

On Friday, August 3, 2018, Governor John Kasich signed into law four bills – H.B. 87, H.B. 318, S.B. 216, and H.B. 312 – that affect school districts and other public entities in many ways. This alert highlights the most consequential aspects of this legislation.

## School Districts Must Update Teacher Evaluation Policies by July 1, 2020

The new laws require that school districts update their standards-based teacher evaluation policies by July 1, 2020. These updated policies must conform with the framework for teacher evaluations that the state board of education is now required to establish. Under the state board's new framework:

- Test scores and a determination of how teachers use those scores to inform lesson planning will be part of the observation rating and will not be given any particular percentage weight
- Student progress will be measured by at least two forms of "high-quality student data" for each teacher
  - The Ohio Department of Education (ODE) will define what constitutes "high-quality student data"
  - The definition will include value-added data and will not include student-learning objectives
- Student data will be used as evidence of:
  - Knowledge of the teacher's students
  - Teacher's use of differentiated instruction based on individual students' skill levels
  - Assessment of student learning
  - Teacher's use of assessment data
  - Professional responsibility and growth
- Student-performance data cannot be shared among groups of teachers, such as teachers in a district, building, grade or content area
- Any accomplished or skilled teacher will be eligible to skip evaluation cycles based on "self-directed professional growth plans" and the evaluator's conclusion that the teacher is making progress on the plan

Each school district's new evaluation policies must take effect upon expiration of any already-effective collective-bargaining agreement covering the district's teachers.

## Restrictions on Student Suspensions and Expulsions

### Makeup Assignments

School boards are now required to permit any students who are suspended, whether in or out of school, to complete any classroom assignments missed because of the suspension. School boards previously had discretion to allow or prohibit suspended students from making up missed assignments.

### Suspending or Expelling Students: Pre-K Through 3rd Grade

School districts are prohibited from issuing out-of-school suspensions or expulsions to any students in grades pre-kindergarten through three, except where either one of the following is true:

- The student has engaged in any activity listed at R.C. 3313.66(B)(2)-(5), including, for example, possessing on school property a firearm or knife capable of causing serious injury
- Such suspension or expulsion is necessary to protect the immediate health and safety of the student, any other students, or any school employees

Any students in grades pre-kindergarten through three whose presence poses a danger to persons or property or disrupts the academic process may be removed from curricular activities or the school premises only for the remainder of the school day. Any students so removed must be allowed to return to any curricular or extracurricular activities the following school day. If a school district so removes any student in grades pre-kindergarten through three and then returns that student the following school day, the district does not have to follow the notice and hearing requirements that otherwise apply to student removals.

## Financial Issues: Substitute Levy, Financial Projections, Procuring Medical Services

### Substitute Levy

For purposes of a substitute levy under R.C. 5705.199, it was clarified that an emergency levy (imposed under R.C. 5705.194 to .197) is considered to be an "existing levy" through the year following the last year it can be placed on the real and public utility property tax list and duplicate. As a result, a school district may seek to propose a substitute levy for an emergency levy that is in its last year of collection.

### Credit and Debit Cards

School districts and other political subdivisions that hold credit card accounts must establish written policies for the use of their credit cards. Several analogous statutes were enacted to govern credit card policies of different political subdivisions – in the case of many public school districts, R.C. 3313.311 enumerates the specific types of information that the credit card policies must cover, including, for example, who is authorized to use the credit cards and for what types of expenses. Different restrictions apply depending on whether a political subdivision's fiscal officer retains possession of the entity's credit cards.

All school districts and other political subdivisions are prohibited from holding or using debit cards, except for "law enforcement purposes." This prohibition does not apply to debit card accounts that are used to receive grant money.

## Five-year Financial Projections

The ODE and the Auditor of State (AOS) are now prohibited from requiring school districts to submit their five-year financial projections before November 30 of the fiscal year. The current rule from the ODE and AOS (Ohio Admin. Code 3301-92-04) requires that those projections be submitted by October 31.

## Procuring Medical or Health Services

School districts and other political subdivisions are now allowed to enter into agreements with one another to procure or contract for providers of medical or health services.

## Rules for School District Treasurers

### Signing Employment Contracts

Only the school district superintendent or school board president can sign and execute employment contracts, salary notices and other employment-related documents of the school district treasurer and any member of the treasurer's family.

### Attesting to Accuracy of School Board Meeting Minutes

The school district treasurer is required to attest to the accuracy of all information contained in the record of a school board meeting. Such attestation does not authorize or execute any action taken or not taken during the relevant meeting.

## New Training Requirements: Positive Behavior Intervention and Supports (PBIS)

Each school district is required to implement a PBIS framework on a system-wide basis and, as part of that framework, must provide professional development or continuing education in PBIS to certain teachers and administrators who serve or teach in buildings that serve students in grades pre-kindergarten to three. This professional development or continuing education must occur by about November 1, 2021.

The new law further requires each school district's local professional development committee to monitor compliance with the professional development or continuing education, and to establish model professional development courses to assist in that compliance.

## Standards for School Resource Officers (SRO)

All school districts that decide to use SROs must enter into a memorandum of understanding with the relevant law enforcement agency that specifies the purpose, scope and details of the SRO program. Those districts that already use SROs must enter into a memorandum of understanding by about November 1, 2019.

All SROs who provide services to a school district must complete both of the following:

1. A basic training program approved by Ohio's peace officer training commission
2. Within one year after appointment, at least 40 hours of school resource officer training through any of the preapproved sources listed at R.C. 3313.951(B)(1)(b)

The new laws also specify the minimum training required for newly appointed SROs and clarify that each school district or administrator retains final decision-making authority regarding disciplinary matters.

## Miscellaneous

### Qualifications to Teach Core Subjects

Beginning July 1, 2019, city, exempted village, local, joint vocational and cooperative education school districts are prohibited from employing any core subject teacher who is not "properly certified or licensed" or any core subject paraprofessional who is not "properly certified," as defined at R.C. 3319.074(A)(2)-(3).

### Reading Improvement Plan

Any school district where less than 80% of students score at least "proficient" on the third-grade English language arts assessment must establish a reading-improvement plan supported by reading specialists and approved by the district's board of education.

### Consolidated School Mandate Report

The ODE is now required to establish a consolidated school mandate report, which each school district must complete and file every year by November 30.

### Use of Restraint or Seclusion on Students

The state board of education will establish policies and standards for using physical restraint or seclusion on students, so school districts should be vigilant and ensure that their policies and standards are consistent with the state board's.

## Contacts

### W. Michael Hanna

Partner, Cleveland  
T +1 216 479 8699  
E [mike.hanna@sqirepb.com](mailto:mike.hanna@sqirepb.com)

### Emily R. Spivack

Associate, Cleveland  
T +1 216 479 8001  
E [emily.spivack@sqirepb.com](mailto:emily.spivack@sqirepb.com)