



House Bill 2's changes to community school law effective Feb. 1

January 5, 2016

When House Bill 2 (H.B. 2) goes into effect on February 1, it will fundamentally alter the legal landscape relative to community schools in Ohio. In this Community School Alert, we highlight a few of the many consequential provisions likely to be of interest to school district sponsors and their community schools.

Given the quantity and significance of the changes in law, these entities would be wise to familiarize themselves with the bill's provisions and plan their responses now. Some may find the new mandates sufficiently costly and/or limiting to warrant reconsideration of the sustainability of the school.

For specific guidance regarding the provisions identified below or other H.B. 2 provisions, sponsors and schools are encouraged to consult with their legal counsel.

Limitations on sponsor's sale of goods or services to school

(R.C. 3314.46)

In prior [Alerts](#) related to earlier versions of H.B. 2, we called attention to the prohibition against sales of goods or services by sponsors (and those associated with sponsors) to sponsored community schools. In the final bill, the prohibition was tempered for school district sponsors, which are allowed to sell goods and services to their sponsored schools with an important limitation: the sale must be "at no profit" to the sponsor. Because, however, the bill excepts contracts entered into before the bill's effective date, it is possible to forestall the "at no profit" limitation by entering into or extending sponsor/school contracts for sale of goods or services now, in advance of H.B. 2's February 1 effective date.

Ownership of property; lease of facilities

(R.C. 3314.0210; 3314.032(B))

At least some sponsor school districts may be considered "operators" of their community schools. H.B. 2 provides that when an operator buys personal property (e.g., classroom furniture, computers, software, office equipment, etc.) for use in the school using state funds paid to the operator by the school, the property is owned by the school. This may differ from the way some school district sponsors and their community schools currently allocate such property. The bill also provides that an operator cannot lease real property to the school until an independent real estate professional verifies that the lease is "commercially reasonable."

ODE approval/revocation of sponsorship authority

(R.C. 3314.015; R.C. 3314.016)

With limited exceptions, beginning July 1, 2017 even existing school district (and Educational Service Center) sponsors must be approved by and enter into written agreements with the Ohio Department of Education (ODE) before renewing a sponsorship contract with an existing school or entering into a preliminary agreement or sponsorship contract with a new one. ODE may suspend or revoke the sponsorship authority of such sponsors in circumstances described in the bill, and any sponsor – whether or not required to obtain ODE's approval and enter into a written agreement with ODE – may lose its sponsorship authority if it fails to achieve specified annual sponsor ratings.

Community School Board Members and Others

(R.C. 3314.02(E); R.C. 3314.032; R.C. 3314.037)

H.B. 2 establishes many new requirements applicable to community school board members and others. For example, board members must file annual disclosure statements identifying relatives or business associates employed by entities associated with the school during the previous three years; board members, and anyone engaged in "financial day-to-day management" of the school, must undergo background checks; sponsors must annually verify that there are no findings for recovery against board members, the operator, or any employee of the school; board members, fiscal officers, chief administrative officers, other administrative employees, and "all individuals performing supervisory or administrative services for the school under a contract with the operator of the school" must receive annual Sunshine Law training.

Fiscal officer to be employed or engaged by school

(R.C. 3314.011)

H.B. 2 requires the school's fiscal officer to be employed by, or engaged under a contract with, the school's governing authority. There is an exception for schools and sponsors that adopt a resolution waiving the requirement. The resolution must be submitted to ODE and re-adopted by the school and sponsor annually.

Annual sponsor expenditure report

(R.C. 3314.025)

In addition to current reporting requirements H.B. 2 requires sponsors to report to ODE and the school's governing board, by August 15 of each year, "the amount and type of expenditures made to provide monitoring, oversight, and technical assistance" to the school, including employee compensation, purchased services, materials and supplies, equipment and furniture, facilities, and such other types of expenditures as required by ODE to be reported.

Roll-Up of Performance Data to Sponsor District

(R.C. 3302.03(l)(1)(b))

A sponsor district that is exempt from the roll-up of the school's performance data (because most of the school's students are enrolled in a drop-out prevention/recovery program) will now have attached as an addendum to the district's own report card the ratings and performance measures by which the community school is evaluated.

Funding and assessment of DOPR schools

(H.B. 2, Section 5(A))

A committee is created by H.B. 2 that is to report to the General Assembly regarding (a) the definition of "quality" for purposes of

certain drop-out prevention and recovery (DOPR) community schools, and (b) "the efficacy of a completion or competency-based funding structure" for such schools.

For more information, read our past [Alerts](#).

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