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125th General Assembly
(As Passed by the General Assembly)

Sens. Robert Gardner, Prentiss, Mumper, Goodman, Harris, Spada, Carnes, Blessing, Armbruster, Miller, Roberts, Stivers, Zurz, Dann, Hagan, Brady

Reps. Setzer, C. Evans, Callender, Chandler, Carano, Barrett, Domenick, Flowers, Key, Price, Schlichter, Skindell, Strahorn

Effective date: June 9, 2004; Section 16 and certain other provisions effective March 10, 2004

ACT SUMMARY

GOVERNOR'S COMMISSION RECOMMENDATIONS

- Creates an Educator Standards Board to develop and submit to the State Board of Education recommendations for statewide educator standards and to carry out other functions recommended by the Governor's Commission on Teaching Success.
- Directs the Department of Education to establish a state office within the Department to support the Educator Standards Board.
- Requires school districts to use professional development standards developed by the Educator Standards Board.
- Directs the State Board of Education to create guidelines for the evaluation of principals and teachers.
- Requires that school district and building report cards include the number of "master teachers" employed by the district or building.
- Eliminates the authority of the State Board of Education to issue temporary educator licenses for employment as a superintendent or in another administrative position.

- Requires the State Board of Education to create an alternative principal license and an alternative administrator license.
- Establishes a Credential Review Board, appointed by the State Board of Education, to perform duties with respect to assessing alternative pathway educators and out-of-state educators seeking licensure in Ohio.
- Requires the Ohio School Facilities Commission to consider whether its design standards support standards recommended by the Governor's Commission on Teaching Success.
- Requires the Ohio Board of Regents to adopt rules establishing a system of statewide articulation agreements for teacher education programs among state institutions of higher education by April 15, 2005.
- Directs the Legislative Office of Education Oversight (LOEO) to study minimum teacher salaries in Ohio and selected other states and report findings by September 30, 2004.
- Requires the development of proposals for several programs recommended by the Governor's Commission on Teaching Success.
- Requires the Department of Education to define the term "hard to staff" school within 90 days of the act's effective date.
- Requires the Department of Education, when sufficient funding is available, to develop a pilot project in at least two school districts that contain "hard to staff" schools.
- Establishes a grant program for school districts that choose to implement specific changes within a "hard to staff" school.
- Implements other recommendations of the Governor's Commission on Teaching Success.

EDUCATOR LICENSING

- Eliminates the authority of the State Board of Education to issue internship certificates.
- Restricts the application of a delayed effective date for educator licensing rules adopted, amended, or rescinded by the State Board of Education

only to cases where the proposed rule, amendment, or rescission will necessitate curriculum changes in college and university teacher preparation programs, instead of application to all rulemaking actions regarding educator licensing rules as under prior law.

- Prescribes the timing of subject area testing for applicants for the provisional educator license who are employed as intervention specialists under the alternative educator license.
- Provides a qualified immunity for teacher performance assessors, trainers, and coordinators and for teacher performance assessment entities in civil actions concerning performance assessments of candidates for the professional educator license.
- Expands the rulemaking authority of the State Board of Education with respect to allowing school districts, community schools, and chartered nonpublic schools to hire teachers considered to be rehabilitated from past offenses.
- Authorizes the State Board of Education or the Superintendent of Public Instruction to issue subpoenas, take depositions, and compel production of evidence in pre-hearing investigations of educator license applicants or holders.
- Requires the State Board of Education to adopt rules establishing standards and requirements for issuing permits to individuals who are not licensed educators but who wish to be employed by school districts to direct, supervise, or coach pupil-activity programs.
- Requires the State Board of Education to permit college and university teacher education programs to meet the standards of either of two specified accreditation organizations, if the State Board requires the programs to meet the standards of an independent accreditation organization.

OTHER EDUCATION LAW CHANGES

- Requires school districts that receive federal Title I funds to hire only "highly qualified teachers" after July 1, 2002, as required by the No Child Left Behind Act of 2001.



- Requires school districts to notify the parents of each child enrolled in a Title I school of the qualifications of their child's teachers upon request.
- Clarifies the due dates and methodology of several studies conducted by LOEO.
- Repeals the requirement that LOEO issue an annual composite report on community schools.
- Repeals the requirement that the Ohio SchoolNet Commission maintain a clearinghouse of information for classroom teachers.
- Generally limits school districts to spending a combined total of *an amount equal to 20%* of their Title I funds to pay for transportation for students transferring under public school choice and for supplemental educational services.
- Requires school districts with a three-year average graduation rate of 75% or less (in addition to academic watch and academic emergency districts as under former law) to administer practice versions of the Ohio Graduation Tests (OGT) to ninth grade students.
- Clarifies other requirements related to the administration of practice versions of the OGT.
- Requires the eighth grade social studies achievement test to be phased in beginning in the 2006-2007 school year (one year earlier than under prior law).
- Specifies a date range for the summer administration of the third grade reading achievement test.
- Extends the deadline for adoption of diagnostic assessments by the State Board of Education to July 1, 2008.
- Requires school districts and community schools to administer diagnostic assessments to transfer students only if the students have not taken the assessments at another school or district in the current school year.
- Permits school districts and community schools to administer the kindergarten readiness assessment prior to a child's enrollment in kindergarten.

- Makes technical corrections to the law denying state financial aid to college students convicted of riot-related offenses.
- Provides that school districts may (subject to board of education policy) administer prescriptions written by specified individuals who are "authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices" including licensed physicians (as under prior law) and other specified licensed individuals (as added by the act).
- Removes a provision from prior law that permits a parent of an autistic child that receives a scholarship under the Pilot Project Special Education Scholarship Program to use that scholarship to pay for the child to attend an alternative special education program while also enrolling in services provided by the child's resident school district.
- Changes the due date of the report of the Ohio Autism Task Force to November 26, 2004, instead of June 26, 2004, as under prior law.
- Adjusts funding earmarks for the Head Start and Head Start Plus programs.
- Clarifies provisions of law regarding the sponsorship of community schools by a tax-exempt entity that succeeds the University of Toledo Board of Trustees or its designee as a school sponsor.
- Requires the Department of Education to make state Disadvantaged Pupil Impact Aid (DPIA) payments in FY 2004 and FY 2005 to school districts that did not receive DPIA payments in FY 2003.
- Stipulates the methodology for calculating and making DPIA payments to community schools in FY 2004 and FY 2005.
- Prohibits an Internet- or computer-based community school (E-school) from contracting for instructional space at any nonpublic school.
- Permits the Chancellor of the Ohio Board of Regents to provide funding for Kent State University's Columbus Program in Intergovernmental Issues.
- Permits a member of a school district board of education to have a monetary interest in a board contract under specified conditions.

- Allows a member of the governing board of an agency or political subdivision that contracts with a county MR/DD board for services to be employed by that MR/DD board with certain restrictions.

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CONTENT AND OPERATION

Overview

Am. Sub. S.B. 1 of the 124th General Assembly directed the Governor to appoint individuals to a Governor's Commission on Teaching Success. The Governor charged the Commission with examining and making recommendations on how to improve teaching quality in Ohio and how to attract and retain high-quality educators so that students are successful in meeting Ohio's academic standards. In 2003, the Commission issued a report containing 15 recommendations.¹ This act implements many of the recommendations suggested by the Commission.

The act also codifies the definition of "highly qualified teacher," as adopted by the Ohio Department of Education in compliance with the federal No Child Left Behind Act of 2001.

In addition, the act makes a number of other changes to the state education laws.

Highly qualified teachers

Requirements of the No Child Left Behind Act of 2001

The No Child Left Behind Act of 2001 (NCLB) is an extensive reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA), which is the major federal law affecting the educational requirements and funding of public elementary and secondary schools.² One of the principle purposes of NCLB is to improve teacher quality.

¹ *The final report of the Governor's Commission on Teaching Success is available at: <http://www.teaching-success.org/documents/AchievingMore.pdf>.*

² *Pub. L. No. 107-110, 20 U.S.C. § 6301 et seq.*

Title I is the central program of the ESEA and provides federal funds for the educational needs of low-income and other at-risk students. This program is the most significant of ESEA's provisions in terms of funding and the requirements it imposes on states. Initially, the changes imposed by NCLB that are intended to improve teacher quality apply only to schools and school districts that receive federal Title I funds, but by the end of the 2005-2006 school year, *all* public schools and school districts must be in compliance with the requirements of NCLB in this area.

To improve teacher quality, NCLB requires school districts and charter schools to ensure that all teachers hired after the start of the 2002-2003 school year who teach "core academic subjects" in a program supported by federal Title I funds be "highly qualified."³ Core academic subjects include English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.⁴ Thus, teachers who teach non-core academic subjects, such as vocational courses, need not be "highly qualified" within the meaning of NCLB. By the end of the 2005-2006 school year, NCLB requires school districts and charter schools to ensure that *all* teachers of core academic subjects, whether newly hired or continuing educators, are highly qualified.⁵

To be highly qualified within the meaning of NCLB, a teacher, whether newly hired or not, must hold a bachelor's degree. In addition, a teacher must have passed the state teacher licensing examination or have otherwise obtained full state certification. Full state certification may be either fulfilling the state's certification

³ A teacher teaching in a program supported by Title I funds includes a teacher in a targeted assistance school who is paid with Title I funds, a teacher in a "school wide" Title I school, and a teacher employed by a school district with Title I funds to provide services to eligible private school students. 34 C.F.R. § 200.55(a)(2).

⁴ 34 C.F.R. § 200.55(c).

⁵ 34 C.F.R. § 200.55(b). According to non-regulatory guidance issued by the U.S. Department of Education ("Improving Teacher Quality State Grants," January 16, 2004), teachers in charter schools must meet all NCLB requirements to be considered "highly qualified," except that states may determine whether such teachers must be fully certified in accordance with state law. Under 34 C.F.R. § 200.56(a)(3), "a teacher teaching in a public charter school in a State must meet the certification and licensure requirements, if any, contained in the State's charter school law." Continuing Ohio law requires community ("charter") school teachers to meet the same licensure standards as teachers in other public schools (R.C. 3314.03(A)(10), not in the act). Thus, under Ohio law, teachers in community schools are treated the same as teachers employed by school districts for the purpose of determining if a teacher is "highly qualified" under NCLB.

requirements applicable to an individual teacher's years of experience or it may be through an alternative route, as long as the alternative route meets various characteristics. A teacher who has had certification provisions waived on either an emergency, temporary, or provisional basis is not highly qualified within the meaning of NCLB.

A compliant alternative route, first, must be one through which the teacher receives high-quality, classroom-focused professional development that occurs before and while teaching. Second, the alternative route must provide that the teacher participates in a program where the teacher receives structured guidance and ongoing support which is presumably given by other educators. Third, a teacher participating in an alternative route to certification may only serve as a teacher for a maximum of three years before full certification. Lastly, an alternative certification route must require a teacher to demonstrate satisfactory progress toward full state certification.

In addition to having a bachelor's degree and full state certification, a teacher who is hired after July 1, 2002, must demonstrate subject matter competency. Such a teacher teaching in a public elementary school must demonstrate subject knowledge and teaching skills in reading and language arts, writing, mathematics, and other areas of the basic elementary school curriculum. This demonstration of knowledge must be by passage of a rigorous state test. A newly hired middle or high school teacher must pass a rigorous state test in each academic subject the teacher teaches or have completed an undergraduate degree, graduate degree, coursework equivalent to an undergraduate major, or advanced certification in each subject area the teacher teaches.

