A circular watermark seal of the Ohio State Board of Education. The outer ring contains the text "STATE BOARD OF EDUCATION" at the top and "OHIO" at the bottom. Inside the ring is a stylized sun rising over water, with two stars on either side. The entire seal is in a light gray color.

Policies and Procedures Manual

OCTOBER 2021 REVISED EDITION FOR THE STATE BOARD OF EDUCATION

OHIO

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I. Introduction

A. Purpose of the Procedures Manual of the State Board of Education

This manual provides information on the operational procedures of the State Board of Education. A standard manual of procedures, such as Robert's Rules of Order, cannot meet the unique needs of each organization that adopts it as the parliamentary authority for transacting business. Therefore, organizations also must adopt standing rules that adapt or replace the procedures of Robert's Rules of Order to meet their particular needs.

This manual summarizes the constitutional and legal foundations of the State Board and its authority, the standing rules and procedures it has found necessary or convenient to adopt over the more than 50 years of its existence and other information likely to help State Board members perform their duties.

This manual was adopted in 2006 and last revised in September 2020.

B. Creation of the State Board of Education: Constitutional Authority

The State Board was established by an amendment to the Ohio Constitution in November 1953. The first meeting of the State Board was held in January 1956.

[CONSTITUTION OF THE STATE OF OHIO ARTICLE VI SECTION 4](#)

"There shall be a state board of education which shall be selected in such manner and for such terms as shall be provided by law. There shall be a superintendent of public instruction, who shall be appointed by the state board of education. The respective powers and duties of the board and of the superintendent shall be prescribed by law."

C. Ohio Revised Code References to the State Board of Education

See Appendix A for provisions governing the State Board.

II. Roles and Responsibilities of the Board

A. Governing Style

The State Board focuses on developing educational policy and maintaining a clear distinction between its role and that of the superintendent.

Accordingly, the State Board will:

1. Set direction for the Ohio Department of Education by establishing education policies and recommendations.
2. Hold itself accountable to the public for competent, conscientious and effective accomplishment of its obligations.
3. Evaluate its work to ensure accountability for its performance through its strategic plan and goals.

B. Statutory Authority and Responsibilities

The State Board is authorized to provide general supervision of the system of public education in the state in accordance with [Ohio Revised Code \(ORC\) 3301.07](#).

C. Board-Approved Priorities

The State Board shall establish priorities that will guide the development of policy to ensure high educational expectations for all Ohio students. This includes strategies for the alignment of a seamless pre-kindergarten through postsecondary system.

D. Measurement of Results and State Board Evaluation

For each priority established by the State Board, the State Board will receive regular reports from the Department and other sources and will measure progress and outcomes annually.

The State Board will evaluate itself and its priorities, if applicable, in a manner determined by the Board leadership.

E. Board Educational Policy, Legislative and Budgetary Recommendations

The State Board is required to provide accurate, appropriate and timely data on the status, problems and needs of Ohio education to the citizens of Ohio, the governor and General Assembly to enable informed decisions regarding education. Such information will be contained in the Budget and Policy

Recommendations to the governor and General Assembly, together with other appropriate publications.

The State Board directs the superintendent of public instruction (and therefore the Department) to advocate the positions of the State Board publicly.

F. LEGISLATIVE RECOMMENDATIONS

The State Board works with Department staff to identify legislative recommendations as needed. After discussion and approval by the committees of the State Board, the legislative recommendations are presented to the full Board. Legislative recommendations approved by the State Board shall be communicated to the appropriate committees of the General Assembly and to the public. Staff from the Department's Office of Policy & Legislative Affairs coordinates the tracking of the legislative recommendations. Department staff should not propose any legislative recommendations that have not been approved by the State Board.

G. BUDGET RECOMMENDATIONS

A State Board committee develops budget recommendations and a time line, which are then considered by the State Board. The discussion is guided by the chair of the relevant committee and the State Board president. The budget recommendations are approved through a resolution by the State Board and are then provided to the governor for consideration as part of the Executive budget that is then submitted to the General Assembly.

III. State Board Members

A. State Board Vision and Objectives

The State Board's vision is for all Ohio students to graduate from the preK-12 education system with the knowledge, skills and behaviors necessary to continue their education successfully and/or be workforce ready and participate in the global economy as productive citizens. Ultimately, all students will graduate well-prepared for success.

To graduate all students well-prepared for success, the State Board will focus on the following objectives:

1. Teaching 21st century knowledge and skills for real-world success;
2. Effectively delivering support for a high-quality education;
3. Providing sufficient resources that are efficiently managed; and
4. Developing a statewide outreach and communication strategy on State Board policy and the importance of education in the 21st century.

B. State Board Member Norms and Values

The following norms have been adopted to guide State Board member behavior:

1. To the extent possible, attend and arrive on time for all regularly scheduled State Board and committee meetings. Demonstrate mutual respect for meeting rules and exhibit behaviors that lead to effective meetings. Attend to goals and objectives and stay on agenda.
2. Respect the confidentiality of privileged information and executive session.
3. Ensure that all State Board interactions with Department staff, students and the public who appear before the State Board are attentive and respectful in tone of voice, language and demeanor.
4. Show respect for your colleagues by listening attentively during Board meetings and avoid using cell phone and personal technology when the meeting is in session. Observe basic courtesies and avoid participating in side conversations that are disruptive to the group.
5. Be informed and render all decisions based on available facts. State your positions clearly and be transparent. Stay focused on the topic at hand and engage in respectful analysis of others' perspectives. Respect your colleagues by monitoring your own speaking time.
6. Any dissent or debate on an issue should be constructive and civil.
7. To encourage orderly and efficient business, prevent surprise motions, amendments and/or resolutions by providing State Board leadership with as much advance notice as possible.

C. State Board Member Representation

Elected members represent the constituents in their districts. Appointed members represent a constituency of the entire state in an at-large capacity. Individual State Board members do not speak for the State Board as a whole and should make it clear if they are expressing their personal viewpoints to the media, legislators and constituents.

D. State Board Member Required Training

State Board members are subject to Ohio Ethics Laws and must participate in annual ethics training in compliance with Executive Order 2019-11D. Elected Board members or their appropriate designees shall also attend training approved by the attorney general as provided in Ohio Revised Code Section 109.43.

