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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 229  
134<sup>th</sup> General Assembly

## Final Analysis

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**Version:** As Passed by the General Assembly

**Primary Sponsor:** Sen. Blessing

**Effective date:** Emergency: December 14, 2021; conforming change related to financial literacy instruction in R.C. 3314.03 effective January 27, 2022

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## SUMMARY

### Blended learning for the 2021-2022 school year

- Permits a school district, other public school, or chartered nonpublic school to submit to the Department of Education a declaration to implement or discontinue use of a blended learning model during the 2021-2022 school year by April 30, 2022.
- Requires the Department to post a list of districts and schools that have submitted a blended learning model declaration during the 2021-2022 school year on its website.
- Provides specific operating requirements for districts and schools that implement blended learning for any portion of the 2021-2022 school year.

### Blended learning definition

- Revises the permanent law definition of blended learning to add “noncomputer-based learning opportunities.”

### Remote learning for the 2021-2022 school year

- Permits a school district, other public school, or chartered nonpublic school to adopt a resolution to continue to provide instruction using the school’s remote learning plan for the 2021-2022 school year.
- Requires a district or school that adopts a resolution to notify the Department of that decision by December 15, 2021.
- Requires a school or district that continues to offer remote instruction to update its remote learning plan with specific requirements.

## COVID remediation plans

- Requires each school district and other public school to submit to the Department a remediation plan to address the loss of learning students experienced during the COVID-19 pandemic, unless the district or school previously submitted an Extended Learning Plan or Local Use of Funds Plan.
- Requires the Department to develop standards and a template for remediation plans.
- Requires the Department to compile the remediation plans and submit a report to the General Assembly.

## State report cards

- Adds two school district superintendents, a school principal, and a community school representative, appointed by the Superintendent of Public Instruction, to the State Report Card Review Committee and requires majority party members appointed from the House of Representatives and the Senate to serve as committee co-chairpersons.
- Prohibits the Department from considering performance on the chronic absenteeism measure on the state report card for the 2021-2022 school year.
- Requires the Department to report without a rating the four-year adjusted cohort graduation rate on the state report card for students who were *continuously* enrolled in the same district or building for grades 9-12.
- Requires the Department to calculate and publish the continuously enrolled four-year adjusted cohort graduation rate and the total number of students in each cohort for all districts and buildings for the 2016-2017, 2017-2018, 2018-2019, 2019-2020, and 2020-2021 school years on state report cards for the 2021-2022 school year.

## Online services for special education students

- Between July 1, 2021, and June 30, 2022, upon the request of a parent or guardian, permits an individual who holds a valid license issued by a licensing board to provide services via electronic delivery method or telehealth communication to special education students.

## Quarantined students

- For the 2021-2022 school year only, permits a school or district operating an online learning school to allow a quarantined student to participate in the online learning school for the duration of the student's quarantine period.
- For the 2021-2022 school year, requires districts and schools to report monthly to the Department the number of students quarantined and the duration of the quarantine.

## Withdrawal of students for failure to take assessments

- Revises the law requiring automatic withdrawal of students from internet- or computer-based community schools (e-schools) and district-operated internet- or computer-based

schools for failure to take state assessments, so that that new starting point for considering two years of failure to take the assessments is the 2021-2022 school year.

### **Financial literacy instruction**

- Reinstates law requiring public and chartered nonpublic schools to integrate the study of economics and financial literacy into one or more existing social studies credits, or into the content of another class, for students who enter ninth grade for the first time prior to July 1, 2022 (classes up to the Class of 2025).

### **Third Grade Reading Guarantee exemption**

- For the 2021-2022 school year only, exempts public and chartered nonpublic schools from retaining a student under the Third Grade Reading Guarantee based solely on the student’s academic performance.

### **Exemption from emergency management plan requirement**

- Exempts an online learning school from the requirement that school administrators develop an emergency management plan for each building under their control, unless students participate in in-person instruction or assessments at a location that is not covered in a district’s or school’s existing emergency management plan.

### **Educational service center state subsidies**

- Revises the “funding base” used to determine state payments to educational service centers (ESCs) to the amount the ESC would have received for FY 2020 using the student counts of the school districts with which the ESC has service agreements in the fiscal year for which payments are being made.