A teacher employed as a teacher prior to July 1, 2002, must meet the same requirements as a newly hired teacher, except that a previously employed teacher may demonstrate subject matter competency through a uniform state evaluation process instead of either passing the rigorous state test or having completed college coursework in teaching areas.⁶

So that parents may know the qualifications of their children's teachers, NCLB requires school districts that receive Title I funds to notify parents of students attending Title I schools that they may request information on the professional qualifications of their children's teachers. This notification must be made at the beginning of each school year. A parent who requests such information must receive, at a minimum, (1) information that specifies whether the teacher has met state certification requirements, (2) whether the certification requirements for the teacher have been waived, (3) the college education of the

⁶ 34 C.F.R. § 200.56(c).

teacher, and (4) whether the student is provided services by a paraprofessional and if so the qualifications of that paraprofessional.⁷

A secondary notification requirement with respect to teacher quality imposed by NCLB is that every Title I school must inform parents if their child has been assigned to a teacher who is *not* highly qualified or has been taught for four or more consecutive weeks by a teacher of a core academic subject who is not highly qualified.⁸

A state, school district, or school that does not comply with these federal requirements possibly could lose federal Title I funding.

The act

(R.C. 3319.074, 3319.227, and 3319.283)

With respect to employing highly qualified teachers, the act incorporates most of the requirements of NCLB into Ohio law. The act requires that any teacher hired after July 1, 2002, to teach a core academic subject (defined in the same manner as NCLB) in a school district-operated school that receives Title I funds must be highly qualified. However, the act is silent on NCLB's provision requiring school districts, after July 1, 2006, to ensure that *all* teachers teaching core academic subjects are highly qualified. The act does not appear to require community ("charter") schools to hire highly qualified teachers at any time, although NCLB's teacher quality provisions do appear to apply to those schools.

The act defines a "highly qualified" teacher as a classroom teacher who (1) holds a bachelor's degree and (2) is fully licensed or is participating in an alternative licensure route in which the teacher receives professional development and mentoring, teaches for not longer than three years, and demonstrates satisfactory progress toward becoming fully licensed. (R.C. 3319.074.) In addition, the teacher must fulfill at least *one* of the following requirements:

Option	If Teaching in Grades K to 6	If Teaching in Grades 7 to 12
Test	Pass a test of subject matter and professional knowledge required for licensure.	Pass a test of subject matter knowledge required for licensure.

⁷ 34 C.F.R. § 200.61(a).

⁸ 34 C.F.R. § 200.61(b).

Option	If Teaching in Grades K to 6	If Teaching in Grades 7 to 12
Educational Credentials	Receive a graduate degree or advanced certification in the teacher's teaching assignment.	Successfully complete either an undergraduate major, coursework equivalent to a major, a graduate degree, or advanced certification in each subject area in which the teacher teaches.
Score on Ohio Highly Qualified Teacher Rubric	Achieve 100 points on the Ohio Highly Qualified Teacher Rubric developed by the Ohio Department of Education. ⁹	Same.
Professional Development Program	Complete an individualized professional development program approved by the teacher's local professional development committee that includes 90 hours of high quality professional development incorporating grade-appropriate academic subject matter knowledge, teaching skills, and state academic content standards.	Same.

To further comply with NCLB, the act modifies an Ohio provision regarding teaching outside the scope of an educator license. Continuing Ohio law permits individuals with valid educator licenses to teach for up to two years in an academic area or grade level that is outside the scope of the educator license as long as the teacher works toward certification in the area during those two years. The act specifies that, if a teacher is required to be highly qualified, the teacher cannot teach outside the scope of the teacher's license (R.C. 3319.227). Similarly, the act stipulates that a veteran of the U.S. Armed Forces who lacks state

⁹ *The Ohio Department of Education has created a rubric to enable teachers to determine whether they satisfy the highly qualified teacher requirements. The rubric is a point-based evaluation that considers a teacher's years of experience in a particular content area, college coursework in this content area, college coursework in pedagogy related to the content area, professional development in the teacher's content area, professional activities in the teacher's content area, whether the teacher has received specific teaching awards, and whether the teacher has been published. The rubric is available at <http://www.ode.state.oh.us/teaching-profession/pdf/HQTRubric.pdf>.*

certification but is employed as a teacher by a school district is not considered highly qualified (R.C. 3319.283).¹⁰

With respect to parental notification of the qualifications of teachers, the act incorporates most of the NCLB requirements. The act specifies that each school district must annually notify the parents of a student enrolled in a school that receives Title I funds, through "a school wide publication," that the parent may request information on the qualifications of the child's teachers. If a parent requests such information, the school must inform the parent (1) whether the teacher has satisfied all state licensure requirements for the grades and subjects taught, (2) the teacher's collegiate major and any other degrees or certification, and (3) whether a paraprofessional provides any services to the student and, if so, what the qualifications of that paraprofessional are. (R.C. 3319.074(C).) The act does not have any requirement that a Title I school inform a parent that a child has been assigned a *non*-highly qualified teacher.

Educator Standards Board

(R.C. 3319.60)

The act establishes an Educator Standards Board comprised of 21 members for the purpose of developing and recommending standards for teachers and principals to the State Board of Education. The members are to be appointed by the State Board within 60 days of the act's effective date as follows:

(1) Eight teachers employed in a school district: two teachers in a secondary school, two teachers in a middle school, two teachers in an elementary school, one teacher in a pre-kindergarten classroom, and one teacher who serves on a local professional development committee. At least one of these eight teachers must be certified by the National Board for Professional Teaching Standards. The Ohio Education Association must submit 12 nominees for these appointments, from which the State Board is to select six members. The Ohio Federation of Teachers must submit four nominees, from which the State Board is to select two members. If there is an insufficient number of nominees from both organizations to meet the statutory membership requirements, the State Board must request additional nominees with the required credentials.

¹⁰ A school district may hire a veteran who does not hold an educator license as a teacher if the individual (1) was honorably discharged from the armed forces within three years of June 30, 1997, (2) had meaningful teaching experience in the military, and (3) holds a bachelor's degree. The veteran must complete 15 hours of approved coursework every five years. (R.C. 3319.283(A) and (B).)

(2) One teacher employed by a chartered, nonpublic school. The State Board is responsible for selecting stakeholder groups to submit a list of two nominees for this appointment.

(3) Four public school administrators: a secondary school principal and a middle school principal nominated by the Ohio Association of Secondary School Administrators, an elementary school principal nominated by the Ohio Association of Elementary School Administrators, and a school district superintendent nominated by the Buckeye Association of School Administrators. Each organization must submit two nominees for each appointment.

(4) One person who is a member of a school district board of education. The Ohio School Boards Association must submit a list of two nominees for this appointment.

(5) Three persons who are employed by institutions of higher education that offer approved teacher preparation programs: one who is employed by a private, non-profit Ohio college or university; one who is employed by a state university or university branch; and one who is employed by a state community college, community college, or technical college. Of the two members from four-year institutions of higher education, one must be employed in a college of education and one must be employed in a college of arts and sciences. The Chancellor of the Ohio Board of Regents is to submit a list of two nominees for each of these appointments.

(6) The Superintendent of Public Instruction or the Superintendent's designee, as a nonvoting, ex officio member;

(7) The Chancellor of the Ohio Board of Regents or the Chancellor's designee, as a nonvoting, ex officio member; and

(8) The chairpersons of the education committees of the House and Senate, as nonvoting, ex officio members.

The initial terms of office for voting members are three years for eight members and two years for nine members. At the first meeting, members are to draw lots to determine who will serve a three-year term and who will serve a two-year term. All terms after the initial terms are two-year terms, and the terms are renewable. Members receive no compensation for their services.

The Educator Standards Board must establish guidelines for its operation, which must permit the creation of standing subcommittees. The Educator Standards Board may appoint representatives of stakeholder groups to participate in subcommittee deliberations as nonvoting members.

Educator Standards Board to develop educator standards

(R.C. 3319.61)

The act directs the Educator Standards Board, in consultation with the Ohio Board of Regents, to develop statewide educator standards in three areas:

- (1) Teacher and principal standards;
- (2) Standards for the renewal of educator licenses; and
- (3) Standards for educator professional development.

Standards for teachers and principals

(R.C. 3319.61(A)(1))

Standards for teachers and principals must reflect what teachers and principals are expected to know and be able to do at all stages of their careers. To accomplish this requirement, the standards must be aligned with the student academic content standards, be primarily based on educator performance instead of years of experience or certain courses completed, and rely on "evidence-based factors."¹¹

Standards for teachers

(R.C. 3319.61(A)(1)(a))

In addition, the Educator Standards Board must develop standards for teachers that are aligned with the Interstate New Teacher Assessment and Support Consortium Standards; differentiate among novice, experienced, and advanced teachers; rely on competencies that can be measured; rely on content knowledge, teaching skills, discipline-specific teaching methods, and requirements for professional development; and are aligned with a system of professional development and feedback that enables teachers to meet the teacher standards developed by the Educator Standards Board.¹²

¹¹ *The State Board of Education adopts the statewide student academic content standards pursuant to R.C. 3301.079.*

¹² *The Interstate New Teacher Assessment and Support Consortium is a project of the Council of Chief State School Officers. The Consortium has developed draft standards that are published at <http://www.ccsso.org>.*

Standards for principals

(R.C. 3319.61(A)(1)(b))

Standards for principals must be aligned with the Interstate School Leaders Licensing Consortium Standards.¹³

Standards for professional development

(R.C. 3319.61(E))

The act requires that the Educator Standards Board's standards for professional development address "the crucial link between academic achievement and mental health issues."

Other components of the standards

(R.C. 3319.61(B) to (D))

In developing standards in each area, the Educator Standards Board must incorporate indicators of "cultural competency." For this purpose, the Board must develop a definition of "cultural competency" based upon content and experiences that help educators understand and appreciate the students and communities they serve as well as skills for dealing with cultural diversity that ensure that the cultural needs of students are met.¹⁴ The Educator Standards Board also must consider the impact of the standards on closing the achievement gap between students of different subgroups such as race and class. Finally, the standards developed by the Board must ensure that teachers and principals have sufficient knowledge to help identify gifted students and to provide appropriate instruction for them.

¹³ *The Interstate School Leaders Licensing Consortium Standards also are published at <http://www.ccsso.org>.*

¹⁴ *The act directs the Department of Education, where possible, to incorporate cultural competency into its professional development programs and to promote the development of cultural competency by educators (Section 41.03 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended by Section 14). Under the act, districts that are required to develop a continuous improvement plan for either the district or a building within the district must include strategies for improving the cultural competency of educators in the plan (R.C. 3302.04(B)). The Department, in conducting site evaluations of school districts and buildings, must examine the adequacy of such improvement efforts (R.C. 3302.04(D)).*

Deadline

(R.C. 3319.61(G))

Within one year after the Educator Standards Board first convenes, it must submit recommendations of these standards to the State Board of Education. The State Board must then review the recommended standards at its next regular meeting following submission of the recommendations. At that meeting, the State Board must vote either to adopt the recommended standards or to request the Educator Standards Board to reconsider its recommendations. If the State Board asks for reconsideration of the recommendations, it must specify its reasons for doing so, but it cannot direct the content of the recommendations. The Educator Standards Board must reconsider any recommendations returned to it and resubmit the recommendations to the State Board, with or without changes, no later than two weeks before the State Board's next regularly scheduled meeting. At its next meeting, the State Board must review the resubmitted recommendations and may adopt the standards as resubmitted or modify the standards prior to adoption. The State Board has final authority to determine whether to adopt any educator standards and the content of those standards. Presumably, the State Board would amend its educator licensing rules to incorporate any of the standards it adopts.