E. State Board Member Orientation

The State Board is responsible for the orientation and development of new members. There shall be a new member orientation in a manner prescribed by the president and vice president. The orientation shall include procedures, policies, and legal and ethical information. The superintendent of public instruction shall be a member ex-officio of any committee formed for this purpose.

F. State Board Member Professional Development

Members have a duty to develop their skill and effectiveness as a board member throughout their tenure on the Board by searching out and participating in board member development activities.

Board members should seek professional development activities that complement the Board vision and goals. However, board members also may attend a variety of professional development activities that would enhance their development as a board member¹. Board members may be reimbursed for up to \$2,000 each calendar year for registration fees, beginning January 1, 2018. The reimbursement of travel and hotel expenses associated with such registration is outlined in Section G below.

Members requesting support for an in-state professional development activity must submit a notice of “intent to attend” to the Office of Board Relations prior to the event. Members must follow the policy on travel reimbursement set by the State of Ohio Office of Budget Management, as outlined in [Ohio Administrative Code 126-1-02](#) (OBM Travel Rule). Additionally, the Executive Committee of the State Board must approve all requests for support of out of state professional development activities. Professional development expenses paid by the Department shall require a brief summary to the Board.

Development will be enhanced through participation in educational leadership organizations. Appointments of members to committees at national, state or regional educational leadership organizations/activities shall be approved by the Board.

Board members may participate in topical educational discussions each year as arranged by the State Board or the Ohio Department of Education.

G. State Board Member Compensation and Expenses

COMPENSATION FOR TIME

- **Actual Attendance at Board/Committee Meetings:** Members shall be paid the amount provided by law for each hour, or part thereof, in actual attendance at any meeting of the State Board and at official State Board committee meetings.
- **Time Spent on Education Panel:** Members may be compensated for time spent as members of education-related commissions, panels, councils and task forces in Ohio, which are separate entities from the State Board of Education and its committees, provided the State Board has directed the member to represent the State Board on the commission, panel, council or task force.
- **Time Spent on Professional Board Development:** Members may be paid for up to 40 hours per year for time spent on professional State Board development consistent with terms outlined in Section F above.
- **Time Spent in School/School Facilities:** Members may be paid for up to 100 hours per year for time spent in schools or school facilities (visiting or touring), not to include travel time. Members shall be compensated at the set hourly rate for spending such time in schools.
- **Time Spent on Actively Informing or Engaging the Public on State Board Business:** Members acting in an official capacity may be compensated for all time spent actively informing or engaging the public on State Board business. Examples are: meeting with constituents or stakeholders, speaking before a civic organization or empaneling a town hall meeting. The compensation for time spent with such entities shall not count toward the maximum 100 hours per year in schools or school facilities, even if those entities meet in schools or school facilities. There is no established maximum for time actively engaged with such entities.
- **Constituent Services and Meeting Preparation Time:** Members could include up to 144 hours for meeting preparation time and constituent services time per year. Members may choose whether they want to count those hours. Members who hold the following positions would be compensated as follows:
 - Committee/Task Force Vice Chair – up to 36 additional hours of preparation time.
 - Committee/Task Force Chair – up to 72 additional hours of preparation time.
 - State Board Vice President – up to 108 additional hours of preparation time.
 - State Board President – up to 144 additional hours of preparation time.

¹ Relates to the third bullet point in Section G.

EXPENSES

Members shall be reimbursed if a personal automobile is used for travel at the current state rate per mile from the member's residence to the place of the meeting or other business and return. Parking fees also are reimbursable expenses. Members shall submit expense statements to the secretary's designee within one month after the expense is incurred.

The State Board president shall determine the appropriate action to take in reference to any uncertainty regarding any expense statement submitted by a member. All professional development travel expenses shall be approved by the Executive Committee before the incurring of said expenses. In case of time constraints, the president, in consultation with the vice president, may approve the request. All other travel expenses may be approved by the president.

H. State Board Member Use of Technology

1. Personal use of Department information systems: All user activity is subject to logging and subsequent analysis. Users must not perform any activity on Department information systems that could damage the reputation of the Department (e.g., violations of law, illegal copying, harassment, accessing personal services, accessing sexually explicit material, gambling, wagering, mass emailing and solicitation). Incidental personal use of Department information systems is permissible as long as the usage does not interfere with job performance, does not deny other users access to the system resources and does not incur a cost to the agency.
2. No expectation of privacy: This policy serves as notice to State Board members that they shall have no reasonable expectation of privacy in conjunction with their use of IT resources provided by the Department. Contents of Department computers, tablets, smart phones and other mobile devices may be subject to review, investigation and public disclosure. Access and use of the internet, including communication by email and instant messaging and the content thereof, are not confidential, except in certain limited cases recognized by state or federal law. The Department reserves the right to view any files and electronic communications on Department computers, monitor and log all electronic activities and report findings to appropriate supervisors and authorities.
3. Storage of Department information on PDAs and smart phones: Tablets, smart phones and related hybrid devices must not be used to store sensitive Department and/or State Board business information unless this information is encrypted and protected by a password or similar access mechanism.
4. Notification of theft of equipment: If any mobile device, tablet, smart phone, laptop computer or removable media is lost or stolen, the ITO Service Desk must be notified as soon as feasibly possible and not exceeding 48 hours. The ITO Service Desk can be reached via email at ito.servicedesk@education.ohio.gov or via telephone at (614) 995-0630 during regular business hours. If the loss or theft occurs after normal business hours, contact the Information Security Office at (614) 728-8105. If theft of a device is suspected, the user must contact the Ohio State Highway Patrol and the local police immediately.
5. Transportation of mobile devices outside the United States: The Department prohibits users from transporting state-owned mobile devices or removable media outside of the country without prior approval. If this is unavoidable, users must notify the ITO Service Desk at least one week before the trip. The ITO Service Desk can be reached via email at ito.servicedesk@education.ohio.gov or by telephone at (614) 995-0630. Users must take precaution to not to exceed the data plan and roaming limitations of the mobile devices where applicable.
6. Operation of mobile devices while driving: Users must not operate state-owned mobile devices while operating motor vehicles. It is the user's responsibility to know and comply with the traffic laws of the areas in which they are traveling.
7. Servicing and maintenance of mobile devices: Users are not to attempt to service or physically alter state-owned mobile devices or removable media in such a way that it voids the manufacturer's warranty on the device.
8. Caring of mobile devices: Users should exercise precaution and protect state-owned mobile devices and removable media from liquids, excessive dusty atmospheres and excessive hot or cold temperatures.
9. The mobile device must be charged and turned on at all times. This allows the Department to locate the device in the event of loss or theft.
10. Applications should be updated weekly. This improves the security and reliability of the applications.

