyeCharterBoards.org](http://BuckeyeCharterBoards.org)

## Q & A

**Q: With the State Superintendent of Public Instruction retiring, what's next?**

**A:** In July, after 5 years in the position, Paolo DeMaria announced his retirement as state superintendent effective September 24th. Soon after, the state board named Deputy Superintendent John Richard to be the interim superintendent upon DeMaria's departure. However, several weeks later Richard tendered his resignation from ODE.

The State BOE now has selected Stephanie Siddens who currently serves as Senior Executive Director of ODE's Center for Student Supports. Siddens has a background as a school administrator and in research and educational program evaluation.

The State Board has issued requests for proposals for a search firm to help in the hiring of a permanent state superintendent.

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