Other duties

(R.C. 3319.61(F); Section 11)

In addition to developing educator standards, the act requires the Educator Standards Board to carry out several other functions. One of these responsibilities is to collaborate with colleges and universities that offer approved teacher preparation programs for the purpose of aligning teacher preparation programs with the educator standards developed by the Board and the statewide student academic content standards. For this purpose, the Board must study the model developed by the College of Food, Agricultural, and Environmental Sciences and the College of Education at Ohio State University for aligning teacher preparation programs in agricultural education with recognized standards in that field. Representatives of both colleges must present the model to the Educator Standards Board and instruct the Board about how to use it for aligning Ohio's teacher preparation programs with the Board's standards (Section 11).

Second, the Educator Standards Board is responsible for monitoring compliance with the educator standards. If the standards are not met, the act directs the Board to recommend appropriate corrective action to the State Board of Education.

Third, the act directs the Educator Standards Board to research, develop, and recommend policies regarding the teaching and school administration professions.

Fourth, the Educator Standards Board must recommend policies to close the achievement gap between students of different subgroups.

Fifth, the Educator Standards Board must define a "master teacher" in a manner that can be used uniformly by all school districts. The intent of the General Assembly, as stated in the act, is that the Educator Standards Board adopt multiple, equal-weighted criteria to use in determining if a person is a master teacher. Such criteria may include the following: (1) attainment of a master's degree in an appropriate subject area, (2) completion of other educational levels or professional development courses, (3) certification by the National Board for Professional Teaching Standards, or (4) demonstrated leadership in the teacher's school. The Board must decide how many criteria a person needs to meet to be recognized as a master teacher, but it may not require a person to satisfy the total number of such criteria. Once this definition of "master teacher" is determined, school districts will be required to report the number of their master teachers, which will then appear on their state report cards. (See "**Reporting the number of master teachers in a school district**," below.)

State office of educator standards

(R.C. 3319.62)

To provide administrative assistance to the Educator Standards Board, the act directs the Ohio Department of Education to establish a state office of educator standards. The act specifies that the office is to be created within the Department's Center for the Teaching Profession. The Department is authorized to employ a director for the office and any other staff that may be necessary for the operation of the office. However, in staffing this office, the Department is to use current staff members "when appropriate."

Transitioning the duties of the Ohio Teacher Education and Licensure Advisory Commission to the Educator Standards Board

(Repealed R.C. 3319.28; Section 6)

An Ohio Teacher Education and Licensure Advisory Commission is housed within the Ohio Department of Education. The general purpose of the Commission is to provide advice and counsel to the State Board of Education on any matters relating to teacher education and licensing. The Commission is appointed by the State Board of Education.

The act repeals the prior law that authorized the Commission and requires that the duties of the Commission be transitioned to the Educator Standards Board. It does not prescribe a timeline for doing so.

Reporting the number of master teachers in a school district

(R.C. 3301.0714(B)(2)(d) and 3302.03(C)(8))

Once the Educator Standards Board develops a definition of a "master teacher" (see "**Other duties**" above), the act requires school districts to report to the Department of Education the number of master teachers employed by each district and each school building. This reporting is to be accomplished through the Education Management Information System (EMIS). (R.C. 3301.0714(B)(2)(d).) After the number of master teachers for each school district and school building is available through EMIS, the act directs the Department to include this information on the school district and school building report cards (R.C. 3302.03(C)(8)).

Use of the Educator Standards Board's professional development standards

(R.C. 3302.04(B)(5), 3319.075, and 3319.22(C)(1))

After the State Board of Education adopts professional development standards based on recommendations of the Educator Standards Board, the act requires all school districts to use the standards for the following purposes:

- (1) To guide the design of teacher education programs that serve both teacher candidates and experienced teachers;
- (2) To guide school-based professional development that is aligned with student achievement;
- (3) To determine what types of professional development the district and schools within the district should provide to teachers;
- (4) To guide expenditures of state and federal funding for professional development;
- (5) To develop criteria for decision making by local professional development committees;
- (6) To ensure that third-party providers of instructional services use or meet the professional development standards; and
- (7) To guide all licensed school personnel in developing their own plans for professional growth. (R.C. 3319.075.)

If a district or a building within the district has failed to make adequate yearly progress for two or more consecutive years, then the district must include an analysis of how the district is utilizing the professional development standards in its continuous improvement plan (R.C. 3302.04(B)(5)).¹⁵

Local professional development committees

(R.C. 3319.22(C)(1))

Continuing law mandates that each school district and chartered nonpublic school establish local professional development committees. The statutory function of these committees is to review coursework completed by educators for the renewal of educator licenses and determine whether the coursework satisfies the criteria for license renewal. To assist the committees adjust their review of coursework so that the content of the professional development standards is incorporated, the act requires the Department of Education to provide technical assistance to the committees.

Guidelines for the evaluation of teachers and principals

(R.C. 3302.04(D) and 3319.112)

The act requires the State Board of Education, in consultation with the Ohio Board of Regents, to develop guidelines for the evaluation of teachers and principals. These guidelines must include the following seven principles:

(1) A school district should evaluate the performance of teachers on a regular basis.

(2) A school district should adopt an evaluation system that is fair, credible, and evidence-based. Additionally, the system should include multiple

¹⁵ *The measure of adequate yearly progress (AYP) is a combination of student performance on state assessments in reading and mathematics and either the attendance rate or graduation rate, depending upon the grade levels served by the school. A district or building that fails to make AYP is generally one (1) that does not meet annual targets set by the State Board in these areas for both its total student population and certain subgroups or (2) that has less than a 95% participation rate in state assessments. (R.C. 3302.01(I), not in the act.)*

Continuing law requires each district, whenever the district or one of its buildings fails to make AYP for two or more consecutive years, to develop a three-year continuous improvement plan containing an analysis of the reasons for the district's or building's failure to meet expected performance levels. The plan must also describe the strategies and resources the district will use to correct the deficiencies.

measures of a teacher's or principal's use of knowledge and skills and of students' academic progress.

(3) A school district's evaluation system should be aligned with the teacher and principal standards adopted by the State Board of Education based on recommendations of the Educator Standards Board.

(4) A school district's evaluation system should provide clear statements of expectations for professional performance.

(5) A teacher's or principal's evaluation should suggest professional development that would enhance future performance in areas that do not meet expected performance levels.

(6) A school district should regularly review and revise, as necessary, the criteria included in the district's evaluation system so that effectiveness is ensured.

(7) A school district's evaluation system should assess the extent to which a teacher or principal is culturally competent (see "Other components of the standards" above).

Once the guidelines are developed, the State Board must inform school districts of the guidelines so that the districts may use them to create or modify evaluation systems if they so choose. In addition, the act requires the Department of Education to serve as a clearinghouse of promising evaluation procedures and models. School districts, then, may use this information to modify evaluation systems in a manner that reflects a standards-based method of evaluation. A district that modifies its evaluation system for this purpose may request technical assistance from the Department.

In conducting site evaluations of school districts and buildings in academic watch and academic emergency under the state's performance rating system, the Department must examine whether the teacher and principal evaluation systems in place reflect the State Board's guidelines (R.C. 3302.04(D)(3)(e)).¹⁶

¹⁶ Under continuing law, the Department may initiate a site evaluation of an academic emergency school district or building within 120 days following the assignment of the rating. In addition, the Department must undertake a site evaluation of any academic watch or academic emergency district or building that does not show satisfactory improvement or fails to submit required information to the Department. All site evaluations must examine (1) if teachers are properly licensed for the subject areas they teach, (2) student-teacher ratios, (3) compliance with minimum requirements for instruction time, and (4) availability of resources necessary to implement the curriculum.

Creation of an alternative principal license and alternative administrator license

(R.C. 3319.225 and 3319.27)

The act eliminates the authority of the State Board of Education to issue temporary educator licenses for employment in administrative positions once the State Board adopts rules for two new types of alternative licenses for administrators.

Background

As an alternative to traditional routes to licensure for administrative positions, the State Board is authorized to issue one-year temporary educator licenses for employment as a superintendent or in another administrative position. A temporary educator license can be issued to an individual only at the request of a school district board of education or the governing board of an educational service center (ESC). Before the State Board may issue the license, the requesting district or ESC must determine that the individual (1) is of good moral character and (2) either has a bachelor's degree from an accredited institution of higher education in a field related to finance or administration or has five years of recent work experience in education, management, or administration. A temporary educator license is valid for employment only in the requesting district or ESC and may be renewed annually at the employer's discretion.

Alternative principal license

(R.C. 3319.225(A) and 3319.27(A))

The act directs the State Board of Education to adopt rules that establish an alternative principal license. The rules must include a requirement that an applicant for an alternative principal license must have obtained, at least, classroom teaching experience. When these rules become effective, the State Board must stop issuing temporary educator licenses for employment as a principal. Any person employed as a principal under a temporary educator license on the effective date of the rules must be allowed to continue employment in that position until the license expires. However, employment as a principal after the temporary educator license expires is contingent upon the person qualifying for an alternative principal license under the new rules.

Alternative administrator license

(R.C. 3319.225(A) and 3319.27(B))

In addition to establishing an alternative principal license, the act requires the State Board to adopt rules for an alternative administrator license valid for



employment as a superintendent or in any other administrative position except principal. When such rules become effective, the State Board can no longer issue temporary educator licenses for any administrative positions covered by the new rules. A person who, on the effective date of the rules, is employed as a superintendent or in another administrative position besides principal under a temporary educator license must be allowed to continue employment in the same position until the expiration of the license. Once the temporary educator license has expired, the person must be issued an alternative administrator license by the State Board to be eligible for further employment as a superintendent or in another administrative position besides principal.

Elimination of internship certificates

(repealed R.C. 3319.28; conforming changes in R.C. 3307.01, 3313.28, 3319.09, 3319.11, 3319.111, 3319.29, 3319.36, 3319.39, and 3319.51)

The act eliminates the authority of the State Board of Education to issue internship certificates, as the State Board was no longer issuing them. Under continuing law, however, individuals can still pursue a different alternative path to licensure by obtaining a one-year conditional teaching permit leading to an alternative educator license. A provisional educator license may be issued after two years of teaching under the alternative license (see "Alternative educator licenses" below).

Background

Prior law authorized the State Board to issue temporary internship certificates valid for teaching grades 7 through 12 in the subjects named in the certificate (R.C. 3319.28).¹⁷ These certificates were an alternative route to full licensure for individuals who did not complete a traditional teacher preparation program while in college. Internship certificates were valid for one year and renewable for one additional year. Applicants for internship certificates were required to meet the following criteria:

(1) Possession of a bachelor's degree in the subject area for which certification was sought;

(2) At least three years of successful experience that the State Board "deemed essential for effective teaching," such as instructional experience or work with school-age youth;

¹⁷ See also rules 3301-21-10, 3301-21-11, 3301-23-30, and 3301-23-31 of the Ohio Administrative Code.

(3) Passing scores on exams of knowledge of general education and knowledge of the subject area in which certification was sought; and

(4) Satisfactory completion of at least six semester hours of coursework in a pre-service course of study designed to introduce students to the principles and practices of teaching.

Approval of an application for an internship certificate could not be granted unless the applicant had been offered a teaching contract by the superintendent of a school district or educational service center (ESC) and the hiring district or ESC had established an internship supervision program approved by the State Board. If granted, the certificate was only valid for teaching in the district or ESC that offered employment.