11. If device passcode is forgotten, contact the ITO Service Desk via email at ito.servicedesk@education.ohio.gov or via telephone at (614) 995-0630. The passcode can be reset remotely and this will keep you from erasing your device and data.

IV. The Superintendent of Public Instruction

A. Employment of the Superintendent of Public Instruction

[Section 4, Article VI of the Ohio Constitution](#) and [ORC Section 3301.08](#) require the State Board of Education to appoint the superintendent of public instruction, who shall serve at the pleasure of the State Board.

1. **EMPLOYMENT:** Employment will be based on the State Board's judgment that a candidate's knowledge, skills and character offer reasonable assurance of excellent performance. The State Board will establish the recruitment procedure and methods of screening for desired characteristics sufficient to attract a reasonable pool of candidates. The State Board may recommend that a subcommittee assist in the recruitment process and screening of candidates. Selection of the superintendent from the final candidates will be by majority vote of those present and voting, with the process for the vote established in advance by the State Board.
2. **COMPENSATION:** The State Board sets the superintendent's compensation.
3. **TERMINATION:** The superintendent's appointment may be terminated by majority vote of those present and voting at any regular or special meeting of the State Board. If such vote is not already on the agenda, a two-thirds majority vote is needed to place it on the agenda for the same meeting.

B. Delegation of Responsibilities to the Superintendent of Public Instruction

The State Board focuses on education policy issues and delegates administrative responsibilities to the superintendent of public instruction.² All authority delegated to Department staff is delegated through the superintendent³; therefore, all authority and accountability of Department staff can be regarded insofar as the State Board is concerned, as authority and accountability of the superintendent.

The superintendent is authorized to establish regulations, make decisions, take actions and develop activities that are consistent with the State Board's policies. The Board may, on extraordinary occasions, issue specific instructions to the superintendent, but will respect the superintendent's choices so long as the delegation continues. This does not prevent the State Board from obtaining information about activities in the delegated areas.

No individual State Board member, officer or committee has direct authority over the superintendent. Information may be requested by such parties, but if such request, in the superintendent's judgment, requires a significant amount of Department resources, it may be refused.

The State Board recognizes the superintendent's authority to independently appoint committees. State Board members may serve on such committees at the request of the superintendent; however, such service does not alter the status of the superintendent's committee and does not establish the committee as a committee of the State Board.

If the superintendent deems it necessary to violate a State Board directive, the superintendent shall first confer with the president or vice president. If such a conference cannot occur before the action contemplated by the superintendent must be taken in the interest of public education in Ohio, the superintendent shall inform the State Board in writing within one business day of the action taken, the directive contradicted and the rationale for the action. Prior approval given to the superintendent by the president or vice president does not obligate the State Board to sustain the action of the superintendent.

² ORC section 3301.11 (see Appendix A).

³ Through the operation of ORC section 3301.13 (see Appendix A).

V. Roles and Responsibilities of the Superintendent

A. Communication and Counsel to the State Board

With respect to providing information and counsel to the State Board, the superintendent will:

1. Keep the State Board aware of relevant trends, public events of the Department, material external and internal changes, investigations, audits and any required corrective actions; with special attention to advising the State Board on any changes in the assumptions upon which any State Board policy has been established previously.
2. Submit the required monitoring data in a timely, accurate and understandable fashion, directly addressing provisions of the State Board policies being monitored.
3. Marshal as many Department staff and external points of view, issues and options as needed for fully informed State Board choices.
4. Recommend State Board action in a timely manner. Identify key policy issues in rules to be adopted, modified or rescinded at the first step of the multi-step rule-making process and advise the State Board as to the most appropriate time to make recommendations.
5. Make the transcripts and exhibits of hearings held pursuant to ORC Chapter 119 available for review by State Board members upon request.

B. Financial Planning and Legislative Recommendations

The superintendent will plan expenditures and implement State Board-approved priorities in compliance with the budget.

The superintendent will communicate legislative recommendations, as appropriate, through the State Board committee process.

C. Investigation of Complaints

The superintendent, or his/her designee, will investigate complaints about school districts, educator conduct, public schools and nonpublic schools that allege a violation of federal or state law, federal regulations, or state rules, to the extent permitted by law. The superintendent also will take appropriate action to assure school district, public school and nonpublic school compliance with applicable laws, rules and regulations.

The superintendent, or his/her designee, will not be required to investigate complaints about school districts, schools or educator conduct that come within the jurisdiction of locally elected boards of education, provided there is no allegation of a violation of federal or state law, federal regulations or state rules.

In cases where the State Superintendent deems it appropriate, the superintendent will:

1. Notify the State Board when the Department receives an audit finding or a written complaint alleging fiscal mismanagement against a school district, public school or nonpublic school;
2. Inform the State Board when the Department receives an investigation resulting in a need for fiscal restitution by a school district, public school or nonpublic school and the terms of the proposed restitutions;
3. Discuss with the State Board the option of referring an issue to the appropriate law enforcement authorities.

D. Superintendent Performance, Accountability and Evaluation

The superintendent is the State Board's official link to the Department. The superintendent is accountable for all Department performance and exercises all authority over requests made to the Department by the State Board. Consequently, the superintendent's performance will be considered to be synonymous with the Department's performance as a whole.

The superintendent will be measured by Department performance to the degree it reflects and incorporates State Board policies. Further, the criteria of the superintendent performance evaluation form will include, but not be limited to, the following components:

1. State Board member feedback regarding the superintendent's strengths and opportunities for improvement; and
2. Indicators of success relative to leadership, communication and policy making and State Board members' ratings on the superintendent's performance for each listed indicator.

