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H.B. 147*
135th General Assembly

Bill Analysis

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Version: As Reported by Senate Education

Primary Sponsors: Reps. Fowler Arthur and A. Miller

Mike Niemi, Research and Drafting Supervisor

SUMMARY

School employee misconduct

- Includes pupil services personnel registration, private provider registration under the Autism Scholarship Program, and the authorization for certain unlicensed individuals to teach in high-performing school districts within the definition of a “license” for purposes of the laws regarding school employee misconduct.
- Requires school districts, educational service centers, and chartered nonpublic schools to file a report with the Superintendent of Public Instruction regarding a licensed employee who retires during a disciplinary investigation for misconduct.
- Requires school districts, educational service centers, and chartered nonpublic schools to file a report when a licensed employee is removed from the list of eligible substitute teachers because it has reasonably been determined the employee committed an act unbecoming to the teaching profession.
- Requires the State Board of Education to revoke the license of an individual who is convicted of prostitution unless the individual was coerced into committing the offense.

Special needs scholarship programs

- Allows services provided under the Jon Peterson Special Needs or Autism Scholarship Programs to be offered virtually by qualified credentialed providers.
- Adds certain credentialed professionals to the list of professionals who may provide services under the Jon Peterson Special Needs and Autism Scholarship Programs.

* This analysis was prepared before the report of the Senate Education Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

- Subjects any registered private provider approved to participate in the Jon Peterson Special Needs Scholarship Program to a criminal records check.

Participation in interscholastic athletics at a different school

- Permits a student subjected to certain qualifying offenses to participate in interscholastic athletics at a different school.
- Prohibits a district or school, interscholastic conference, or organization that regulates interscholastic conferences or events from imposing extra fees, rules, penalties, or restrictions on students who participate in interscholastic athletics at a different school under the bill.

Cash payments for tickets to school-affiliated events

- Expands the law regarding cash payments for school-affiliated events by:
 - Prohibiting a qualifying school from establishing different ticket prices for an event based on whether a ticket is purchased using cash or any other payment method; and
 - Requiring a qualifying school to charge a student from a school participating in an event a ticket price that is less than the price charged to an adult for the event.
- Includes an interscholastic conference or organization that regulates interscholastic conferences or interscholastic competition among member schools (for example, the Ohio High School Athletic Association) in the definition of “qualifying school” for the purposes of the law regarding cash payments for school-affiliated events.

School district base cost calculation for FYs 2024 and 2025

- Requires the Department of Education and Workforce to calculate several cost components included in a school district’s base cost calculation using the sum of the enrolled ADM of each school district that *reported* that data, rather than the enrolled ADM of *every* school district as otherwise required under continuing law.

High School Financial Literacy Fund

- Requires the Director of Education and Workforce to request, and the Director of Budget and Management to transfer, up to \$1.5 million from the General Revenue Fund to the High School Financial Literacy Fund during the biennium ending June 30, 2025.
- Changes the High School Financial Literacy Fund from a custodial fund to a state treasury fund.

Literacy improvement professional development stipend

- Requires public schools to pay a pre-kindergarten teacher a \$1,200 stipend for completing professional development in the science of reading and evidence-based strategies for effective literacy instruction.

Authorized private before and after school care programs

- Adds an owner, director, administrator, and employee of an authorized private before and after school care program, a type of licensed school child program, to the existing law requiring criminal records and other background checks for child care providers.

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DETAILED ANALYSIS

School employee misconduct

Definition of “license”

The bill expands the school personnel subject to discipline by the State Board of Education for misconduct by modifying the definition of “license” to include staff members holding the following registrations or authorizations:

1. Pupil services personnel registration;
2. The authorization under which an unlicensed individual otherwise qualified based on experience may teach at certain high-performing school districts, provided the employing district offers mentoring and professional development opportunities; and
3. Private provider registration with approval to participate in the Autism Scholarship Program.¹

As a result, an individual holding one of these registrations or authorizations may be subject to discipline by the State Board of Education for misconduct. Currently “license” means any certificate, license, or permit issued by the State Board, a certificate to teach in a chartered nonpublic school, or a school district treasurer license.²

Reports required to be filed with state Superintendent

Retirement under disciplinary investigation

The bill requires a school district, educational service center (ESC), or chartered nonpublic school to file a report with the Superintendent of Public Instruction regarding a licensed employee who retires during a disciplinary investigation for misconduct. This includes a report when an employee retires under threat of termination or nonrenewal of the employee’s contract during the investigation.³ Continuing law already requires that such a report be filed when an employee resigns during a disciplinary investigation.