Renewal of an internship certificate was contingent upon successful completion of the first year under the internship certificate with satisfactory evaluations, completion of at least six additional semester hours of coursework in the principles and practices of teaching, and a continuing contract with the employing district or ESC. Teachers who renewed their internship certificates had to complete the prescribed course of study in teaching methodology with another six semester hours of coursework in their second year under the certificates. However, anyone who had taught for one year under an internship certificate could upgrade the certificate to a provisional educator license, rather than renew the certificate, if the following criteria were met:

(1) Successful completion of a maximum of 18 semester hours of coursework in the principles and practices of teaching, which included both the pre-service coursework and the 12 additional hours required for completion of the prescribed curriculum;

(2) Satisfactory evaluations under an internship supervision program; and

(3) A passing score on an exam that measured knowledge of professional education, such as student assessment and curriculum development.

Alternative educator licenses

(R.C. 3319.26 and 3319.261)

Background

In 1996, the General Assembly authorized the State Board of Education to establish rules for the issuance of an "alternative educator license." It is a two-year, nonrenewable license intended to give certain qualified persons the opportunity to work toward obtaining a provisional educator license without

completing a traditional teacher preparation program at a college or university while employed full-time as a teacher. This alternative license authorizes the holder to teach a designated subject area in grades 7 through 12 or in the area of "intervention specialist" in grades K through 12.¹⁸ To be eligible for the license, an individual must hold at least a bachelor's degree, must have completed at least the equivalent of three semester hours of college coursework in each of the areas of "developmental characteristics of adolescent youths" and "teaching methods," and must have passed a specified subject area examination. This examination is the "Praxis II" *subject area* test.¹⁹ While teaching under an alternative educator license, the holder must complete at least the equivalent of another 12 semester hours of college coursework in specified pedagogical topics. Upon completion of the required coursework, two years of successful teaching under the alternative educator license, and passing a specified assessment of "professional knowledge," the holder of the alternative educator license may be issued a provisional license.²⁰ The additional test required at the end of the two-year duration of the alternative educator license is the "Praxis II" *professional knowledge* test.

¹⁸ An "intervention specialist" works with disabled, gifted, and other students that have individualized instructional needs that require utilization of particularized teaching practices or methods.

¹⁹ The licensing tests prescribed by the State Board of Education are the ones included in "The Praxis Series: Professional Assessments for Beginning Teachers." These tests are developed and marketed by the Educational Testing Service (ETS). According to the ETS web site, Praxis II consists of both "subject assessments," to measure licensing candidates' knowledge of the subjects they will teach, and "professional knowledge" assessments to measure their mastery of general and subject-specific teaching skills and practices. (See ETS web site at www.ets.org/praxis.)

²⁰ The State Board of Education has also specified by rule that the holder of an alternative educator license must complete a mentorship program sponsored by the school where the holder is employed (rule 3301-24-10(B) of the Ohio Administrative Code).

Prior law specified that the test at the end of the two-year alternative educator license include both "subject area" and "professional knowledge" assessments, but, in fact, except as provided for "intervention specialist" licensees under the act (see "**Timing of subject area testing for intervention specialists under Alternative Educator Licenses**" below), all holders of the alternative educator license should have passed the subject area assessment prior to receiving that license. The act makes technical corrections to R.C. 3319.26 to clarify that (except for those intervention specialist licensees) the subject area assessment is required prior to issuance of the alternative educator license and the professional knowledge assessment is required at the end of the duration of that license, prior to issuance of a provisional license.

In 2001, the General Assembly also created a "one-year conditional teaching permit." The State Board is required to issue this permit (without adopting rules) to qualified applicants for teaching in grades 7 through 12. In addition, from November 20, 2001, to November 20, 2004, the Board is required to issue such a one-year permit for employment as an "intervention specialist" in grades K through 12. To be eligible, an applicant must hold a bachelor's degree, successfully complete a basic skills test prescribed by the State Board, complete either as part of the applicant's degree program or outside of it certain specified coursework, and agree in writing to participate in a school-sponsored mentorship program aligned with State Board performance expectations. The required basic skills test is the "Praxis I" test.²¹ In addition, the applicant must complete additional specified coursework while employed under the permit and agree to seek an alternative educator license at the end of the one-year duration of the permit.²² The one-year permit is an optional precursor to the alternative educator license for individuals who have met certain qualifications.

Timing of subject area testing for intervention specialists under alternative educator licenses

(R.C. 3319.26 and 3319.261)

The act provides that an individual who otherwise qualifies for an alternative educator license for employment as an "intervention specialist" need not complete the subject-area examination (usually required prior to issuance of the license) until after completing the additional coursework required during the two-year duration of the license. Thus, these individuals will likely complete both the subject-area and professional knowledge portions of the Praxis II test at roughly the same time, near the end of the two-year duration of the alternative educator license. This change pertains to both an individual who applies for the alternative educator license as part of an obligation under the one-year conditional teaching permit and an individual who applies directly for the alternative license. It does not pertain to any applicant for an alternative educator license in an area or subject other than the "intervention specialist" area.

²¹ *Praxis I is an "academic skills" assessment designed to be taken early in the college career of a teacher-preparation student to measure reading, writing, and mathematics skills. (See ETS web site at www.ets.org/praxis.)*

²² *R.C. 3319.302 (not in the act) and Section 7 of Sub. H.B. 196 of the 124th General Assembly.*

Qualified immunity for teacher performance assessors

(R.C. 3319.25)

An individual may be issued a provisional educator license either upon completing an approved teacher preparation program or completing the additional educational, mentorship, and testing requirements of the alternative educator license (see "**Alternative educator licenses**" above). This provisional license is the traditional entry-year teaching license and is valid for two years, during which time the holder of the license must participate in an approved mentorship program and meet other requirements. Near the end of the two-year duration of the license, the holder also must receive a satisfactory rating on a performance assessment in order to qualify for a five-year professional educator license.²³ The assessment prescribed by the State Board of Education is the "Praxis III" test, which consists of direct observation and evaluation of the beginning teacher's actual classroom performance.²⁴ To perform the observations and evaluations, the Department of Education contracts with regional centers that in turn contract with individuals to be assessors and trainers of assessors. These individuals are generally veteran teachers, administrators, and teacher-preparation instructors.

The act grants a qualified immunity from liability in a civil action for damages regarding the conduct of a Praxis III assessment to any entity or individual that contracts to perform assessments or to train or coordinate assessors. Immunity does not apply to actions conducted with malicious purpose, in bad faith, or in a wanton or reckless manner.

Department of Education rules on rehabilitation of offenders

(R.C. 3319.39(E))

Under continuing law, individuals applying for employment with a school district, educational service center (ESC), a community school, or a chartered nonpublic school in any position that is responsible for the care, custody, or control of a child must submit to a criminal records check. If that check reveals a conviction of certain crimes, the individual may not be hired in a position that is

²³ *The "professional educator license" is the final step in licensure issued to those who have met specified continuing education requirements and are generally considered to be fully competent teachers in the subject areas or grade levels prescribed on their licenses.*

²⁴ *Praxis III is a "classroom performance assessment" in which trained local assessors (not employed by ETS) using nationally validated criteria directly observe and evaluate a beginning teacher's actual classroom performance. (See ETS web site at www.ets.org/praxis.)*

responsible for the care, custody, or control of a child. However, the law permits the State Board of Education to adopt rules specifying circumstances under which a district, ESC, or school may hire an otherwise disqualified person who meets "standards in regard to rehabilitation."²⁵

There are two lists of disqualifying offenses: one for all school employees and another list for teachers that names additional offenses (such as conviction of *any* felony, not merely certain named felonies, such as offenses of violence, drug offenses, or sex offenses). The State Board's prior rulemaking authority to allow for employment of rehabilitated offenders extended only to the first list that applies to all employees. Therefore, under that prior law, a teacher convicted of an offense on the additional list, which applies only to teachers, was ineligible to be considered as rehabilitated and eligible for hiring.

The act extends the State Board's rulemaking authority so that teachers convicted of an offense on the broader, teachers-only list of offenses may qualify for consideration as rehabilitated.

Authorization for subpoenas, depositions, and evidence in the investigation of an educator license holder or applicant

(R.C. 3319.311)

Background

In exercising its power to license educators, the State Board of Education is authorized (but apparently not required) to refuse to issue a license to an applicant, limit a license it issues to an applicant, or suspend, revoke, or limit a license that has been issued to any person for any of several broad statutorily specified reasons.²⁶ The State Board, or the Superintendent of Public Instruction on behalf of the Board, may investigate any information that reasonably appears to be a basis for denying, revoking, or limiting a license.²⁷ The Superintendent must review the results of each investigation to determine whether the results warrant initiating an action against the applicant or licensee. If the Superintendent

²⁵ *The Department's rule to this effect is rule 3301-20-01, Ohio Administrative Code.*

²⁶ *R.C. 3319.31.*

²⁷ *Continuing law also provides that all information obtained during an investigation is confidential and is not a public record. In addition, if an investigation is conducted and no action is taken against the person who is the subject of the investigation within two years of the completion of the investigation, all records of the investigation must be expunged. (R.C. 3319.311(A).)*

recommends action, the State Board must provide the applicant or licensee with written notice of the charges and an opportunity for a hearing in accordance with the Administrative Procedure Act, codified in R.C. Chapter 119.²⁸

The act

For purposes of this administrative hearing, continuing law authorizes the State Board, or the Superintendent on behalf of the Board, to administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. However, there did not appear to be any authorization in prior law to issue subpoenas, take depositions, and compel the production of evidence during the pre-hearing investigation. The act permits the State Board or the Superintendent to do so during the investigation phase in the same manner as they may for or during the administrative hearing.

Permits to supervise or coach pupil activities

(R.C. 3313.53, 3319.29, 3319.291, 3319.303, 3319.31, and 3319.51; Section 10)

Continuing law permits a school district to establish and maintain "pupil-activity programs," which are school-sponsored noncredit activities in music, language, arts, speech, government, athletics, and other areas directly related to the school's curriculum but beyond the scope of the of the school's prescribed courses of study.²⁹ Continuing law also permits districts to hire individuals who do not hold an educator's license or teacher's certificate issued by the State Board of Education to teach, supervise, direct, or coach those programs under certain conditions. A district may offer such a position to a nonlicensed individual only if the district (1) first has offered the position to those employees of the district who are licensed or certificated educators and no employee qualified to fill the position has accepted it, and (2) has then advertised the position as available to any other licensed individual who is qualified to fill it and no such person has applied for and accepted the position. Nonlicensed individuals under prior law, however, had to meet standards set by the State Board regarding an individual's "good moral

²⁸ *The Board "automatically" may suspend any license without a prior hearing if the license holder is convicted of or pleads guilty to aggravated murder; murder; aggravated arson; aggravated robbery; aggravated burglary; voluntary manslaughter; felonious assault; kidnapping; rape; sexual battery; gross sexual imposition; or unlawful sexual conduct with a minor (R.C. 3319.311(F)).*

²⁹ *R.C. 3313.53(B).*

character and competence to direct, supervise, or coach the pupil-activity program."³⁰

The act replaces the former authorization for the employment of nonlicensed individuals in accordance with State Board standards with authorization to employ nonlicensed individuals only if they have been granted a "pupil-activity program permit" issued by the State Board.³¹ It does not affect the requirement that the school district first offer the position to licensed educators.

