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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Legislative Budget  
Office

H.B. 407  
(1\_135\_1522-3)  
135<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 407's Bill Analysis](#)

**Version:** In House Primary and Secondary Education

**Primary Sponsors:** Reps. Manning and Seitz

**Local Impact Statement Procedure Required:** No

Brian Hoffmeister, Fiscal Supervisor

### Highlights

- The bill requires the Department of Education and Workforce (DEW) to develop a state report card for chartered nonpublic schools with at least 20% of their enrollment consisting of EdChoice or Cleveland scholarship students. The state report card for chartered nonpublic schools must be as similar as practicable to the state report card for public schools. In FY 2024, 81% of chartered nonpublic schools met the 20% scholarship enrollment threshold.
- Most of the academic performance measures on the state report card for public schools are based on state test results. However, most scholarship students take alternative tests authorized under current law, an option the bill retains. According to DEW, alternative tests cannot be used in place of state tests under the current report card system. Therefore, it is unclear how DEW will be able to implement a report card for chartered nonpublic schools if alternative tests remain in place.

### Detailed Analysis

#### Bill overview

The bill establishes new reporting requirements and other accountability measures for chartered nonpublic schools enrolling students who participate in the EdChoice or Cleveland scholarship programs, which this fiscal note will refer to as “general scholarship programs” for brevity. Specifically, the bill requires the Department of Education and Workforce (DEW) to establish a report card system for chartered nonpublic schools with at least 20% of their enrollment consisting of general scholarship students and a publicly accessible system for comparing the performance data of general scholarship students enrolled in a chartered nonpublic school with that of similar students enrolled in public schools. DEW must also report

data on general scholarship participants disaggregated by income level. The bill requires a chartered nonpublic school enrolling general scholarship students to establish and report admission procedures for cases of excess demand and report certain enrollment and capacity data to DEW if the school's general scholarship students make up at least 20% of its total enrollment. Further, the bill makes changes to disciplinary recordkeeping requirements.

## **State performance reporting**

### **Report cards**

Current law requires DEW to operate a report card system for disseminating data on the performance of public schools, including traditional school districts, community schools, and science, technology, engineering, and mathematics (STEM) schools. The bill requires DEW to establish a similar report card for chartered nonpublic schools whose enrollment consists of at least 20% scholarship students. Under the bill, this report card must be as similar as practicable as the report card for public schools.

For reference, the current report card for public schools rates performance with respect to state test proficiency levels, progress compared to expected academic growth (the "value-added progress dimension"), closing achievement gaps, graduation rates, reading improvement and proficiency for students in grades K-3, and other metrics. Notably, the achievement, gap closing, progress, and early literacy components of state report cards all rely on data from Ohio's state tests. DEW uses testing and other data that public schools submit in the Education Management Information System (EMIS) to generate report cards. EMIS is DEW's primary system for collecting student, staff, course, program, financial, and accountability system data from public schools. Public schools may review their report card data in EMIS and submit corrections if necessary before the report cards are finalized.

Current law generally requires each chartered nonpublic school that participates in a state scholarship program to administer the state elementary assessments or approved alternative assessments to its scholarship students. However, chartered nonpublic schools do not report data through EMIS. According to DEW, under the current system, the testing vendor provides the data for scholarship students directly to the Department and chartered nonpublic schools do not have the option to review and correct data.

### **Public comparison system**

The bill also requires DEW to create a system for publicly comparing the performance of scholarship students to those in public schools. Specifically, the bill requires DEW to establish a publicly available system on its website for comparing the performance of general scholarship students enrolled in a chartered nonpublic school with that of similar students in the school district where the school is located, or a community, STEM, or other chartered nonpublic school in the same district. The comparison must consider age, grade, race and ethnicity, gender, and socioeconomic status. The bill also requires DEW to post on its website the number of scholarship students disaggregated by income level; specifically, those whose family adjusted gross income (AGI) is at or below 450% of the federal poverty level (FPL), the number in each 50 percentage point FPL band above 450% FPL and at or below 750% FPL (e.g., above 450% and at or below 500%; above 500% and at or below 550%, etc.), and the number above 750% FPL. The bill requires DEW to request any data necessary for the income reporting requirement from the Department of Taxation.