E. Executive Succession Plan

With respect to ensuring continuity and stability of leadership, the superintendent will assure that the Department's senior staff have sufficient knowledge of the procedures of the State Board, and the superintendent will have in place a written executive succession plan identifying who is to act in his/her place in case of sudden loss of the superintendent's services. Copies of the written executive succession plan shall be provided to, at minimum, the deputy superintendent, the State Board president and the Department's chief legal counsel. Any written executive succession plan shall have no effect in the event the superintendent is terminated by the State Board.

F. Department Guidance

The Superintendent shall ensure that the Department's guidance is issued in a manner that is practical and meaningful that supports compliance and effective implementation, while adhering to and constrained by governing federal and state statutes and rules/regulations, including the provisions of Ohio Revised Code 101.352 and 101.353. In addition, the Superintendent shall ensure that the State Board of Education members promptly receive a copy of any guidance issued by the Department.

VI. Officers, Elections and the Biennial Organization Meeting

A. Officers, Elections and Term of Office

State Board officers shall consist of the president, vice president, secretary and such additional officers as the State Board may designate by vote from time to time.

1. The president shall be elected at the biennial organization meeting or at the first meeting after any vacancy shall occur in such position. The president serves for two years or until a successor is elected.
2. The vice president shall be elected at the biennial organization meeting or at the first meeting after any vacancy shall occur in such position. The vice president serves for two years or until a successor is elected.
3. The term of office for State Board officers is limited to two consecutive, two-year terms within the same office.
4. The superintendent of public instruction serves as the secretary of the State Board.⁴

B. Role of Officers

1. **PRESIDENT:** The president presides at all meetings and is responsible for the integrity of the State Board process. Integrity includes the efficient, orderly and thorough deliberation and resolution of State Board issues and conduct of State Board affairs. The State Board president is responsible for enforcing the State Board “norms” and conduct among fellow State Board members.

The president has no authority over Department staff or activities. The president does have authority, subject to any applicable State Board policy, to

- a. Call special meetings of the State Board;
- b. Communicate State Board positions and represent the State Board in public and at ceremonial events;
- c. Determine the State Board’s individual meeting agendas in consultation with the vice president and superintendent;
- d. Determine the committee charges; and
- e. Appoint and remove chairs and members of State Board committees, commissions and task forces.

The president is a member ex-officio of all committees other than the Executive Committee, with all privileges of membership except that the president shall not vote or be counted in the committee quorum. The president shall be a member and chairman of the Executive Committee with all privileges of committee membership, including the right to vote and be counted in the quorum.

2. **ADVISORY MEMBER:** The president appoints one State Board member to serve as the advising State Board member (“advisory member”) for a one-year term. The president also appoints one State Board member to serve as an alternate advisory member. The alternate advisory member assumes the duties of the advisory member if that member cannot fulfill his or her term.

The advisory member reviews the terms of proposed consent agreements and settlement agreements in actions initiated by the Office of Professional Conduct as part of a review panel, in accordance with the consent agreement procedures adopted by the State Board. Members of the review panel will make decisions by consensus; if consensus is not reached, the superintendent will decide. Any current or former advisory member shall recuse him or herself from any vote on any matter reviewed as advisory member and forever maintain the confidentiality of all information learned during the process.

3. **VICE PRESIDENT:** The vice president shall assist the president in the duties of the president’s office, as the president may direct, and shall preside at meetings during the president’s absence. In the event of the president’s death, resignation, incapacity or disqualification, the vice president shall act in place of the president in all respects until the vacancy is filled or the incapacity removed.
4. **SECRETARY:** The secretary shall attend all meetings of the State Board, except at such times as the State Board is considering the employment, retention or salary of the superintendent. The secretary

⁴ ORC section 3301.09 (Appendix A).

shall be responsible for keeping the meeting minutes and other official records, either in person or by an assistant. In the event of the secretary's inability to attend any meetings of the State Board, except as noted above, he or she shall designate a subordinate to attend in his or her stead and make such reports and perform such other duties as would otherwise be performed by the superintendent as secretary.

C. The Biennial Organization Meeting

The current outgoing president, if available and on the State Board, or the current outgoing past vice president, if available and on the State Board, shall be the temporary chair of the biennial organization meeting. This meeting is held in January. If it is known in December that neither is available for the biennial organization meeting, the State Board will elect a temporary chair in December. If, due to extenuating circumstances, there is no temporary chair available at the January meeting, then the longest-serving State Board member will preside over the election of the temporary chair. If more than one person is eligible, the State Board will appoint the temporary chair by majority vote. The temporary chair will preside over the following:

1. Calling the meeting to order;
2. Reading the certification of election, as provided by the secretary of state and executive appointments from the governor;
3. Administering the oath of office to newly appointed, elected and re-elected members by the chief justice of the Supreme Court or another individual with such authority;
4. Calling roll;
5. Approving minutes of December meeting;
6. Proceeding with the election of the president by the following procedures:
 - a. Open the floor for nominations for president (a second is not required, and any nominee may withdraw);
 - b. Invite a motion to close nominations;
 - c. Invite nominees to address the State Board;
 - d. Vote by roll call, with each member voting by declaring the name of his/her choice for president;
 - e. A majority of those present and voting shall be required for election;
 - f. Following each vote, the name or names of the person(s) receiving the lowest number of votes shall be dropped from the list and the roll called again, with members voting from among the remaining nominees, until a president is elected. The State Board may, by general consent or majority vote, permit members to speak on behalf of nominees and/or permit nominees to speak between roll call votes.

Upon election, the newly elected president shall assume the chair and proceed with the election of the vice president, following the same election procedures above in 6a-6f.

D. Removal of Officers

At any State Board meeting, in accordance with State Board policy on the introduction of a new main motion or resolution for consideration, the president, vice president or both may be removed from office. The vote must be by at least two-thirds of the total number of members who are currently holding office. The election of officers to succeed any officers so removed shall proceed immediately and shall follow the same procedure set forth in 6a-6f of Chapter VII, C, above. If the president is removed, then the most senior member, in terms of years of service on the State Board, who does not desire to be a nominee for president shall assume the chair and proceed to the election of a new president. If more than one person is eligible, the State Board will appoint a temporary chair by majority vote.