Under the act, the State Board must adopt rules establishing standards and requirements for obtaining a "pupil-activity program permit" for any individual who does not hold a valid educator license, certificate, or permit issued by the State Board. This new pupil-activity program permit is valid for three years and is renewable.³² The act also provides that the State Board, or the Superintendent of Public Instruction on behalf of the Board, may investigate the background of any applicant for the pupil-activity program permit, in the same manner as continuing law provides for investigation of applicants for educator licenses and permits. Accordingly, the State Board may refuse to issue a permit to an applicant, may limit a permit it issues to an applicant, or may suspend, revoke, or limit a permit it has issued to any person, if the Board determines that the applicant has done any of the following:

(1) Engaged in an immoral act, incompetence, negligence, or conduct that is unbecoming to the applicant's or person's position; or

(2) Pled guilty to, found guilty by a jury or court of, or convicted of any of the following:

(a) A felony;

(b) Unlawful sexual conduct with a minor, sexual imposition, or sexual importuning;

(c) An offense of violence;

³⁰ R.C. 3313.53(C) and (D).

³¹ R.C. 3313.53(C).

³² R.C. 3319.303 and Section 10. *In addition, the act requires the State Board to adopt rules applicable to licensed or certificated educators setting forth standards to assure an individual's competence to direct, supervise, or coach a pupil-activity program. As under prior law, the rules applying to licensed or certificated educators are not to be more stringent than the rules applicable to nonlicensed individuals. (R.C. 3319.303(B).)*

(d) Any of several prescribed theft offenses;

(e) A drug abuse offense that is not a minor misdemeanor; or

(f) A violation of a municipal ordinance that is substantively comparable to an offense listed in (a) through (e) above.³³

To facilitate such an investigation, an applicant must submit to the State Board two sets of fingerprints and written permission that authorizes the Superintendent of Public Instruction to forward the fingerprints to the state Bureau of Criminal Identification and Investigation (BCII) and that authorizes the Bureau to forward the fingerprints to the FBI for purposes of conducting a criminal records check on the applicant. The State Board and the Superintendent of Public Instruction are authorized under the act to request a criminal records check from BCII on an applicant for a pupil-activity program permit.³⁴ The State Board is authorized to charge a fee to pay the cost of investigating an applicant's background and processing the permit application, again in the same manner as continuing law provides for investigation of applicants for educator licenses and permits.³⁵

The act further provides that if the State Board suspends, revokes, or limits the pupil-activity program permit of a nonlicensed individual, the school district may terminate or suspend the employment contract of that individual. Otherwise, the individual's contract may be terminated or suspended only in accordance with the statutory procedures prescribed for nonteaching employees in non-Civil Service school districts, as under prior law.³⁶

³³ R.C. 3319.31 and 3319.311.

³⁴ R.C. 3319.291.

³⁵ R.C. 3319.29 and 3319.51.

³⁶ R.C. 3313.53(D), third paragraph. Continuing law provides that nonteaching employees in exempted village and local school districts (non-Civil Service districts) may be "terminated only for violation of [the district board's] written rules and regulations . . . or for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, or any other acts of misfeasance, malfeasance, or nonfeasance" (R.C. 3319.081(C)). That statute also specifically provides that sexual battery against a student at the school (R.C. 2907.03(A)(7)) is grounds for termination. (Neither of these sections are in the act.)

Delayed effective date for certain educator licensing rules

(R.C. 3319.22(B)(1) and 3319.23)

Continuing law requires the State Board of Education to adopt, amend, or rescind any educator licensing rules in accordance with the state Administrative Procedure Act, codified in R.C. Chapter 119. (APA). That law provides for public notice of the proposed rulemaking action and at least one public hearing on the matter, filing with the Joint Committee on Agency Rule Review (JCARR), the Legislative Service Commission (LSC), and the Secretary of State, publication in the *Register of Ohio*, and an opportunity for the General Assembly to invalidate the action by adoption of a concurrent resolution. Under the APA, the earliest a proposed rulemaking action may be effective is the 76th day after the action is first filed with JCARR, LSC, and the Secretary of State. However, notwithstanding the APA provisions, under law retained in part by the act, the effective date of educator licensing rulemaking actions must be delayed until at least one year after the first day of January that next succeeds the "publication" of the action.³⁷ Thus, for example, a licensing rule that is adopted in final form and "published" anytime from January through December of 2003 cannot be effective until January 1, 2005.

The act restricts the specified delayed effective date to *only* those educator licensing rules that require specific changes in the curriculum of State Board-approved teacher preparation programs. By implication, other educator licensing rules will take effect as provided in the APA.³⁸

Establishment of a Credential Review Board

(R.C. 3319.65)

The act directs the State Board of Education to establish a Credential Review Board, which must carry out any duties the State Board assigns with respect to assessing individuals pursuing alternative entries into the teaching

³⁷ Although the statute does not specify what is meant by "publication" in regard to any change in educator licensing rules, it is likely that the term means the date that the rule is filed in "final form" with JCARR, LSC, and the Secretary of State in accordance with R.C. 119.04 (not in the act). That date falls near the end of the rulemaking process. Under R.C. 119.04(A)(1), a rulemaking action ordinarily may not be effective until the tenth day after it is filed in final form.

³⁸ Although the APA generally does permit a temporary "emergency rule" to be filed under an accelerated timeframe, continuing law does not permit the State Board to use such emergency procedures for adoption, amendment, or rescission of any educator licensing rules (R.C. 3319.22(B)(2)).

profession and out-of-state teachers who wish to teach in Ohio. The Review Board is also authorized to conduct other functions, as the State Board considers appropriate.

Engaging National Board certified teachers and master teachers

(R.C. 3319.56)

The act requires the Department of Education to identify, and post on the Department's web site, promising practices in Ohio and other states for engaging teachers certified by the National Board for Professional Teaching Standards and teachers who qualify as "master teachers" (see 'Other duties' above) in ways that add value beyond their own classrooms.³⁹ Examples of promising practices may include placing such teachers in key roles in peer review programs, having them mentor other teachers, or having them develop curricula or instructional integration strategies.

The Ohio School Facilities Commission's review of design plans

(R.C. 3318.031)

When a school district is eligible to participate in one of the facilities assistance programs administered by the Ohio School Facilities Commission (such as the Classroom Facilities Assistance Program or the Expedited Local Partnership Program), the Commission is responsible for reviewing the district's design plans. Continuing law authorizes the Commission to require changes in a design plan if the Commission believes such changes would advance or improve student or staff safety. Examples of such changes may include location and number of exits, standards for lead safety, and location of restrooms.

The act directs the Commission to also consider whether its design standards support smaller classes and smaller schools, provide sufficient space for training new teachers or collaboration among teaching personnel, provide adequate space for teacher planning, provide adequate space for parent involvement activities, and provide sufficient space for innovative partnerships between schools and health and social service agencies.

³⁹ *In order for a teacher to be certified by the National Board for Professional Teaching Standards, the teacher must pass an exam of teaching skills and submit a portfolio of his or her teaching practices and student work. National certification is valid for ten years.*

Teacher education program accreditation

(R.C. 3319.23)

Continuing law requires the State Board of Education to establish standards and courses of study for the preparation of teachers, provide for the inspection of institutions desiring to prepare teachers, approve those institutions that have satisfactory training procedures, and properly license the graduates of approved courses and institutions. Accordingly, the State Board has adopted a rule that requires a college or university desiring to prepare teachers to be approved based on evidence of its meeting or exceeding the standards of the National Council for Accreditation of Teacher Education (NCATE). This determination may be made either by the Unit Accreditation Board of NCATE or by the State Board using Ohio applications of NCATE standards.⁴⁰

The act specifies that if the State Board requires institutions to satisfy the standards of an independent accreditation organization, as it does under rule, the Board must permit each institution to satisfy the standards of *either* NCATE *or* of the Teacher Education Accreditation Council. Presumably, the State Board will amend its rule to reflect the change.

Articulation agreements for teacher education programs

(R.C. 3333.161)

Ohio has an Articulation and Transfer Policy, developed by the Ohio Board of Regents, that is intended to ensure that credits will transfer between state institutions of higher education.⁴¹ Under the policy, the transfer of credits and the application of those credits to the transferring student's program of study is dependent on whether the student has completed an associate degree, the student's grade point average, and what courses the student has completed.

In addition, the policy requires state institutions to develop a "transfer module," which is a set of general education curriculum courses that represent a common body of knowledge required at all state institutions (e.g., English composition, mathematics, social and behavioral sciences, arts and humanities, and natural and physical sciences). A student who completes the transfer module courses at one institution can transfer those courses to another state institution and

⁴⁰ *Rule 3301-24-03(B) of the Ohio Administrative Code.*

⁴¹ *The policy is available through the Ohio Board of Regents' web site: <http://www.regents.state.oh.us>. The General Assembly required the development of the policy in Am. Sub. S.B. 268 and Am. Sub. H.B. 111 of the 118th General Assembly.*

have those courses fulfill the corresponding general education courses at the receiving institution.

The act explicitly requires the Board of Regents, by April 15, 2005, to adopt rules establishing a statewide system of articulation agreements between state institutions of higher education for transfer students pursuing teacher education programs.

The rules adopted by the Board of Regents must require parties to an articulation agreement to develop a transfer module for teacher education that includes appropriate introductory level courses as determined by faculty members of parties to the agreement. Second, an articulation agreement must identify, as part of the transfer module for teacher education, appropriate foundation general studies courses that are consistent with the student academic content standards adopted by the State Board of Education. Third, an articulation agreement must clearly identify university faculty who are partnered with faculty at two-year colleges. Finally, an articulation agreement must be published so that it is available to students, faculty, and staff members.

Study of teachers' minimum starting salaries by the Legislative Office of Education Oversight

(Section 3)

The act directs the Legislative Office of Education Oversight (LOEO) to study minimum starting salaries for teachers with bachelor's degrees. LOEO, in consultation with stakeholders, must select several states that are demographically and economically similar to Ohio or compete with Ohio for new teachers because of geographic proximity. Then, for Ohio and each of the selected states LOEO must determine the minimum compensation levels for beginning teachers, calculate the average compensation for beginning teachers, and project the average compensation for beginning teachers in the 2007-2008 academic year. LOEO must submit results of the study to the Governor and the General Assembly by September 30, 2004.

Career ladder program

(Section 4)

A career ladder program, as defined by the act, is a performance-based multilevel system of teaching positions or compensation levels within a school district or school building. The Department of Education and the Educator Standards Board are directed to develop jointly a proposal for a career ladder program. In developing the proposal, the Department and the Educator Standards

Board must estimate the cost of implementing the proposal and determine how the Department would reallocate its resources to fund the implementation. The Department and the Educator Standards Board must report to the General Assembly about their proposal for a career ladder program within 18 months after the Board convenes for its first meeting.

Pilot program for increased clinical experiences for educators of teachers

(Section 5)

The act directs the Department of Education to develop, in collaboration with the Ohio Board of Regents, a pilot program *proposal* that would pair a school district with a college or university that offers an approved teacher preparation program. Under the pilot program, faculty members of the college or university should engage in additional clinical experiences such as spending more time in the school district's buildings and classrooms. Also, the act specifies that participation in the program requires a college or university to provide incentives to faculty members to share with their colleagues what they have learned through participation in the program. Such sharing of knowledge could be through publications or other appropriate learning experiences.

The act further requires the Department to study, using an appropriate research method, the effectiveness of the pilot program if it is implemented. The Department is to report the findings of its study to the General Assembly within one year after the program is implemented.