Further, while not part of the public comparison system, the bill requires DEW to report on its website aggregate data including the family income of each student who receives a scholarship from a scholarship granting organization (SGO) and requires it to request the necessary data to do so from the Department of Taxation. Under continuing law, a chartered nonpublic school may accept scholarships issued by an SGO as payment for the difference between a student's EdChoice scholarship amount and their regular tuition and fees.

### **Additional nonpublic school reports to DEW**

The bill requires chartered nonpublic schools in which at least 20% of enrollment consists of general scholarship students to report their total enrollment and capacity limits by grade level, school building, and education program, as well as the number of enrolled scholarship students disaggregated by the type of school they were enrolled in, or whether they were educated at home or were not enrolled in school in Ohio, during the prior year. The bill also requires chartered nonpublic schools to report to DEW its method of determining which students to admit if applications for a particular grade level, building, or education program exceed capacity. The bill requires DEW to include these reports as part of the school's report card.

### **Fiscal effects of accountability system changes**

Most chartered nonpublic schools will qualify for a state report card under the bill. LBO identified 577 chartered nonpublic schools, or 81% of all chartered nonpublic schools operating in FY 2024, that met the bill's 20% scholarship student enrollment threshold. We estimated each school's scholarship enrollment percentage by comparing each school's number of scholarship participants to its overall enrollment, both of which are reported by DEW. The actual number may vary due to various data limitations.<sup>1</sup> As noted above, current law generally requires each chartered nonpublic school that participates in a state scholarship program to administer the state elementary assessments or approved alternative assessments to its scholarship students. A school must administer the elementary assessments to all of its students if 65% or more of its students are attending with a state scholarship, but the parent or guardian of a nonscholarship student may opt the student out of an assessment. A chartered nonpublic school generally must administer to its high school students each required end-of-course examination or an approved alternative assessment. In the case of a school accredited by the Independent Schools Association of the Central States (ISACS), only state scholarship students are required to take the end-of-course examinations or alternative assessments.

Currently, DEW only collects data on alternative assessments taken by nonpublic school students receiving a state scholarship. Most scholarship students take an alternative assessment. In FY 2023, between roughly 55% and 60% of EdChoice and Cleveland scholarship students in

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<sup>1</sup> DEW uses different reporting periods to collect nonpublic school enrollment and scholarship participation data, which means the two data sets are not strictly comparable. Overall, chartered nonpublic school enrollment generally is based on the school's average enrollment during the first week of October while scholarship participation is updated during the fiscal year. Also, DEW masks a school's scholarship participants or enrollment when the number is less than ten to protect student privacy. This means that we were not able to calculate percentages for some small schools. Nevertheless, DEW may not be able to generate report card results for some small schools. For example, a public school must have at least ten students taking state tests to generate a performance index score.

grades 3-8 took an alternative assessment, depending on the scholarship they received, while between 80% and 85% of EdChoice and Cleveland scholarship students in high school took an alternative assessment. The bill continues to permit chartered nonpublic students to take alternative assessments instead of the state tests. According to DEW, alternative assessments cannot be used in place of state tests under the current report card system. Therefore, it is unclear how DEW will be able to implement a chartered nonpublic school report card that is similar to the report cards for public schools.

H.B. 33 of the 135<sup>th</sup> General Assembly, the main operating budget act for the FY 2024-FY 2025 biennium, appropriates \$7.3 million in FY 2025 for DEW's accountability and report card programs in GRF line item 200439, Accountability/Report Cards. These funds cover the development and distribution of school report cards, payments to the vendors for the production of value-added reports and the teacher-student linkage and roster verification process, funding and expenditure accountability reports, and other performance management activities and training for educators. Additional GRF appropriations are used to support data collection, including GRF line item 200446, Education Management Information System.