VII. Meetings

A. State Board Meeting Dates

By the 31st day of March each year, the State Board adopts a calendar of its regular meetings for the following fiscal year.⁵ State Board meetings generally occur on the second Monday and Tuesday of each month.

B. State Board Meeting Agenda

The State Board controls its own priorities, agenda and meetings. The individual meeting agenda will be arranged by the president in consultation with the vice president and the superintendent. A State Board member who wants to place an item on the meeting agenda should consult with State Board leadership. An item also can be brought to the State Board during the business meeting under new business in conformity with the policy on the introduction of a new main motion or resolution for consideration. Notice at the prior meeting is provided for items for consideration of the State Board unless State Board leadership determines that there is an urgent situation and emergency consideration is needed. The State Board will also use the agenda to inform the public of the State Board use of quasi-judicial deliberations, which is not part of the open meeting.

The meeting agenda is developed so that:

1. The State Board's priorities are served in an orderly and efficient fashion, including committee access to State Board time when appropriate;
2. The superintendent has necessary access to State Board time and is informed of planned State Board business in a timely manner;
3. The State Board, as an early item of discussion at any given meeting, can make an informed decision about what items to add to, retain, reorder or eliminate from the president's recommended agenda;
4. Any routine items of a ministerial nature may be placed on a consent agenda to be adopted with one motion. At the request of any member, an individual item on the consent agenda shall be removed and voted separately.

C. Quorum

A quorum of the State Board and its committees shall consist of a majority of the voting members for the transaction of business.⁶ For the purposes of quorum, vacant seats⁷ will not be used to determine this calculation.

D. Regular State Board and Committee Meetings

Regular State Board and committee meetings shall be held in accordance with the calendar adopted by the State Board. The State Board may hold its meetings at any location in Ohio designated by the State Board.⁸

E. Special Meetings

Special State Board meetings shall be held in accordance with provisions provided by law.⁹ Special committee meetings shall be held in accordance with [OAC 3301-4-01](#).

F. Rescheduled Meeting

If, in-between previously scheduled State Board meetings, the president decides there is a conflict due to extenuating circumstances with the next meeting dates, the president, in consultation with the vice president and superintendent, shall have the power to change the upcoming meeting dates. Upon making the decision to change the upcoming meeting dates, the president shall communicate the decision and the rationale for the decision to the State Board by the fastest means available, which may include electronic communication.

⁵ ORC Section 3301.04.

⁶ Appendix A, ORC Section 3301.05.

⁷ As defined in ORC Section 3301.06, "Vacancy on Board."

⁸ Appendix A, ORC Section 3301.04.

⁹ Appendix A, ORC Section 3301.04.

G. Public Meeting Materials

The Ohio Department of Education's website contains links to each meeting's agenda and detailed minutes.

H. Request for Accommodation

Qualified individuals with disabilities will be provided with accommodations to participate in public meetings of the State Board. Persons who require accommodations for disabilities to participate in meetings should send their requests to the Office of Board Relations at least one week before the meeting or immediately upon receiving notification of the meeting if the notice is issued less than seven days before the meeting. The State Board will make every attempt to comply with a late request but cannot guarantee that every requested accommodation will be available on short notice.

I. Public Participation

Except for executive session, meetings are open to the public. Members of the public have opportunities to address the State Board during Chapter 119 hearings and during the business meeting. Members of the public who wish to address the State Board on agenda items scheduled for a vote at the current meeting will be permitted to address the State Board before the casting of any vote. Individuals who wish to address the State Board on issues of general interest or items not scheduled for a vote at the current meeting will be permitted to address the State Board following the voting on items of business at that meeting. In either instance, the individual may speak for a period not to exceed five minutes. The president may impose limitations on public participation only as to time or duration but not as to content or subject matter in accordance with the free speech rights guaranteed to Ohio citizens under both the Constitution of the State of Ohio and the Constitution of the United States.

No person, including attorneys representing their parties, will be permitted to address the State Board on any matter that may be or is the subject of an administrative hearing under the provisions of [ORC Chapter 119](#), or other statute or rule, unless all related legal proceedings have concluded.

J. Recording of State Board Meetings

To promote the orderly transaction of business, any party intending to broadcast, televise, record or photograph any State Board meeting, or portion thereof, is requested to give notice of such intent to the State Board through the superintendent of public instruction or his or her designee at least 24 hours before the scheduled meeting. However, the State Board shall not refuse permission to broadcast, televise, record or photograph a meeting based solely upon a determination that prior written notice was not provided in a timely fashion.

State Board meetings shall be audio recorded,¹⁰ and may be broadcast, televised or photographed in accordance with the following guidelines:

1. The State Board president or designee shall designate a reasonable location or locations within the meeting room from which the broadcasting, televising, recording or photographing may take place;
2. The broadcasting, televising, recording or photographic equipment used at the State Board meeting shall be silent, unobtrusive, self-contained and self-empowered so as not to interfere with any individual's ability to hear, see and participate in the meeting and so as not to interfere with the orderly transaction of State Board business; and
3. If the president or designee determines that such broadcasting, televising, recording or photographing is interfering with the orderly transaction of State Board business, is inhibiting a participant's presentation to the State Board or is interfering with the dignity of the proceedings, the presiding officer or designee may terminate or limit such broadcasting, televising, recording or photographing after a reasonable request to correct such interference has not been successful.

¹⁰ ORC 3301.041.

K. Order of Business

The order of business at all regular and special meetings shall conform to the following to such extent as the purpose of the meeting shall require:

1. Call to order;
2. Roll call;
3. Executive session;
4. Quasi-Judicial Discussion
5. Approval of minutes of last meeting;
6. Report of superintendent of public instruction;
7. Public participation on agenda items;
8. Voting on the report and recommendations of the superintendent of public instruction;
9. Old business;
10. New business;
11. Public participation on non-agenda items;
12. Adjournment.

Either the president or a majority of the State Board may revise the order of business at any meeting so as to best fit the requirements of time, the availability of necessary personnel and other pertinent considerations.