Definition of a "hard to staff" school

(Section 7)

Within 90 days of the act's effective date, the Department of Education is required to develop a definition of a "hard to staff" school. The act specifies that in defining the term, the Department must examine whether a school:

- (1) Has difficulty recruiting and retaining high quality school personnel;
- (2) Has a high number of teachers who are teaching out-of-field;
- (3) Has high student poverty;
- (4) Has a high number of students who do not attain at least a proficient score on the state proficiency and achievement tests; or
- (5) Has a significant achievement gap among various groups of students.

The Department is also required to examine definitions and models of "hard to staff" schools used by other states.⁴² The Department must identify schools that meet the definition it develops and publish a list of those schools on the Department's web site.

Pilot project for school districts with "hard to staff" schools

(Section 8)

The act requires the Department of Education, when sufficient funding is available, to develop a pilot project in at least two school districts that contain "hard to staff" schools. One of these districts must be an urban district and one must be a rural district. The selected districts must use any funds allotted under the pilot project for one or more of the following purposes:

- (1) The use of instructional specialists to mentor and support classroom teachers;
- (2) The use of building managers to supervise the administrative functions of school operation so that principals can focus on supporting instruction, providing instructional leadership, and engaging teachers as part of the instructional leadership team;
- (3) The reconfiguration of school leadership structure in a manner that allows teachers to serve in leadership roles so that teachers may share the responsibility for making and implementing school decisions;
- (4) The adoption of new models for restructuring the school day or school year, such as including teacher planning and collaboration time as part of the school day;
- (5) The creation of smaller schools or smaller units within larger schools to facilitate teacher collaboration;
- (6) The implementation of "grow your own" recruitment strategies that are designed to assist individuals who show commitment in becoming licensed teachers, to assist experienced teachers in obtaining licensure in subject areas for which there is need, and to assist teachers in becoming principals;

⁴² Many of the recommendations of the Governor's Commission on Teaching Success are intended to target "hard to staff" schools and thus a definition is considered necessary to identify these schools.

(7) The provision of better conditions for new teachers, such as reduced teaching load and reduced class size;

(8) The provision of incentives to attract qualified mathematics, science, or special education teachers;

(9) The development and implementation of a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas;

(10) The implementation of a program to increase the cultural competency of both new and veteran teachers; or

(11) The implementation of a program to increase the subject matter competency of veteran teachers.

The Department is required to study the effectiveness of the pilot project using an appropriate research method and to report its findings to the General Assembly within one year after the project is implemented.

Innovative grant program

(R.C. 3319.57)

The act establishes a grant program, administered by the Department of Education, for school districts that wish to implement one of the following innovations:

(1) Using instructional specialists to mentor and support classroom teachers;

(2) Using building managers for the administrative functions of schools so that principals can focus on supporting the teaching staff;

(3) Reconfiguring the structure of school leadership to incorporate teachers in leadership and decision-making positions;

(4) Restructuring the school day or school year, such as including teacher planning and collaboration time as part of the school day;

(5) Creating smaller schools or smaller units within larger schools so that teachers can more easily work together;

(6) Designing "grow your own" recruitment strategies to help dedicated individuals become licensed teachers, help experienced teachers become licensed in needed subject areas, and help teachers become principals;

(7) Providing better conditions for new teachers, such as reduced teaching load and reduced class size;

(8) Providing incentives to attract qualified mathematics, science, or special education teachers;

(9) Developing and implementing a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas;

(10) Implementing a program to increase the cultural competency of both new and veteran teachers; or

(11) Implementing a program to increase the subject matter competency of veteran teachers.

A school district that implements one of these innovations may receive a grant only if it provides local funds in an amount that is equivalent to the grant award multiplied by the school district's local share percentage of foundation funding.⁴³ In addition, the school in which the innovation is implemented must be "hard to staff" as defined by the Department.

The State Board of Education is given rulemaking authority to implement this grant program. The Department of Education is to determine the number and amount of the grants based on appropriations by the General Assembly. The act does not include an appropriation.

Clarifications to studies conducted by LOEO

(Sections 11, 12, 13, and 14 of Am. Sub. H.B. 3 of the 125th General Assembly, as amended in Section 12)

Am. Sub. H.B. 3 of the 125th General Assembly directed the Legislative Office of Education Oversight (LOEO) to conduct a study of each of the following: (1) the academic achievement gap, (2) the provision of intervention services by school districts, (3) performance on the Ohio Graduation Tests by the Class of 2007, and (4) progress toward meeting the requirement of having "highly qualified teachers" in core subject areas by the end of the 2005-2006 school year as mandated by the No Child Left Behind Act of 2001.

⁴³ *The foundation state share percentage is calculated for a city, local, or exempted village school district under R.C. 3317.022, and for a joint vocational school district under R.C. 3317.16 (neither section in the act). A district's local share percentage is equal to one minus the district's state share percentage.*

This act specifies that in studying the achievement gap, LOEO must use existing data on school district wealth to the extent possible in making its comparisons between students of different subgroups. The act also makes clarifications to the due dates of the other three studies as indicated in the table below.

Study	Due dates in prior law	Due dates in the act
Intervention services	December 31, 2004	March 31, 2005
Class of 2007 performance on the Ohio Graduation Tests	Reports due annually with final report due December 31, 2007	Reports due in June 2006 and June 2007, with final report due June 30, 2008
Highly qualified teachers	Four reports with unspecified due dates: (1) one covering the 2002-2003 and 2003-2004 school years, (2) one covering the 2004-2005 school year, (3) one covering the 2005-2006 school year, and (4) a final report covering the 2006-2007 school year and the prior four school years	Establishes the following due dates for each report: (1) September 30, 2005, (2) September 30, 2006, (3) September 30, 2007, and (4) September 30, 2008

Repeal of LOEO annual composite report on community schools

(repealed R.C. 3314.12)

The act repeals the requirement that LOEO issue an "annual composite informational report" on Ohio's community schools (often called "charter schools"). Under prior law, this report had to include the number of schools in operation, the size and characteristics of their enrollments, their academic performance, their financial status, and any other "pertinent information."

Repeal of SchoolNet clearinghouse for classroom teachers

(repealed R.C. 3301.801)

The act repeals a statute that required (1) the Ohio SchoolNet Commission to maintain a clearinghouse for teachers to obtain lesson plans and classroom teaching materials and (2) the Department of Education to regularly identify, and



submit to the Commission's clearinghouse, research-based practices concerned with scheduling and allotting instructional time.

School district spending for transportation and supplemental educational services

(R.C. 3302.04(E))

In compliance with the No Child Left Behind Act of 2001, continuing Ohio law requires school districts to offer public school choice to all students enrolled in schools that receive federal Title I funds and fail to make adequate yearly progress (AYP) for two or more consecutive school years. Under this provision, students must be offered the opportunity to transfer to another school in the district or to a community school. Students who choose to transfer generally must be transported to their new schools by the district. If a school that receives Title I funds fails to make AYP for three or more consecutive school years, the district also must pay for supplemental educational services, such as tutoring, for economically disadvantaged students who attend the school and request the services.

Law largely retained by the act sets a limit on each district's obligation to pay for transportation under public school choice and for the provision of supplemental educational services. Specifically, districts are not required to spend more than a combined total of 20% of their Title I funds to provide transportation and supplemental services in any year in which they are obligated to offer both. They must spend at least 5% of such funds on each requirement, though, unless all demand for transportation or for supplemental services can be met with a smaller amount. Districts with buildings that do not make AYP for two consecutive years, and therefore must only offer public school choice, must spend the maximum 20% of Title I funds on transportation alone, unless they can satisfy all demand with fewer funds.

The act clarifies that a school district must spend *an amount equal to 20%* of the Title I funds it receives in paying for transportation and supplemental services for eligible students. This change grants flexibility to districts by permitting the use of state or local funds, as well as federal Title I funds, to cover the costs of the transportation and supplemental services.

Administration of practice versions of the OGT to ninth graders

(R.C. 3301.0711; Sections 41.03, 41.05, 41.10, and 146 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended in Section 14)

Background on OGT

Under continuing law, the Class of 2007 is the first class of students required to pass the Ohio Graduation Tests (OGT) to be eligible for a high school diploma. The OGT are achievement tests given in the subject areas of reading, writing, mathematics, science, and social studies. Students will take the five OGT for the first time in the spring of 2005 when they are in the tenth grade. They generally must attain at least the score designated by the State Board of Education on each test to qualify for a diploma.⁴⁴ Students who do not achieve the required scores on one or more tests in the tenth grade have multiple opportunities to retake those tests in the eleventh and twelfth grades.

Prior law

Under prior law, in the 2003-2004 school year, when the Class of 2007 was in the ninth grade, each "academic watch" and "academic emergency" school district had to give a half-length practice version of each OGT to all ninth grade students in the district.⁴⁵ Beginning in the 2004-2005 school year, *full-length* practice tests had to be given annually to ninth grade students in those districts. Although all practice tests had to be given in September, districts could choose the specific days, times, and method of administration. Each district also had to score the practice tests.

⁴⁴ *To receive a diploma from a public school (including a community school) or chartered nonpublic school, a student must (1) successfully complete the curriculum required by the student's high school or the individualized education program (IEP) developed for the student and (2) pass all five OGT (R.C. 3313.61, 3313.611, 3313.612, 3314.03(A)(11)(f), and 3325.08 (none in the act); see also R.C. 3313.614, not in the act).*

Alternative graduation testing requirements exist for students who must take the OGT to graduate from high school, but who fail one of the tests by ten points or less. (R.C. 3313.615, not in the act.)

⁴⁵ *An "academic watch" school district is one that does not make adequate yearly progress (AYP) and either meets 31%-49% of the performance indicators adopted by the State Board of Education or attains a performance index score established by the Department of Education. An "academic emergency" school district does not make AYP, meets less than 31% of the performance indicators, and attains a performance index score set by the Department. (R.C. 3302.03.)*

"Academic emergency" districts had to require their high schools to provide intervention services to students who performed poorly on the practice tests to the extent that the districts received state funding appropriated for the services. If an academic emergency district did not receive sufficient state funds to provide intervention services in all of its high schools, it had to determine which high schools would receive all or part of the available funds and, consequently, must offer intervention services. Priority in allocating the state funds had to be based on each school's graduation rate and scores on the practice tests. Districts also had to consider the scores attained by ninth graders on reading and mathematics achievement tests taken in the eighth grade when deciding how to distribute money for intervention services.

High schools selected to provide intervention services were required to offer them to each student whose practice test results indicated that the student was making unsatisfactory progress toward being able to pass the OGT. The intervention services had to be provided in each skill in which the student scored poorly and had to be commensurate with the student's test performance. Schools could offer the intervention services at any one, or a combination, of the following times: (1) during the ninth grade year, (2) in the summer after ninth grade, or (3) during the tenth grade year.

The act

The act makes several changes to the requirements regarding the administration of practice versions of the OGT. First, it specifies that the administration of half-length practice versions of the reading and mathematics OGT to ninth grade students must occur within 30 days after the act is signed by the Governor. At the same time, districts must assess all ninth graders in writing, science, and social studies to determine their preparedness for the OGT in those subject areas. The district, school, or individual teachers may determine how to conduct the latter assessments. Districts must use local assessments for writing, science, and social studies because, according to the Department of Education, practice versions of the OGT are not yet completed for those subject areas.

Second, the act delays the requirement to administer *full-length* practice versions of the OGT by one year. Thus, under the act, full-length practice tests in all five subject areas will be administered beginning in the 2005-2006 school year. In the 2004-2005 school year, half-length practice tests in all five subject areas must be given to ninth graders. However, if the Department has made a full-length version of any test available to districts, then the districts must give that version instead of the shorter one.