### **Educational Choice and Cleveland scholarship payments**

- Specifies that, in the case of a student who is not living with the student’s parent, the Department must make Educational Choice (Ed Choice) Scholarship and Pilot Project (Cleveland) Scholarship payments to the student’s guardian, legal custodian, kinship caregiver, foster caregiver, or caretaker.
- Requires the Department to make monthly partial payments for the Cleveland Scholarship, rather than “from time to time in partial payments” as under prior law.
- Adds to the definition of “caretaker” to include any responsible adult (other than a parent or relative) who has care of the child and, if not for being in that adult’s care, the child would be homeless or likely homeless.

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## DETAILED ANALYSIS

### **Blended learning for the 2021-2022 school year**

For the 2021-2022 school year only, the act permits a school district, community school with approval of its sponsor, STEM school, or chartered nonpublic school to submit to the Department of Education, by April 30, 2022, a declaration to implement or discontinue use of a blended learning model during that school year. The act specifically states that the decision to implement or rescind use of a blended learning model is not subject to approval by the Department. It also requires the Department to post a list of districts and schools that have submitted a blended learning model declaration during the 2021-2022 school year on its website.<sup>1</sup>

Otherwise, under continuing law, if a district or school uses or ceases using a blended learning model, it must notify the Department of that fact by July 1 of the school year for which the change is effective.<sup>2</sup>

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<sup>1</sup> Section 3(B) and (C).

<sup>2</sup> R.C. 3302.41, not in the act.

## **Blended learning requirements for the 2021-2022 school year**

For the 2021-2022 school year, the act requires a district or school that implements a blended learning model to do all of the following:<sup>3</sup>

1. Ensure that students have access to the internet and to devices students may use to participate in online learning;
2. Provide a filtering device or install filtering software that protects against internet access to materials that are obscene or harmful to juveniles on each computer provided to students for instructional use;
3. Monitor and assess student achievement and progress and provide additional services if necessary to improve student achievement;
4. Periodically communicate with parents or guardians regarding student progress;
5. Report quarterly to the Department the number of students participating in blended learning and the duration of their participation;
6. By May 15, 2022, report to the Department both:
  - a. The total number of students engaged in blended learning by grade level; and
  - b. The total number of students with disabilities engaged in blended learning.
7. Comply with operating standards for blended learning as otherwise prescribed under continuing law by the State Board of Education.<sup>4</sup>

### **Additional provisions for community schools**

For the 2021-2022 school year, the act specifies that a community school that implements a blended learning model for any portion of that school year must be considered as having met any requirements to receive state funds as otherwise prescribed by law.<sup>5</sup> For example, continuing law requires any school using a blended learning model to have an instructional calendar of at least 910 hours, but separately the Community School Law specifies that a community school must offer at least 920 hours of learning opportunities and its full-time equivalency for funding purposes is the actual number of learning opportunities it offers.<sup>6</sup> Presumably, the act permits full funding for any community school student in a blended learning program as long as the student participates in 910 hours of instruction.

The act also requires a community school, by June 30, 2022, to complete any revisions to the contract with its sponsor to implement or discontinue blended learning. It further

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<sup>3</sup> Section 3(D).

<sup>4</sup> See R.C. 3302.41(B), not in the act.

<sup>5</sup> Section 3(E)(1).

<sup>6</sup> R.C. 3302.41(B)(4) and 3314.08(H), neither in the act.

requires that, by April 30, 2022, a community school adopt or make any other necessary revisions to its policies.<sup>7</sup>

## **Definition of blended learning**

The act revises the permanent law definition of blended learning to add “noncomputer-based learning opportunities.”<sup>8</sup>

## **Remote learning for the 2021-2022 school year**

For the 2021-2022 school year only, the act permits a school district, community school with approval of its sponsor, STEM school, or chartered nonpublic school to adopt a resolution to continue to provide instruction using the school’s remote learning plan submitted for the 2020-2021 school year under H.B. 164 of the 133<sup>rd</sup> General Assembly. But it may do so only for those students whose parents or guardians submit a written request to the building principal. Moreover, it specifically prohibits a district or school already operating as an online learning school for the 2021-2022 school year, as permitted under law enacted in 2021, from using the act’s provision.<sup>9</sup>