L. Minutes

All minutes of meetings of the State Board, including all resolutions and reports of committees introduced or adopted, shall be public records and shall be made available to the public for inspection at the office of the secretary at any reasonable time. Upon State Board approval, the minutes represent the official record of the State Board business meeting.

M. Parliamentary Procedure

All matters of procedure not otherwise specifically covered in law or these policies shall be subject to the rules of parliamentary procedure set forth in the most recent edition of *Robert's Rules of Order*.¹¹

N. Suspension or Modification of Procedures of the State Board

Procedures of the State Board may be modified or suspended by the motion to suspend the rules.¹² If the motion to suspend the rules is adopted, a motion to adopt a new rule temporarily replacing the suspended rule will be brought and must be adopted by majority vote of those present and voting.

¹¹ Appendix J, Robert's Rules of Order, Summary of Motions.

¹² Robert's Rules of Order, § 25.

VIII. Voting

A. Generally

Unless otherwise dictated by statute or State Board policy/procedure, the State Board calculates the votes required to attain a “simple majority” and “two-thirds majority” based on the number of members present and voting.

B. Roll Call Votes

Roll call votes on main motions are required in the following instances:

1. When required by Ohio law (e.g., a motion to go into executive session pursuant to the Open Meetings Act¹³);
2. When law or State Board policy requires a specific vote in order to adopt an item (e.g., a majority of the State Board or a two-thirds majority vote);
3. When the State Board acts on the last resolution in the following processes:
4. Educator certification or licensure;
5. Territorial transfers;
6. Payment in lieu of transportation;
7. Administrative rules.
8. When the chair decides to conduct a roll call vote on a given motion;
9. When the chair decides that a voice vote led to an uncertain result;
10. When a member moves to divide the assembly after an uncertain voice vote.

A roll call vote shall be taken upon the request of any member, if made before the next item of business is brought to the floor.

C. Voice Votes

Voting on all other main motions shall be by voice votes. Votes to rescind administrative rules and to accept the voluntary surrender of an educator’s license also may be conducted by voice votes. The chair of the meeting will announce the result of voice votes.

Other matters relating to privileged and subsidiary motions, as set forth in *Robert’s Rules of Order*, shall be voted by voice vote.

D. Voting Procedure

Roll call votes shall be taken by first calling the member who made the motion followed by the member who seconded the motion, then alphabetically, beginning with the name following the member who seconded the motion. The president (or other presiding officer in the president’s absence) shall be entitled to vote on all matters and shall be called last on roll call votes.

The secretary or designee shall record the “ayes” and “nays” upon each such motion and enter them in the official minutes of the meeting. A member may change a vote at any time until the result of the vote shall be announced by the president (or other presiding officer in the president’s absence). A member may pass from voting during the roll call, in which case the secretary shall return to that member for his or her vote after calling for the president’s vote but before reporting the vote tally to the chair. A member abstaining from voting shall not be entitled to move for reconsideration of the action taken.

The secretary shall have no vote upon any matters being acted upon by the State Board but may be called upon by the State Board to express opinions, make recommendations, report upon matters pending or may ask leave of the State Board to do so when deemed desirable.

Voting procedures for officer elections are found in the section concerning officers.

¹³ ORC Section 121.22.

E. Voting on Ohio Revised Code Chapter 119 Hearings

For Chapter 119 hearings, the matter is referred to a hearing officer. Upon the report and recommendation of the hearing officer, the State Board then may consider the recommendation for a final State Board vote. For personnel matters, please refer to Reference Material B.

F. Voting on Matters Passed Out of Committees

When any matter is voted out of a committee and thereby referred to the State Board, the chair, or a designee, shall state expressly during the committee report-out what matters have been voted out of committee. The chair, or the designee, shall then inform the State Board that the matter voted out of committee shall appear for final State Board vote at the next scheduled meeting under voting on reports and recommendations of the superintendent of public instruction. Information regarding which matters voted out of committee will receive a final State Board vote at the following meeting will be posted on the State Board's website so that the public is adequately informed of upcoming State Board votes.

IX. Motions and State Board Business

A. Proposed Member Resolution Process

The following outlines how a SBOE member may propose a resolution to the SBOE for review and consideration.

1. Written Resolution Already Drafted

- (a) The SBOE member notifies the Office of Board Relations and provides the written resolution at least a week in advance of the next SBOE Board meeting.

The Office of Board Relations will then notify the President, the Vice President, the State Superintendent, the appropriate Center Director, and Chief Legal Counsel; AND

- (b) Upon notification of intent to present this proposed written resolution under section (a), said resolution will be listed on the proposed member resolution list and may be presented at the next regularly scheduled SBOE meeting, but not voted upon.

The written resolution will be included in the Board Books under the “member proposed resolutions” folder.

Department staff will be prepared to provide information on content and statutory or policy implications. The Department's guidance will be shared with the Board President, the requesting Board member, and the State Superintendent.

- (c) Once the proposed member's written resolution has been presented at a regularly scheduled Board meeting, this proposed member resolution may then be voted upon at the next regularly scheduled Board meeting.

Process completed within 2 scheduled meetings, unless emergency consideration overrides this process.

2. Proposed Notice of Intent Verbally Announced, but Resolution Not Presented

- (a) If a proposed notice of intent is verbally given during a regularly scheduled meeting, no vote can be taken until a written resolution is presented during a regularly scheduled SBOE meeting.

- Once a written resolution is written, the SBOE follows the process that is outlined in #1 above.
- If a SBOE member needs assistance for drafting a proposed member resolution, the process is outlined in #3 below.

- (b) Notice of Intent Resolution is NOT listed on Proposed Member Resolution list.

Process completed within 3 scheduled meetings, unless emergency consideration overrides this process.

3. Need Assistance Drafting Proposed Member Resolution

- (a) If a SBOE member needs assistance drafting a proposed member resolution, the SBOE member should contact the Office of Board Relations and the Office of Board Relations notifies the President, the Vice President, the State Superintendent, the appropriate Center Director, and Chief Legal Counsel.

- (b) In most cases, the proposed written resolution would be sent to the requesting SBOE member in 10 business days.