### **Other factors**

Certain factors may mitigate any new costs to some degree. For example, while the state report card for public schools includes a value-added progress dimension that measures academic growth for students in grades 4-8 and high school, a continuing law provision enacted in H.B. 33 requires DEW to develop a new student growth measure for EdChoice students enrolled in grades 4-8 in chartered nonpublic schools by the end of FY 2025. Presumably, under the bill, DEW will provide the new student growth measure as part of the required report cards for nonpublic schools.

Existing platforms such as DEW's public-facing reports portal<sup>2</sup> may provide an appropriate venue for the comparison system required by the bill, depending on the formatting and functionality required to provide comparisons of the bill's prescribed demographic and educational comparison groups. For example, DEW currently posts a Scholarship Assessment Report that allows users to access proficiency rates of scholarship students on each state assessment by scholarship program and resident district, including further breakdowns by grade, race and ethnicity, gender, and years in the program.<sup>3</sup> However, the bill requires certain data not currently included in the existing reports, including socioeconomic disaggregation and comparisons between a particular chartered nonpublic school and the district in which it is located.

On the other hand, state funding to reimburse chartered nonpublic schools for administrative costs tied to state-mandated requirements may increase. These reimbursements partially reimburse schools for costs that include the preparation and filing of forms related to the school's charter, as well as required reporting on enrollment, attendance, transportation, and other student data. While the bill may increase chartered nonpublic school administrative costs, the state caps the amount of reimbursement each school may receive at a per-pupil rate

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<sup>2</sup> Accessible at [reports.education.ohio.gov](https://reports.education.ohio.gov).

<sup>3</sup> DEW Scholarship Assessment Report – State, accessible at [reports.education.ohio.gov](https://reports.education.ohio.gov) by navigating to “Nonpublic Data,” then “Scholarship,” then “Scholarship Assessment Report.”

established by the General Assembly in each main operating budget act. H.B. 33 sets the maximum rate at \$475 per pupil for FY 2024 and FY 2025. Actual reimbursements are subject to the appropriation in GRF line item 200532, Nonpublic Administrative Cost Reimbursement. In FY 2024, the appropriation permitted a maximum reimbursement of about \$440 per pupil. Nearly all (94%) of the chartered nonpublic schools that received the reimbursement in FY 2024 were capped at the maximum per-pupil amount.

## **Student disciplinary records**

The bill requires traditional school districts, community and STEM schools, college-preparatory boarding schools, and chartered nonpublic schools to maintain a disciplinary record for each student subject to a disciplinary action, subject to state and federal student privacy laws. The bill also expressly includes these records in continuing law that requires a district or school to transmit the records of a student who transfers to a new school within five days of receiving a request from the new school.

It is likely that most schools already maintain disciplinary records for most, if not all, students. Existing administrative rule requires schools to maintain and transmit the disciplinary records of students with disabilities in the same manner as those of students without disabilities (Ohio Administrative Code 3301-51-04). School districts and other public schools that do not already maintain disciplinary records for all students will incur administrative costs to do so.

## **Synopsis of Fiscal Effect Changes**

- The substitute bill (I\_135\_1522-3) removes provisions in the As Introduced (previous) bill that eliminate alternative assessment options for general scholarship students attending a chartered nonpublic school. Since the Department of Education and Workforce (DEW) indicates that alternative tests cannot be used in place of state tests under the current report card system, it is unclear how DEW will be able to implement a report card for chartered nonpublic schools under the substitute bill and, therefore, what the costs may be to do so. LBO estimated the costs for DEW to implement nonpublic school report cards under the previous bill at up to several million dollars or more annually.
- In addition, the substitute bill eliminates the previous bill's fiscal effects on state testing system costs by retaining the option for scholarship students to take alternative tests instead of the state tests. The state currently does not pay for nonpublic schools to use an alternative test.
- The substitute bill may increase or decrease DEW's administrative costs by (1) eliminating the provision requiring chartered nonpublic schools that enroll general scholarship students to report their expenditure of general scholarship funds to DEW annually and, thus, any costs for DEW to develop, collect, and post these reports, but also (2) requiring DEW to report on its website aggregate data concerning the family income of students who receive scholarships from a scholarship-granting organization.