Unlike the other similar reporting requirements under continuing law, this new reporting requirement does not apply to community schools, STEM schools, college-preparatory boarding schools, or county boards of developmental disability.

Removal from substitute list for conduct unbecoming

The bill also requires a school district, ESC, or chartered nonpublic school to file a report with the state Superintendent when the district, ESC, or chartered nonpublic school removes a licensed employee from the list of eligible substitute teachers because the district, ESC, or chartered nonpublic school has reasonably determined that the employee committed an act that is unbecoming to the teaching profession.⁴

Similar to the report above, this new reporting requirement does not apply to community schools, STEM schools, college-preparatory boarding schools, or county boards of developmental disability.

¹ R.C. 3319.31(A). *See also* R.C. 3302.151, 3310.411, and 3319.221, none in the bill.

² *See* Chapter 3319. *See also* R.C. 3301.071 and 3301.074, neither in the bill.

³ R.C. 3319.313(B)(3), (B)(4), and (E).

⁴ R.C. 3319.313(B)(5).

Prostitution – a bar to teaching

Under the bill, when the State Board learns of a guilty plea, a finding of guilt, or a conviction of prostitution by a current or expired license holder or by an applicant for renewal of a license, the State Board must revoke the license or deny renewal of the license, unless the prostitution offense was committed under coercion.⁵

Special needs scholarship programs

Services

The bill allows services prescribed in the individualized education program (IEP) of a student receiving a Jon Peterson Special Needs Scholarship, or the IEP or education plan of a student receiving an Autism Scholarship, to be offered virtually by qualified credentialed providers.⁶

Appropriate credentialed professionals

The bill adds certain credentialed professionals to be included on the list of who may provide services under the Jon Peterson Special Needs and Autism Scholarship Programs.

The bill adds following credentialed professionals on the State Board's list of approved credentialed professionals for the Jon Peterson Special Needs Scholarship:

- A behavior analyst certified by a nationally recognized organization that certifies behavior analysts;
- A behavior analyst certified in Ohio;
- A psychologist licensed to practice in this state;
- An independent school psychologist or school psychologist licensed to practice in this state;
- Any person carrying out specific tasks under the supervision of a licensed psychologist, independent school psychologist, or school psychologist;
- An unlicensed person holding a doctoral degree in psychology or special education from a program approved by the Department of Education and Workforce;
- A registered behavior technician working under the supervision and following the intervention plan of a certified behavior analyst;
- An occupational therapist or physical therapist licensed to practice in this state;
- A speech-language pathologist licensed to practice in this state;

⁵ R.C. 3319.31(C).

⁶ R.C. 3310.41(B) and 3310.52(A).

- An intervention specialist who holds a valid license issued by the State Board;
- A literacy intervention specialist certified through pathways recognized by the Ohio Dyslexia Committee; and
- Any other qualified individual as determined by the Department.⁷

Continuing law includes a similar list of providers already permitted to provide intervention services under the Autism Scholarship Program. However, the bill adds the following credentialed professionals on the State Board's list of approved credentialed professionals for the Autism Scholarship:

- An occupational therapist or physical therapist licensed to practice in this state;
- A speech-language pathologist licensed to practice in this state;
- An intervention specialist who holds a valid license issued by the State Board;
- A literacy intervention specialist certified through pathways recognized by the Ohio Dyslexia Committee.

The bill expressly includes educators and substitute teachers licensed by the State Board of Education as qualified, credentialed providers who may provide intervention services under the Autism Scholarship Program.⁸

Criminal records check

The bill subjects any registered private provider approved to participate in the Jon Peterson Special Needs scholarship program to a criminal records check. The bill requires the Department to enroll an individual for whom a records check is completed in the Retained Applicant Fingerprint Database (RAPBACK).⁹

Participation in interscholastic athletics at a different school

Under the bill, a school district superintendent or chief administrative officer of a school may permit a home-educated student or a student enrolled in a different school district, community school, STEM school, chartered nonpublic school, or nonchartered nonpublic school to participate in interscholastic athletics at one of the superintendent or chief administrative officer's schools if the student was subject to any of the following by a school official, employee, volunteer, or another student:

1. Harassment, intimidation, or bullying;¹⁰

⁷ R.C. 3310.58(C).

⁸ R.C. 3310.41(E).

⁹ R.C. 3310.582.

¹⁰ R.C. 3313.666, not in the bill.