Finally, the act makes changes to the criteria for determining which districts must give the practice tests and provide intervention services for struggling

students. School districts that were in academic watch or academic emergency at any time in 2003 or that have a three-year average graduation rate of 75% or less are required to participate in the administration of the reading and mathematics tests and other subject area assessments within 30 days after the act is signed by the Governor. Of those districts, only the ones that were in academic emergency at any time in 2003 must offer intervention services to students who are unlikely to pass the OGT.⁴⁶ Beginning in the 2004-2005 school year, all districts that are in academic watch or academic emergency based on their performance in the previous school year or that have a three-year average graduation rate of 75% or less must administer the OGT practice tests to ninth graders. Only those districts with a three-year average graduation rate of 75% or less must provide intervention services. The processes for determining which high schools must provide intervention services based upon available funding and for conducting the intervention services remain the same as in former law.⁴⁷

Phase-in of eighth grade achievement social studies test

(R.C. 3301.0712)

Under continuing law, the state achievement tests are being phased in to replace the former proficiency tests. The five subject areas covered by the achievement tests are reading, writing, mathematics, science, and social studies. Under prior law, the eighth grade achievement test in social studies was the last test to be phased into the new assessment system. It was scheduled to be administered for the first time in the 2007-2008 school year. Thus, under prior law, all achievement tests would have been completely phased in beginning in that school year.

⁴⁶ *In accordance with state law and the No Child Left Behind Act of 2001, the Department issued two sets of performance ratings for school districts in 2003. The first set of ratings, issued in January, were based on the 2001-2002 school year. Ratings for the 2002-2003 school year were issued in August. Future ratings will be issued once a year in the summer and will be based on data from the prior school year.*

⁴⁷ *The act makes changes in related earmarks established by Am. Sub. H.B. 95 of the 125th General Assembly (the operating budget for the 2003-2005 biennium). The changes to the earmarks reflect the act's criteria for determining which districts must give the practice tests and provide intervention services so that state funding is directed to the appropriate districts. Affected earmarks are for intervention services for students who score below expected levels on the practice tests, professional development for ninth and tenth grade teachers of core subject areas, and training of school district personnel to score the practice tests. The act does not make changes to the amount of the earmarks.*

According to the Department of Education, the company with which it has contracted for the development of the eighth grade social studies achievement test can finish the test earlier than expected. Therefore, the act requires the test to be integrated into the new system one year earlier than previously mandated. This change has the effect of completing the phase-in of achievement tests in the 2006-2007 school year. The following table shows the timeline for phasing in the achievement tests under the act.

Proficiency Test	Last administration in school year beginning July 1 of	Achievement Test	First administration in school year beginning July 1 of
		3rd grade reading test	2003
		3rd grade mathematics test	2004
4th grade reading test	2003	4th grade reading test	2004
4th grade mathematics test	2004	4th grade mathematics test	2005
4th grade writing test	2003	4th grade writing test	2004
4th grade science test	2004	5th grade science test	2006
4th grade citizenship test	2004	5th grade social studies test	2006
		5th grade reading test	2004
		5th grade mathematics test	2005
6th grade reading test	2004	6th grade reading test	2005
6th grade mathematics test	2004	6th grade mathematics test	2005
6th grade writing test	2004	7th grade writing test	2006
		7th grade reading test	2005
		7th grade mathematics test	2004
6th grade science test	2004	8th grade science test	2006
6th grade citizenship test	2004	8th grade social studies test	2006
		8th grade reading test	2004
		8th grade mathematics test	2004
9th grade reading test	2002 ^a	OGT in reading	2002
9th grade mathematics test	2002 ^a	OGT in mathematics	2002
9th grade writing test	2002 ^a	OGT in writing	2004
9th grade science test	2002 ^a	OGT in science	2004
9th grade citizenship test	2002 ^a	OGT in social studies	2004

^a The ninth grade proficiency tests were administered to all ninth graders for the last time in March 2003. For students who do not pass one or more of the tests in the ninth grade, they have multiple opportunities to retake the tests throughout high school. If a student has not passed a

ninth grade proficiency test by the end of his or her senior year in high school, the student has until September 15, 2008, to pass that test in order to be eligible for a high school diploma based upon passage of the ninth grade proficiency tests. After that date, the student would need to pass the OGT in the failed subject area to receive a diploma.

Summer administration of third grade reading achievement test

(R.C. 3301.0710(C)(1) and 3301.0711(N))

A provision in continuing law commonly known as the "third grade reading guarantee" aims to ensure that students are reading at grade level by the end of third grade. In the third grade, students are given multiple opportunities to pass the third grade reading achievement test. The test is administered three times a year according to the following schedule: (1) once before December 31, (2) once in mid-March, and (3) once during the summer before fourth grade. Third graders who do not attain at least a *proficient* score on the fall or spring administration of the test must be offered intense remediation over the summer before taking the test for the third time.

Formerly, the State Board of Education had to set a date for the summer administration of the third grade reading achievement test that was prior to July 1 because all achievement tests became public records on that date. The act specifies that the State Board must select a date for the administration of the summer test that is between June 10 and July 15. To accommodate the possibility of later testing dates, the act also specifies that the third grade reading achievement test does not become a public record until July 16 of each year. All other achievement tests must be made public on July 1 as under prior law.

Adoption and administration of diagnostic assessments

Background

Diagnostic assessments are tools designed to provide feedback on a student's academic strengths and weaknesses. As opposed to tests used to indicate how much knowledge a student has relative to how much knowledge he or she *should* have at a certain point (like the achievement tests), diagnostic assessments are used to alter instruction to focus on elements of study that a student has not yet mastered. This type of information enables a teacher to concentrate on those areas where a student needs longer or more intense instruction.

Deadline for adoption by State Board

(R.C. 3301.079(D))

Continuing law requires the State Board of Education to adopt a diagnostic assessment for each of grades K through 2 in reading, writing, and mathematics, and grades 3 through 8 for those subjects as well as science and social studies.⁴⁸ When any diagnostic assessment has been developed, the Department of Education must make it available to school districts and community schools, which must begin giving the diagnostic assessment the following school year.⁴⁹ Under prior law, the deadline for adoption of all diagnostic assessments by the State Board was July 1, 2007. The act extends that deadline by one year to July 1, 2008.

Administration of diagnostic assessments to transfer students

(R.C. 3301.0715(A)(2))

Law retained in part by the act requires school districts and community schools to administer all applicable diagnostic assessments to transfer students within 30 days after entering a new school.⁵⁰ Under the act, a school or district need not administer a diagnostic assessment to a transfer student (interdistrict or intradistrict) if the student has already been given the assessment once in the current school year. However, a school or district may administer the diagnostic assessments to a transfer student if it cannot determine whether the student has already taken the assessments.

⁴⁸ *The State Board, however, is prohibited from adopting a diagnostic assessment for any subject area and grade level in which an achievement test is developed (R.C. 3301.079(D)(3)).*

⁴⁹ *Districts and community schools that made adequate yearly progress in the previous school year may assess student progress in grades 1 through 8 using a locally selected diagnostic assessment rather than the state-developed assessment (R.C. 3301.0715(E)).*

⁵⁰ *Under continuing law, districts and community schools also must administer diagnostic assessments to all students in kindergarten, first, or second grade and to all students enrolled in a school that has not made adequate yearly progress for two or more consecutive school years (R.C. 3301.0715(A)(1), (3), and (4)).*

Administration of kindergarten readiness assessment

(R.C. 3301.0715(A)(3))

Under continuing law, each school district and community school must use the "kindergarten readiness assessment" provided by the Department of Education as its diagnostic instrument for kindergarten students. The kindergarten readiness assessment is an observational measure with results based on a student's performance in individual and small-group activities, such as matching shapes or arranging numbers in numerical order. Formerly, each student in kindergarten had to be assessed during the first six weeks of school.

The act permits a district or community school to administer the kindergarten readiness assessment to a child prior to enrollment in kindergarten. Therefore, under the act, a district could administer the assessment the summer before kindergarten to evaluate a child's academic skills in preparation for school. In no case, however, may a district or community school refuse to enroll a child in kindergarten based upon the child's assessment results. For those students in kindergarten assessed after school starts, the act retains the six-week period in prior law for completion of the assessments.

DPIA payments to school districts

(Section 41.10 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended in Section 14)

The 2003-2005 biennial budget act generally granted every school district a 2% increase in its FY 2004 and FY 2005 Disadvantaged Pupil Impact Aid (DPIA) payment. (Districts that receive the "DPIA guarantee," however, continue to receive the same, flat amount of DPIA they have received since FY 1998.) This across-the-board increase had the effect of disqualifying any district from receiving DPIA in the 2003-2005 biennium if it received no DPIA in FY 2003, even if it otherwise qualified under the DPIA distribution formulas.

This act eliminates the disqualification. Instead, it directs the Department of Education to pay DPIA in FY 2004 and FY 2005 to any district that did not receive DPIA in FY 2003 if it qualifies under the regular DPIA formulas of the codified school finance law. The payments must be calculated in accordance with the regular formulas, except that the district's "DPIA index" and "DPIA student count," which are measures of the ratio and number of children in the district

receiving public assistance, must be based solely on Ohio Works First data certified for the district by the Department of Job and Family Services.⁵¹

DPIA payments to community schools

(Section 41.10 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended in Section 14; Section 16)

The act prescribes detailed instructions for the calculation of state DPIA payments to community schools, in light of the 2% across-the-board DPIA increase provided in the 2003-2005 biennial budget act for school districts. Essentially, the act directs the Department of Education to calculate the amount of each DPIA component paid to each school district and divide that by the number of students for whom it is paid. The resulting per pupil amount is the payment that "follows" each qualifying student enrolled in a community school and that is deducted from the state payments to the school district where the student otherwise is legally entitled to attend school. The per pupil amounts are to be calculated as follows:

(1) For districts receiving DPIA guarantee payments, the amount of the district's guarantee payment divided by the five-year average number of children ages 5 to 17 residing in the district whose families participate in Ohio Works First;

(2) For districts receiving a DPIA safety and remediation payment, 102% of the district's previous year's payment, divided by the five-year average number of children ages 5 to 17 residing in the district whose families participate in Ohio Works First;

(3) For districts receiving a DPIA class-size reduction payment, 102% of the district's previous year's payment, divided by the average daily membership (ADM) of children in kindergarten through third grade; and

(4) For districts receiving a DPIA payment for all-day kindergarten, 102% of the district's previous year's payment, divided by the number of the district's children enrolled (in the district and in community schools) in all-day kindergarten. But if a community school student enrolled in all-day kindergarten is from a school district that did not receive all-day kindergarten payments in FY 2003 although eligible, the act prescribes an alternative method for calculating the

⁵¹ Under the codified DPIA law, R.C. 3317.029 (not in the act), measures of childhood poverty were to switch beginning in FY 2004 from Ohio Works First data alone to data from several public assistance programs. The 2% across-the-board increases implemented for the 2003-2005 biennium essentially postponed the switch to the new measure.

per pupil amount, and directs the Department to pay it from its general DPIA appropriation rather than deduct it from payments to the school district.

Finally, the act eliminates a provision of the budget act that prohibited DPIA payments in FY 2004 and FY 2005 to community schools that received no DPIA payments in FY 2003. Eliminating this provision has the effect of allowing new community schools to receive DPIA payments in their first year of operation. However, the new schools' first-year DPIA guarantee payments and safety and remediation payments cannot be made until the spring of the fiscal year, after the schools and the Department of Job and Family Services have certified the most recent Ohio Works First data.