The act requires a district or school that adopts a resolution to notify the Department of that decision by December 15, 2021. It specifically states that the decision to continue to offer remote instruction is not subject to approval by the Department. The Department must post on its website a list of districts and schools continuing to operate a remote learning plan for the 2021-2022 school year.<sup>10</sup>

As with its blending learning provision (described above), the act states that a community school that continues to provide instruction under the remote learning plan must be considered as having met any requirements to receive state funds as otherwise prescribed by law.<sup>11</sup>

Finally, for the act’s purposes , “remote learning” is defined as “synchronous and asynchronous instruction and educational activities that take place when the students and the teachers are not physically present in a traditional classroom environment.”<sup>12</sup>

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<sup>7</sup> Section 3(E)(2) and (3).

<sup>8</sup> R.C. 3301.079(J).

<sup>9</sup> Section 4(B)(1). See R.C. 3302.42, not in the act.

<sup>10</sup> Section 4(B)(2) and (C).

<sup>11</sup> Section 4(F).

<sup>12</sup> Section 4(A)(5).

## **Remote learning requirements for the 2021-2022 school year**

For the 2021-2022 school year, the act requires a school or district that continues to offer remote instruction to update its H.B. 164 remote learning plan to do the following:<sup>13</sup>

1. Meet all minimum school year requirements prescribed under continuing law;
2. Ensure that students have access to the internet and to devices students may use to participate in online learning;
3. Provide a filtering device or install filtering software that protects against internet access to materials that are obscene or harmful to juveniles on each computer provided to students for instructional use;
4. Track and document all student remote learning participation, including online and offline activities;
5. Report student attendance based on student participation;
6. Monitor and assess student achievement and progress and provide additional services if necessary to improve student achievement;
7. Periodically communicate with parents or guardians regarding student progress;
8. Develop a statement describing the school's approach to addressing nonattendance and its compliance with truancy procedures and requirements; and
9. Report to the Department both:
  - a. The total number of students engaged in remote learning by grade level; and
  - b. The total number of students with disabilities engaged in remote learning.

The act requires that each school or district that continues to offer remote instruction make its updated plan publicly available on its website and submit a copy to the Department.<sup>14</sup>

## **COVID remediation plans**

By January 13, 2022, the act requires the Department to develop standards and a template for district and school remediation plans. The standards must require at least (1) timelines and programs that a district or school is implementing to address loss of learning due to the COVID pandemic, (2) the length of time programs will be implemented, and (3) the method by which the district or school will pay the cost of the programs.<sup>15</sup>

The act then requires each school district, STEM school, and community school, by March 14, 2022, to submit to the Department a remediation plan to address the loss of learning and post the plan on its website. However, the act also states that this requirement is satisfied

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<sup>13</sup> Section 4(D).

<sup>14</sup> Section 4(E).

<sup>15</sup> Section 3(F)(1)(a).

if a district or school submitted to the Department either (1) an Extended Learning Plan prior to April 1, 2021, as requested by the Governor, or (2) a Local Use of Funds Plan prior to August 21, 2021, as a condition of receiving federal American Rescue Plan Elementary and Secondary School Emergency Relief Funds.<sup>16</sup>

Finally, the Department, by May 28, 2022, must compile the remediation plans and submit a report to the General Assembly.<sup>17</sup>

## **State report cards**

### **State Report Card Review Committee membership**

The act adds two school district superintendents, a school principal, and a community school representative, all appointed by the Superintendent of Public Instruction, to the State Report Card Review Committee. It also specifies that the majority party members appointed from the House and the Senate (see below) must serve as committee co-chairpersons.<sup>18</sup>

For detailed information about the committee and the rest of its membership, see pp. 24-25 of the Final Analysis for H.B. 82 of the 134<sup>th</sup> General Assembly, available at <https://www.legislature.ohio.gov/download?key=17325&format=pdf>. Per H.B. 82, the committee is established effective July 1, 2023.