2. An offense of violence;¹¹
3. A violation of state importuning law;¹²
4. An attempt to commit an offense of violence or to violate state importuning law;
5. Conduct by a school official, employee, or volunteer that violates that Licensure Code of Professional Conduct for Ohio Educators developed by the State Board of Education. See the [Licensure Code of Professional Conduct for Ohio Educators \(PDF\)](#), which is available on the State Board of Education website: sboe.ohio.gov.¹³

To be a qualifying offense under the bill, the individual who was alleged to commit an offense of violence, violation of the importuning law, or an attempt to do either, must have also been charged with, indicted for, convicted of, or pled guilty to committing the offense or, if the offender is another student, has been alleged to be or is adjudicated a delinquent child for committing the offense.

A student who is not home educated must be of the appropriate age and grade level, as determined by the superintendent of the district or the chief administrative officer of the qualifying school, to participate in interscholastic athletics at a different school under the bill. The student must also fulfill the same academic, nonacademic, and financial requirements as any other participant.¹⁴ A home-educated student must fulfill the requirements for participation in interscholastic athletics prescribed in continuing law.¹⁵

Prohibitions for entities that oversee interscholastic athletics

Districts and schools are prohibited from imposing additional rules or fees on a student who qualifies to participate in interscholastic athletics under the bill than the rules or fees applied to other students who are participating in the same activity.¹⁶

The bill also prohibits each school district, interscholastic conference, or organization that regulates interscholastic conferences or events (such as the Ohio High School Athletics Association) from doing either of the following:

1. Requiring a student who is eligible to participate in interscholastic athletics under the bill to meet eligibility requirements that conflict with those requirements;
2. Penalizing or restricting the eligibility to participate in interscholastic athletics of a student who, during a school year, ceases to participate in interscholastic athletics at one district

¹¹ R.C. 2901.01, not in the bill.

¹² R.C. 2907.07, not in the bill.

¹³ R.C. 3313.5313(B) and (C).

¹⁴ R.C. 3313.5313(D).

¹⁵ R.C. 3313.5313(E).

¹⁶ R.C. 3313.5313(F).

or school and then begins to participate in interscholastic athletics at a different district or school under the bill.¹⁷

The bill explicitly prohibits a public or private school from taking any action contrary from the bill's requirements.¹⁸

Cash payments for tickets to school-affiliated events

The bill makes changes to law recently enacted by H.B. 33 of the 135th General Assembly, effective October 3, 2023, that requires qualifying schools to accept cash payments for tickets to, and concessions at, school-affiliated events. A description of those requirements is available on page 248 of the LSC [Final Analysis for H.B. 33 \(PDF\)](#), which is also available on the General Assembly's website: legislature.ohio.gov.

Ticket prices based on payment method

The bill prohibits a qualifying school from establishing different ticket prices for school-affiliated events based on whether a ticket is purchased using cash or any other payment method. Although, the bill does permit a qualifying school to charge a processing fee for tickets purchased online or by credit card.¹⁹

Ticket prices for students

The bill addresses ticket prices for students enrolled in schools participating in a school-affiliated event. Specifically, it requires a qualifying school to charge a student a ticket price that is less than the price charged for an adult for the same event.²⁰

Definition of “qualifying school”

Continuing law applies the requirement to accept cash payments to “qualifying schools.” A “qualifying school” is a school district, community school, STEM school, college-preparatory boarding school, or a chartered nonpublic school that participates in athletic events regulated by an interscholastic conference or an organization that regulates interscholastic conferences.²¹ An example of such an organization is the Ohio High School Athletics Association (OHSAA).

The bill expands the definition of “qualifying school” to include an interscholastic conference or organization that regulates either interscholastic conferences or interscholastic

¹⁷ R.C. 3313.5313(H).

¹⁸ R.C. 3313.5313(G).

¹⁹ R.C. 3313.5319(C).

²⁰ R.C. 3313.5319(D).

²¹ R.C. 3313.5319(A)(1)(a). Under continuing law, R.C. 3313.5319 applies to community schools, STEM schools, and college-preparatory boarding schools through cross references in R.C. 3314.03(A)(11)(d), 3326.11, and 3328.29, none of which are in the bill.

competition among member schools itself.²² In effect, that expressly applies both continuing law cash payment requirements and the bill's new requirements to an organization like OHSA.