Prohibition on use of facilities at a nonpublic school by an Internet community school

(R.C. 3314.034; Section 9)

Beginning July 1, 2004, the act prohibits an Internet- or computer-based community school (E-school) from contracting for instructional space at any nonpublic school (chartered or nonchartered).⁵² It does not appear to affect the authority of an E-school to contract for space at any other kind of public or nonpublic facility. If an E-school has a contract with a nonpublic school for instructional space on or after that date, the Department of Education may not make any payments to the community school for any enrolled student who receives services from the community school at the nonpublic school.

The act explicitly states that this prohibition does not affect any investigation by the Department of Education into the alleged improper enrollment of students by an E-school that is pending on the act's effective date. If the Department concludes after an investigation that an E-school enrolled students properly, under the act the Department must make all payments to which the E-school is entitled for the 2003-2004 school year. However, if the Department concludes that an improper enrollment of students did occur, all provisions of law regarding the recovery of funds owed to the state apply.⁵³

⁵² *The law defines an "Internet- or computer-based community school" as a community (or charter) school "in which the enrolled students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided via an Internet- or other computer-based instructional method that does not rely on regular classroom instruction or via comprehensive instructional methods that include Internet-based, other computer-based, and noncomputer-based learning opportunities" (R.C. 3314.02(A)(7), not in the act).*

⁵³ *See R.C. 3314.08(O), not in the act.*

Exemptions for tax-exempt entity that succeeds a state university as the sponsor of a community school

(Section 12 of Sub. H.B. 364 of the 124th General Assembly, amended and renumbered as R.C. 3314.021)

Sub. H.B. 364 of the 124th General Assembly (effective April 8, 2003) extensively amended the law regarding the operation and sponsorship of community schools. One provision of that act exempted a federally tax-exempt entity that succeeds the University of Toledo (UT) Board of Trustees or its designee as the sponsor of any existing community school from the requirement that tax-exempt entities must have been in operation for at least five years before they may sponsor community schools. Under that act, such a tax-exempt entity may take over sponsorship of a school that had been sponsored by the UT Board or its designee for the remainder of the contract term and may renew that contract. In addition, the act permitted the tax-exempt entity, as successor to the UT Board or its designee, to sponsor new schools as long as the entity otherwise complied with the remainder of the community school law, including a requirement that, until July 1, 2005, tax-exempt entities sponsor only community schools that were formerly sponsored by the State Board of Education.⁵⁴

This act further clarifies that to succeed the UT Board or its designee as the sponsor of an existing community school, the tax-exempt entity need not be approved by the Department of Education. It also clarifies that the successor tax-exempt entity need not be approved by the Department to sponsor any other community schools, as long as it meets all other provisions of the community school law (except the requirement that tax-exempt entities must have been in operation for at least five years). Finally, the act specifically permits the successor tax-exempt entity to sponsor schools that were not formerly sponsored by the State Board before July 1, 2005.

⁵⁴ *Prior to Sub. H.B. 364, the University of Toledo Board of Trustees or its designee was the only state university entity that could sponsor community schools. That act permitted, for the first time, the boards of trustees or designees of the other state universities as well as certain federally tax-exempt entities to sponsor community schools. It also enacted uncodified law grandfathering in all sponsors of existing schools, except for the State Board of Education, which must relinquish its sponsorship of schools within two school years after the effective date of that act.*

Administration of prescription drugs in public schools

(R.C. 3313.713)

Continuing law requires the board of education of each school district to adopt a policy on the administration of prescription drugs to students in the district's schools. Prior law, however, referred only to prescriptions written by physicians. The act permits schools to administer prescriptions written by physicians and other licensed persons. Under the act, schools may (subject to board of education policy) administer prescriptions written by the following individuals "authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of . . . professional practice":

"(1) A dentist licensed [by the State Dental Board]. . . ;

(2) Until January 17, 2004, an advanced practice nurse . . . ;

(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner [licensed by the Board of Nursing]. . . ;

(4) An optometrist licensed [by the State Board of Optometry] to practice optometry under a therapeutic pharmaceutical agents certificate;

(5) A physician authorized [by the State Medical Board] to practice medicine and surgery, osteopathic medicine and surgery, or podiatry; or

(6) A veterinarian licensed [by the Veterinary Medical Licensing Board]."⁵⁵

Pilot Project Special Education Scholarship Program

(Section 41.33 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended in Section 14)

The budget act for the 2003-2005 biennium established a temporary pilot program to pay scholarships to the parents of certain autistic children to be used toward paying tuition at public or nonpublic special education programs. Under the program, in FY 2004 and FY 2005, the Department of Education is required to pay a scholarship of up to \$15,000 to the parent of a child who is identified as autistic and is entitled to receive special education and related services at the child's resident school district in any grade from preschool to 12th grade. The amount of the scholarship is to be deducted from the state aid account of the

⁵⁵ R.C. 4729.01 (not in the act).

child's resident school district. Under law retained in part by this act, the scholarship is to be used solely to pay part or all of the cost of sending the child to a public or nonpublic special education program "instead of, or in addition to," the one provided by the child's resident school district. The scholarship is to be used to pay for only those services specified in the child's "individualized education program."⁵⁶

The act removes language specifying that the scholarship may be used to pay for services "in addition to" those provided by the student's resident school district, but leaves in place language specifying that the scholarship may be used to pay for services "instead of" those provided by the student's resident school district. It, thus, appears to prohibit the use of a scholarship to pay for part-time services at an alternative public or nonpublic provider while the student is also enrolled in the special education program of the student's resident school district.

The act also removes language specifying that a scholarship may be used to pay tuition to a school district or other public entity "to either of which . . . the parent is required to pay tuition on behalf of the child." This change does not appear to have a substantive effect.

Ohio Autism Task Force

(Section 152 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended in Section 14)

The act extends the due date of the Ohio Autism Task Force report from June 26, 2004, to November 26, 2004.

Background--Task Force duties and membership

The budget act for the 2003-2005 biennium established the Ohio Autism Task Force to study and make recommendations about the growing incidence of autism in Ohio and ways to improve the delivery of autism services. The Task Force must submit a written report of its recommendations to the Governor, the Speaker of the House, and the President of the Senate. The Task Force ceases to exist on submission of its report.

⁵⁶ *Under both federal and state law, an "individualized education program" (or IEP) must be developed for each child identified as disabled and eligible for special education and related services at a public school. The IEP specifies the services which the child is entitled to by right and are therefore guaranteed by law. It is developed by a team, including representatives of the child's resident school district (or community school) and the child's parent or the parent's counsel. (See R.C. 3323.01, not in the act, and 20 U.S.C. 1400 et seq.)*

The Task Force consists of 22 members, as follows: (1) 14 members appointed by the Governor, (2) two members of the House of Representatives, one from each party, appointed by the Speaker of the House, (3) two members of the Senate, one from each party, appointed by the President of the Senate, (4) the Director of Mental Retardation and Developmental Disabilities, or the Director's designee, (5) the Director of Job and Family Services, or the Director's designee, (6) the Superintendent of Public Instruction, or the Superintendent's designee, and (7) the Director of Health, or the Director's designee.

Head Start funding earmark

(Section 41.19 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended in Section 14)

The budget act for the 2003-2005 biennium appropriated \$108,184,000 in FY 2005 for the state special revenue fund line item 200-663 (Fund 5W2), Head Start Plus/Head Start and earmarked these funds as follows: \$83,457,126 for the Title IV-A Head Start Plus initiative, \$22,763,177 for the Title IV-A Head Start program, and \$1,963,697 for the Department of Education to provide associated program support and technical assistance. The act changes these three earmark amounts to \$86,600,000, \$19,584,000, and \$2 million, respectively. The total appropriation for the line item in FY 2005 remains unchanged.

The Head Start and Head Start Plus programs, operated by the Department of Education, provide funding to local providers of part-day and all-day early childhood education, social, and health services to low-income children. The Head Start Plus program will begin in FY 2005.

Denial of student financial assistance to students involved in certain riot-related offenses: technical changes

(R.C. 3333.38)

Am. Sub. H.B. 95 of the 125th General Assembly enacted a provision that denies student financial assistance supported by state funds to a student enrolled in an Ohio institution of higher education who is convicted of, pleads guilty to, or is adjudicated a delinquent child for any of several riot-related criminal offenses. R.C. 3333.38 contained several technical errors that the act corrects.

The former version of the section had incorrect cross-references to aggravated riot in violation of R.C. 2917.02 and riot in violation of R.C. 2917.03. The act corrects these cross-references.

Additionally, the former version of R.C. 3333.38 prohibited the receipt of student financial aid for two calendar years if a student was convicted of, pled

guilty to, or was adjudicated a delinquent child for failure to disperse when such offense was a misdemeanor of the fourth degree and occurred within the proximate area where "four or more others" were engaging in disorderly conduct. Under continuing law, failure to disperse occurs when *five or more* persons are participating in disorderly conduct. (R.C. 2917.04, *not in the act.*) The act eliminates the reference to "four or more others" to maintain clarity in the offense of failure to disperse.

Authorization for funding for Kent State University's Columbus Program in Intergovernmental Issues

(R.C. 3333.36)

The act permits, but does not require, the Chancellor of the Ohio Board of Regents to allocate up to \$70,000 in any fiscal year to make payments to the Columbus Program in Intergovernmental Issues at Kent State University. That funding is to be used by the program to pay scholarships of up to \$2,000 for each student enrolled in the program. The Chancellor is authorized to use any funds appropriated to the Board of Regents that the Chancellor determines is available for the purpose of funding the program. Under the Columbus Program in Intergovernmental Issues, a select group of students from a variety of academic disciplines serve as interns in governmental offices in Columbus.⁵⁷

Monetary interests in school board contracts

(R.C. 3313.33)

Generally, a member of a school district board of education may not have a monetary interest in a contract entered into by the board. The act, however, permits a school board member to have a monetary interest in a board contract under certain conditions. First, the member's monetary interest in the contract must be limited to the fact that the member is employed by the political subdivision, instrumentality, or agency that is contracting with the board. Second, the member must file an affidavit with the school district treasurer stating the member's employment status with the contracting party. Finally, the member may not vote on the contract or participate in any discussion or debate regarding the contract. Failure to meet one or more of these conditions could result in a violation of Ohio's ethics laws.

⁵⁷ See the program's web site at <http://www.kent.edu/CPII>.

Exclusion from employment by county MR/DD board

(R.C. 5126.021)

Prior law prohibited a member of the governing board of an agency from being employed by a county board of mental retardation and developmental disabilities (MR/DD) under contract to the agency. The act allows a person who is a member of the governing board of an agency or political subdivision, specifically including a school district board of education, to be employed by a county MR/DD board that has contracted with that agency or political subdivision for services. However, the act bars a person who is both an employee of a county MR/DD board and a member of the governing board of an agency or political subdivision that has contracted with the county MR/DD board from participating in any vote, discussion, or debate regarding that contract.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-23-03	p. 64
Reported, S. Education	10-15-03	p. 1096
Passed Senate (33-0)	10-15-03	pp. 1125-1126
Reported, H. Education	12-09-03	pp. 1270-1271
Passed House (86-11)	12-10-03	pp. 1279-1282
Senate refused to concur in House amendments (0-33)	01-07-04	pp. 1328-1329
House requested conference committee	01-08-04	p. 1401
Senate acceded to request for conference committee	01-15-04	p. 1404
House agreed to conference committee report (88-9)	01-28-04	pp. 1564-1580
Senate agreed to conference committee report (33-0)	02-04-04	pp. 1486-1502

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