### **Chronic absenteeism measure**

For the 2021-2022 school year, the act prohibits the Department from considering performance on the chronic absenteeism measure on the state report card for any school district or school. Specifically, that measure may not be used to determine whether a district or school is subject to any penalty or sanction otherwise prescribed by law. Further, it prohibits the Department from including the chronic absenteeism indicator in assigning performance ratings for the gap closing component for the 2021-2022 school year for districts and schools. The act also specifically requires the Department to re-weight the other component measures accordingly, which includes: Achievement, Progress, Graduation, Early Literacy, and College, Career, Workforce, and Military Readiness.<sup>19</sup>

The new report card system enacted in H.B. 82 of the 134<sup>th</sup> General Assembly prescribes a chronic absenteeism measure to be determined by the Department of Education as one of its gap closing measures.

### **Four-year adjusted cohort graduation rate**

The act requires the Department to include on a district's or building's state report card, as reported data not factored into the component performance rating, the four-year adjusted

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<sup>16</sup> Section 3(F)(2).

<sup>17</sup> Section 3(F)(1)(b).

<sup>18</sup> R.C. 3302.039.

<sup>19</sup> Section 3(G).



cohort graduation rate for only those students who were *continuously* enrolled in the same district or building for grades 9-12.<sup>20</sup>

Separately, it requires the Department, by September 15, 2022, to calculate and publish the four-year adjusted cohort graduation rate as described above and the total number of students in each cohort for all districts and buildings for the 2016-2017, 2017-2018, 2018-2019, 2019-2020, and 2020-2021 school years as reported-only data on state report cards issued for the 2021-2022 school year.<sup>21</sup>

## **Online services for special education students**

Between July 1, 2021, and June 30, 2022, the act permits an individual who holds a valid license issued by a licensing board, to provide services to a special education student by an electronic delivery method or telehealth communication, upon request from the student's parent or guardian. This provision applies to any student participating in the Autism or the Jon Peterson Special Needs Scholarship programs or to any student who was enrolled in a public or chartered nonpublic school and was receiving those types of services, regardless of the method of delivery, prior to the act's effective date (December 14, 2021).<sup>22</sup>

## **Quarantined students**

### **Online learning school option**

For the 2021-2022 school year only, the act permits a district or school to allow a student who is in quarantine due to possible exposure to a contagious disease to participate in its online learning school (if it has one) for the duration of that student's quarantine period. If a quarantined student is allowed to participate in the online learning school, the student may not be considered enrolled in that online learning school but, instead, must be considered to be enrolled in the school the student would otherwise attend. Once a student is in quarantine, a district or school must notify the student's parents or guardians of available learning options for the duration of the student's quarantine.<sup>23</sup>

### **Monthly report of students in quarantine**

For the 2021-2022 school year, the act requires that a school district, community school, STEM school, or chartered nonpublic school report monthly to the Department, in a manner as determined by the Department, the number of students quarantined and the duration of the quarantine due to exposure to a contagious disease.<sup>24</sup>

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<sup>20</sup> R.C. 3302.03(D)(2)(j)(ii).

<sup>21</sup> Section 5.

<sup>22</sup> Section 3(H).

<sup>23</sup> Section 6.

<sup>24</sup> Section 7.

## **Withdrawal of students for failure to take assessments**

The act resets the starting point for withdrawal determinations made by internet- or computer-based community schools (e-schools) and district-operated internet- or computer-based schools upon a student's failure to complete required state assessments for two consecutive years. The new starting point is the 2021-2022 school year. Thus, under the act, no student's failure to take the assessments prior to the 2021-2022 school year may subject the student to withdrawal.<sup>25</sup>

Previously, H.B. 110 of the 134<sup>th</sup> General Assembly, effective September 30, 2021, had set a new starting point for withdrawal determinations as the 2020-2021 school year.