Process completed within 3 scheduled meetings, unless emergency consideration overrides this process.

Amendments to Proposed Resolutions

Prior Notice of Potential Amendments

1. If already drafted: For any proposed amendment to a proposed resolution provided in the Board Book, the Board member would notify the Office of Board Relations at least 4 working days in advance of the SBOE meeting and provide the concept/outline of changes at least a week in advance of the next business meeting. A proposed format is attached as Template 2. The proposal is then forward by the Office of Board Relations to notify the President, the Vice President, the State Superintendent, the appropriate Center Director, and Chief Legal Counsel. The Department's guidance will be shared with the Board President, the requested Board member and the State Superintendent.
2. If drafting assistance is requested, please provide the concept/outline five (5) days in advance of the next business meeting.

Notice of Potential Amendments at the SBOE meeting

1. For any proposed amendment to any proposed resolution provided in the Board Book that has not been provided in advance of the Board meeting, the President will call for a short recess to allow staff and Board members the opportunity to review and consider the proposed amendment.
2. The Office of Board Relations would then post the proposed changes to note whether this is an amendment or substitution of the resolution and then post the proposed language on the Board's iPad and the projector screen so that the Board members and the public can review and understand the proposal.

B. Emergency Consideration

A matter will not receive emergency consideration unless the president and vice president, if both are present, or the presiding officer, determine it is necessary. A State Board leadership decision to declare an emergency may be overruled by a majority of the members present and voting, in which case the main motion or resolution will appear as new business on the agenda of the next regularly scheduled business meeting. A State Board leadership decision not to declare an emergency also may be overruled by a majority of the members present and voting, in which case the main motion or resolution will receive emergency consideration under new business at the present meeting.

C. Referral to Committee

Consideration of a new main motion or resolution may be assigned immediately to a committee at the discretion of the State Board president or by motion and majority approval by the State Board. Referral by the State Board president may be overruled by a majority of the State Board membership present and voting, in which case the main motion or resolution will appear as new business on the agenda of the next regularly scheduled State Board business meeting or at the current meeting, if determined an emergency by either the State Board officers or by a majority vote of the State Board.

The State Board president has the authority to reassign a matter that was originally referred to one committee to another committee to better balance the workloads of the committees. Such reassignment may be overruled by a majority of the State Board membership present and voting, in which case the matter will remain with the original committee.

This policy does not relate to actions taken based upon the "Report of the Superintendent of Public Instruction."

X. Committees

A. Committee Principles

With the President taking into consideration the geographic diversity of Board membership, as well as appointed and elected members, the president may appoint committees, subcommittees and task forces as needed, either independently or upon State Board action, as needed, to carry out specific State Board tasks, to preliminarily consider matters to come before the State Board or to evaluate policy alternatives.

The president shall appoint the members and chairs for all committees, subcommittees and task forces. No member shall chair or vice chair more than one committee. At the time of an appointment of a subcommittee or task force, the president will indicate through which State Board committee the subcommittee or task force will report.

Any action of a committee, subcommittee or task force shall require a quorum of its members. A quorum shall consist of a majority of committee, subcommittee or task force membership. Before consideration by the State Board, all motions and resolutions recommended from the committee, subcommittee or task force must be approved by majority vote of its members present and voting.

No committee, subcommittee or task force may act independently on behalf of the State Board unless its charge specifically empowers it to act on the State Board's behalf.

State Board committees, subcommittees and task forces shall meet at the call of the committee, subcommittee or task force chairperson. Such meetings must be conducted in public session and official minutes taken and produced promptly. All committee, subcommittee and task force meetings are open to all members of the State Board and are public meetings to which the Open Meetings Act¹⁴ applies. Any State Board member shall be permitted to attend an executive session held by a committee. Public meeting notices of committee, subcommittee and task force meetings and arrangements should be coordinated through the Office of Board Relations.

In the event that the committee, subcommittee or task force chair or vice chair is unavailable to chair the meeting, the president shall appoint a temporary chair. If the president is unable to appoint the temporary chair, the committee, subcommittee or task force shall elect a temporary chair.

Requests for work products from the Department to assist in the work of the committee, subcommittee or task force should come from the State Board committee chairs. This includes research, compilations of data, analysis of data or policy, historical information, etc. Individual member requests for work products from the Department should go through State Board leadership, committee chairs or through a committee motion. However, member requests for information that is readily available or are not overly burdensome may be made directly to the Office of Board Relations, which will track and assure completion of requests.

If a committee, subcommittee or task force is to submit a report to the full State Board that requires action of the State Board, the report shall be approved by a majority of the committee, subcommittee or task force members present and voting.

During new business, new main motions or resolutions may be referred to a committee, subcommittee or task force in accordance with the Board policy on referral to committee.

During the consideration of old or new business, any member may move to refer specific matters to a committee.

¹⁴ ORC Section 121.22 (B)(1)(b)

B. Executive Committee of the State Board

Members of the Executive Committee shall be the president, vice president, chairs of committees and others appointed by the president not to exceed nine members. The Executive Committee reviews and facilitates the implementation of State Board policies; facilitates the process for bringing legislative recommendations from individuals and/or committee chairs to the State Board for consideration; assures the implementation of committee charges, work targets and requested tasks; assists the State Board officers and the superintendent with long-range planning for the State Board's work; and performs any other functions necessary for the State Board to fulfill its mission.

C. Appointments to Committees of the State Board

The chair and members of a committee shall be appointed by the president. By law, there shall be no permanent or standing committees.¹⁵ Any State Board member may express interest and willingness to serve on any committee. When appointing a committee, the president will identify the charge of the committee. When one or more members are to serve on any external committee or task force, the State Board shall make these appointments.

¹⁵ ORC Section 3301.07 (Appendix A).

XI. State Board Appointments of Persons Other than State Board Members to Other Public Bodies

A. Educator Standards Board

The State Board appoints members to the Educator Standards Board through an application and nomination process. The State Board shall choose the appointees in accordance with the requirements of [ORC 3319.60.](#)

B. State Library Board

The State Board appoints the five members of the State Library Board in accordance with [ORC 3375.01.](#) The State Board may request recommendations be submitted by the State Library Board through an application and nomination process; however, the State Board is not limited to soliciting applications through the State Library Board. When requesting recommendations from the State Library Board and other sources, the State Board shall require the submission of the names of at least two individuals for each open position.

