



## House Bill 197: Ohio Legislature responds to K-12 needs during COVID-19 pandemic

March 30, 2020

On March 27, 2020, Governor DeWine signed [Ohio H.B. 197](#) into law. The bill is an emergency measure and goes into effect immediately. While the bill originally addressed various changes to Ohio's tax laws, on March 25 it was amended to include changes in law needed as a result of the COVID-19 emergency.

For schools, the bill provides some clarity on issues resulting from the ordered closure of schools, such as student testing, report cards, graduation, school hours, teacher evaluations, educator licenses for those unable to complete required examinations, board meetings, audits, municipal income taxes and the March 2020 primary election.

The bill gives the State Superintendent of Public Instruction the authority to waive or extend various deadlines for personnel evaluations, nonrenewal notices, safety drills and emergency management tests, filling board vacancies, updating teacher evaluation policies, and identification and screening of gifted students. College Credit Plus timelines and requirements may also be waived or modified. The bill also provides temporary relief from the expansion of performance-based EdChoice scholarships.

Below is an overview of several school-related provisions in H.B. 197. (A [webinar recording](#) by Bricker education attorneys detailing the legislative response to Pre-K to 12 needs contained in this bill is also available.)

### Student testing and report cards

Under Section 17 of the bill, schools are not required to administer state assessments, including the Ohio English Language

Proficiency Assessment and the Alternate Assessment for Students with Significant Cognitive Disabilities, for the 2019-2020 school year. State report card ratings will not be published for the 2019-2020 school year. If a school was subject to any penalties or sanctions in 2019-2020, those will remain in place for the 2020-2021 school year.

A student must not be retained in the third grade based solely on the student's academic performance in reading in the 2019-2020 school year, unless the principal and reading teacher agree that the student is not prepared to be promoted.

For teacher evaluations, value-added progress dimension data from the 2019-2020 school year may not be used.

## **Graduation**

Schools must grant a high school diploma to students on track to graduate if the principal, in consultation with teachers and counselors, determines that a student has successfully completed the school's curriculum or the individualized education program developed for the student. This section also clarifies that schools are expected to continue to provide ways to keep students engaged in learning opportunities between March 17, 2020, and the remainder of the school year. If students need in-person instructional experiences to complete requirements for diploma or a career-technical education program, access to school facilities must be provided as soon as possible after the Director of Health permits access to resume, even if the school year has already ended. (Section 17(D)).

## **Making up school hours**

Section 15 of the bill permits school boards to amend their plans adopted under [R.C. 3313.482](#) for completing make-up days or hours by posting lessons online or through "blizzard bags" to provide for making up any hours in which schools were closed in compliance with the school closure order. Boards that have not already adopted a plan may adopt one now. This is limited to making up hours for the 2019-2020 school year.

## **Board meetings**

Section 12 allows members of public bodies, including school board members, to hold meetings by teleconference, video conference or other similar electronic technology. This applies during the period of the governor's emergency declaration but not beyond December 1, 2020. (See our [virtual meetings summary](#) for more information.)

## **Teacher evaluations**

If a board of education did not complete an evaluation for a teacher, administrator or superintendent prior to the ordered closure of schools, the board may elect not to conduct an evaluation for the 2019-2020 school year if the board determines it would be impossible or impracticable to do so. However, it should be noted that if a board elects not to evaluate an employee, the employee will be considered not to have had evaluation procedures complied with for purposes of statutory contract renewal or nonrenewal requirements (R.C. 3319.11). A board is permitted to collaborate with a union in determining whether to complete evaluations (Section 17(M)).

## **Performance-based Educational Choice scholarships**

For performance-based EdChoice scholarships awarded for the 2020-2021 school year, the list of EdChoice designated school buildings is limited to the 517 buildings designated for EdChoice in the 2019-2020 school year. While first-time performance-based EdChoice scholarships will not be awarded for the 2020-2021 school year, they will resume for the 2021-2022 school year if there is no further legislative action (Section 31).

## **Telehealth services**

Section 16 of the bill permits those holding licenses, certificates, permits or other authorization issued by the boards listed below to provide services by electronic delivery or telehealth communication, with no penalty, to students participating in the Autism or Jon Peterson Special Needs Scholarship Programs or to any student enrolled in a public or nonpublic school who was receiving those services prior to the ordered closure of schools. This provision only applies during the ordered school closure period but

not beyond December 1, 2020. The licensing boards are:

- The Ohio Speech and Hearing Professionals Board
- The Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board
- The State Board of Psychology
- The Counselor, Social Worker, and Marriage and Family Therapist Board
- The State Board of Education with respect to intervention specialists

#### **School meals**

Under Section 10 of the bill, the Ohio Director of Agriculture may exempt a school or another entity from regulation as a food processing establishment under R.C. 3715.021 if the school or entity is transporting food for purposes of the Seamless Summer Option Program or the Summer Food Service Program, and the school has a food service operation license under R.C. Chapter 3717. This applies during the period of the governor's emergency declaration but not beyond December 1, 2020, if the emergency period continues beyond this date.

#### **March 2020 primary election**

Section 32 extends the period for voting absentee by mail to April 28, 2020.

# Authors

---



**Melissa Martinez Bondy**

*Partner*

Columbus  
614.227.8875  
mbondy@bricker.com



**Nicole M. Donovsky**

*Partner*

Columbus  
614.227.4866  
ndonovsky@bricker.com



**David J. Lampe**

*Partner*

Cincinnati  
513.870.6561  
dlampe@bricker.com



**Beverly A. Meyer**

*Partner & Political Subdivisions Chair*

Dayton  
937.224.1849  
bmeyer@bricker.com



**Rebecca C. Princehorn**

*Partner*

Columbus  
614.227.2302  
rprincehorn@bricker.com