Under continuing law, e-schools and district-operated internet- or computer-based schools must automatically withdraw any student who has not participated in the spring administration of any required state assessment for two consecutive years, if not otherwise excused from taking that assessment. A school may not receive any state funds for any student who is subject to automatic withdrawal, but may permit the student to continue to attend the school's program only if the student's parent pays tuition.<sup>26</sup>

## **Financial literacy instruction**

The act reinstates law requiring public and chartered nonpublic schools to integrate the study of economics and financial literacy into one or more existing social studies credits, or into the content of another class, for students who enter the ninth grade on or after July 1, 2010, but prior to July 1, 2022 (the Classes of 2014 through 2025).<sup>27</sup>

The original requirement, which applied students beginning with the Class of 2014, was eliminated by S.B. 1 of the 134<sup>th</sup> General Assembly, effective January 27, 2022. The act, thus, continues the requirement for students through the Class of 2025, who are not affected by S.B. 1. Under S.B. 1, students in the Class of 2026 and beyond must complete a half-unit (60 hours) of financial literacy instruction either as an elective or in lieu of one-half unit of math.<sup>28</sup>

## **Third Grade Reading Guarantee exemption**

The act exempts public and chartered nonpublic schools from retaining a student under the Third Grade Reading Guarantee based solely on the student's academic performance in reading in the 2021-2022 school year. However, students may be retained if the student's principal and reading teacher, in consultation with the student's parent or guardian, agree that the student is not reading at grade level and is not prepared for fourth grade. Conversely, the act requires a third-grade student reading below grade level to be promoted to the fourth

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<sup>25</sup> R.C. 3313.6412 and 3314.262.

<sup>26</sup> R.C. 3313.6410 and 3314.26, neither in the act.

<sup>27</sup> R.C. 3313.6027, 3314.03(A)(11)(f), 3326.15, and 3328.22; Section 9.

<sup>28</sup> See R.C. 3313.603(C)(3), (8), and (9), as enacted by S.B. 1, not in the act.

grade if the student's principal and reading teacher, again in consultation with the student's parents or guardian, agree that the student is prepared to be promoted.

The act further requires each school to notify the parent or guardian of a student who does not attain a proficient reading score and describe the school's remediation plan to improve the student's academic performance in reading.<sup>29</sup>

### **Exemption from emergency management plan requirement**

The act exempts an online learning school from the requirement that school administrators develop an emergency management plan for each building under their control, unless students participate in in-person instruction or assessments at a location that is not covered in a district's or school's existing emergency management plan as of December 14, 2021.<sup>30</sup>

### **Educational service center state subsidies**

The act revises the FY 2022 and FY 2023 "funding base" used to determine direct state payments to educational service centers (ESCs). Under the act, the revised funding base is the amount the ESC would have received for FY 2020 using the student counts of the school districts with which the ESC has service agreements for the fiscal year for which payments are being made. Under prior law, an ESC's "funding base" was simply the amount paid to it for FY 2020.<sup>31</sup>

### **Educational Choice and Cleveland scholarship payments**

The act requires the Department, in the case of a student who is not living with the student's parent, to make Educational Choice (Ed Choice) and Pilot Project (Cleveland) scholarship payments to the student's guardian, legal custodian, kinship caregiver, foster caregiver, or caretaker.

The act also requires the Department to make monthly partial payments for the Cleveland Scholarship Program, rather than "from time to time" as under prior law. Payments for the Ed Choice scholarships are distributed in monthly partial payments under continuing law.

For purposes of the Ed Choice and Cleveland scholarship programs, the act amends the definition of "caretaker" to include any other responsible adult who has care of the child and, if not for being in that adult's care, the child would be homeless or likely homeless. Under prior law, the term "caretaker" included only to a student's parent or other relative acting in the parent's place.<sup>32</sup>

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<sup>29</sup> Section 8.

<sup>30</sup> R.C. 5502.262(H).

<sup>31</sup> R.C. 3317.11(A)(2).

<sup>32</sup> R.C. 3310.033(A)(5) and (D) and 3317.022(E) and (F).

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## HISTORY

Action	Date
Introduced	09-14-21
Reported, S. Primary & Secondary Education	10-20-21
Passed Senate (30-0)	10-20-21
Reported, H. Primary & Secondary Education	11-16-21
Passed House (82-2)	11-18-21
Senate concurred in House amendments (33-0)	12-08-21

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