School district base cost calculation for FYs 2024 and 2025

The bill addresses how the Department of Education and Workforce calculates the base cost calculation for city, local, and exempted village school districts in the public school financing system for FYs 2024 and 2025. Specifically, it requires the Department to calculate each of the following costs for school district's based on the sum of the enrolled ADM of every school district that *reported* that data:

1. Academic co-curricular activities costs;
2. Supplies and academic content cost; and
3. Building operations cost.

Otherwise, under continuing law, the Department is required to calculate each of those costs based on the sum of the enrolled ADM of *every* school district.²³

In addition to being used to calculate funding for each city, local, and exempted village school district, the cost components affected by the bill also are used to calculate funding for joint vocational school districts, community schools, and STEM schools in several ways. They also are a factor in determining increases in the scholarship amounts of some students attending chartered nonpublic schools with estate scholarships.²⁴

High School Financial Literacy Fund

Cash transfer

The bill requires the Director of Education and Workforce to request, and the Director of Budget and Management to transfer, up to \$1.5 million from the General Revenue Fund to the High School Financial Literacy Fund during the biennium ending June 30, 2025.²⁵

Operation of Fund

The bill modifies the categorization and operation of the High School Financial Literacy Fund. Specifically, it changes the fund from a custodial fund to a state treasury fund.²⁶

A custodial fund is in the custody of the Treasurer of State, but is separate, apart from, and not part of the state treasury. Custodial funds do not need to be appropriated to be spent and are disbursed by the Treasurer of State at the request of an officer specified by law. A state

²² R.C. 3313.5319(A)(1)(b).

²³ Section 7. See also R.C. 3317.011, not in the bill.

²⁴ See R.C. 3317.011 to 3317.026, none in the bill.

²⁵ Section 14 of the bill.

²⁶ R.C. 121.086.

treasury fund contains assets of the state, which must be appropriated by the General Assembly to be spent.²⁷

Literacy improvement professional development stipend

The bill requires a school district, community school, or STEM school to pay a \$1,200 stipend to a pre-kindergarten teacher who is not an intervention specialist, English learner teacher, reading specialist, or instructional coach and who completes a professional development course in the science of reading and evidence-based strategies for effective literacy instruction provided by the Department of Education and Workforce.²⁸

Current law already requires districts and schools to pay a \$1,200 stipend to all teachers of grades kindergarten through 5, all English language arts teachers of grades 6 through 12, and all intervention specialists, English learner teachers, reading specialists, and instructional coaches who serve any of grades pre-K through 12. Districts and schools may apply to the Department for reimbursement of the cost of the stipends.

Authorized private before and after school care programs

The bill adds an owner, director, employee (including an administrator), and prospective employee of an authorized private before and after school care program to the law requiring criminal records and other background checks for licensed or certified child care providers, including child care centers, family child care homes, licensed preschool and school child programs providing publicly funded child care, child day camps, and in-home aides.²⁹

Existing law requires the Director of Job and Family Services, and beginning January 1, 2025, the Director of Children and Youth – before licensure or employment and every five years thereafter – to request a criminal records check, search the Uniform Statewide Automated Child Welfare Information System (SACWIS) for reports of abuse or neglect, and inspect the state and national registries of sex offenders for the following individuals:

- Any owner, licensee, employee, including an administrator, or prospective employee of a child care center;
- Any owner, licensee, employee, or prospective employee of a family child care home and any person 18 years or older who resides in the home;
- Any owner, employee, including an administrator, or prospective employee of an approved child day camp;

²⁷ R.C. 113.05 and 113.11, not in the bill.

²⁸ Section 265.330 of H.B. 33 of the 135th General Assembly, as amended in Section 8 of the bill.

²⁹ R.C. 109.572 and 5104.013.

- Any director, employee, including an administrator, or prospective employee of a licensed preschool program or licensed school child program that provides publicly funded child care.

Background

Current law requires before and after school child care programs to be licensed as child care providers by the Department of Job and Family Services (ODJFS), although it exempts school child programs that are subject to licensure by the Ohio Department of Education and Workforce (DEW) from that requirement.³⁰ At present, an authorized private before and after school care program, as a type of licensed school child program, holds a license from DEW, thereby exempting it from ODJFS licensure. Other entities that may obtain a school child program license from DEW include school district boards of education, county boards of developmental disabilities, community schools, and eligible nonpublic schools.³¹ An authorized private before and after school care program is a child care program operated only for school children that is all of the following:

- Operated by a nonprofit or for-profit private entity;
- Operated under a contract with a school district board of education, community school, or eligible nonpublic school;
- Conducted only outside of school hours and in a building owned or operated by the contracting board or school.

Note that, beginning January 1, 2025, both ODJFS-licensed before and after school child care programs and DEW-licensed school child programs, including authorized private before and after school care programs, will be licensed by the newly created Ohio Department of Children and Youth.

HISTORY

Action	Date
Introduced	04-18-23
Reported, H. Primary & Secondary Education	10-30-23
Passed House (86-4)	12-13-23
Reported, S. Education	---

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³⁰ R.C. 5104.02(B)(6).

³¹ R.C. 3301.52 to 3301.59.