XII. Office of Board Relations

The Office of Board Relations serves as the liaison between the board members and Department staff and responds to requests for information and assistance from board members in a timely manner.

Board Relations also works with State Board leadership to coordinate and plan the monthly State Board meetings. The recording secretary prepares the meeting minutes and maintains records from the meetings.

A. Office of Board Relations Services

Board Relations staff members serve State Board members in a variety of ways. These services include, but are not limited to:

1. Researching information about specific, education-related data, programs or issues;
2. Preparing talking points and assisting with responses to constituent letters;
3. Preparing and emailing a newsletter to update local board of education members on the events of a State Board meeting;
4. Processing payment and travel reimbursement.

Board Relations also works with the superintendent to communicate major agency news and initiatives.

B. Contact Us

Please contact the Office of Board Relations with any requests, questions or concerns.

XIII. Board Reference Materials

- A. Executive Summary of State Board**
- B. Investigation of Complaints**
- C. Quasi-Judicial Role**
- D. State Board of Education's Rule Process**
- E. Student Transportation and Payment in Lieu of Transportation**
- F. Community Schools**
- G. Land Transfer**
- H. Robert's Rules Summary of Motions**

Reference Material A: Executive Summary of State Board

Statutory Authority and Responsibilities

References to the Ohio Revised Code and Ohio Administrative Rules are found at the State Board page on the Ohio Department of Education website at www.education.ohio.gov.

Executive/Administrative Functions

POLICYMAKING AND LEADERSHIP

- General supervision of the system of public education in Ohio.¹⁶
- Policy forming, planning and advisory functions for public schools and adult education.¹⁷
- Leadership in the improvement of public education in Ohio.¹⁸
- Administer state educational policies relating to public schools, instruction, building and equipment, pupil transportation, responsibilities of school officials and personnel, finance and organization of school districts and district territory.¹⁹
- Appoint State Board members to serve on temporary committees (permanent or standing committees shall not be created).²⁰
- Perform designated functions with respect to the development of special education programs for children who are deaf, blind, learning disabled, seriously emotionally disturbed, or otherwise handicapped.²¹
- In cooperation with the federal government, serve as the state administrative agency in vocational education matters.²²
- Cooperate with federal, state, and local agencies concerned with the health and welfare of youth.²³
- Prepare an annual report with recommendations for necessary legislative action²⁴ and prepare biennial budgetary requests.²⁵
- Encourage innovative and exemplary school-parent and school-business partnerships.²⁶
- Approve vacation period activities in reference to promotions and diplomas, and prescribe form of age and schooling certificates.²⁷
- Supervise the state school for the deaf and the state school for the blind and, on the recommendation of the superintendent of public instruction, appoint a superintendent for each such institution.²⁸
- Approve teacher training institutions and licensure of graduates.²⁹
- Coordinate and administer the National Community Service Act, and develop a plan to assist school districts in the implementation of community service activities and education programs.³⁰
- Establish continuing programs of in-service training in school district budget and finance for superintendents of schools or their designees, business managers, treasurers, and members of boards of education.³¹
- May delegate to the superintendent of public instruction the management and administration of any function imposed on it by law.³²

¹⁶ ORC 3301.07

¹⁷ ORC 3301.07(A)

¹⁸ ORC 3301.07(B)

¹⁹ Id.

²⁰ ORC 3301.07(N)

²¹ ORC 3323.01(A); ORC 3323.02

²² ORC 3303.04

²³ ORC 3301.07(H)

²⁴ ORC 3301.07(F)

²⁵ ORC 3301.07(G)

²⁶ ORC 3301.131

²⁷ ORC 3331.01

²⁸ ORC 3325.01

²⁹ ORC 3319.22

³⁰ ORC 3301.70

³¹ ORC 3301.072

³² ORC 3301.07(N)

MONITORING AND OVERSIGHT

- Administer the public school foundation program, with the approval of the Controlling Board.³³
- Require reports from school districts, school officers and employees as are necessary and desirable,³⁴ and require annual reports from private schools.³⁵
- Furnish forms for all school districts, on which school districts may annually report school statistics and other such information as the State Board may require, including information relating to certain court proceedings involving Boards of education and state officials.³⁶
- Prescribe the form of records pertaining to examinations by school physicians.³⁷
- Prepare the following annual reports for each school district: a funding and expenditure accountability report; a school safety and discipline report; a student equity report; a school enrollment report; a student retention report; and a school district performance report.³⁸
- Create and maintain an internal unit within the Department to administer the collection and compilation of data received from school districts.³⁹
- Make reports concerning the failure of any school district to supply timely and accurate information required for the Education Management Information System (EMIS), make recommendations for corrective action, and withhold a percentage of state foundation plan payments to school districts that fail to make timely and accurate EMIS reports or take prompt corrective action.⁴⁰
- Enforce the law relative to the operation of school lunchrooms,⁴¹ and the sale of uniform school supplies, foods, and candies on school premises,⁴² and formulate and adopt guidelines on the types of foods that may be sold in public schools.⁴³
- Upon request, furnish technical assistance in the preparation of budgets, development of fiscal controls, preparation of financial statements and reports, revenue estimating or in the compliance with any certification requirements relating to the district's revenue or expenditures.⁴⁴
- Grant or deny requests for exemptions from specific statutes or administrative rules that are submitted by school districts pursuant to their state report card rating(s) or by districts implementing an innovative educational pilot programs.⁴⁵
- Approve and have general oversight of community school sponsors, provide technical assistance to community schools and, under certain circumstances, suspend the operation of a community school and itself assume the direction of such school.⁴⁶

PERSONNEL MATTERS

- Appoint the superintendent of public instruction⁴⁷ and members of the State Library Board⁴⁸ and Educator Standards Board.⁴⁹
- Approve the organization of the Department of Education, and the appointment, number and salaries of designated personnel therein.⁵⁰

³³ ORC 3317.01

³⁴ ORC 3301.07(I)

³⁵ ORC 3301.14

³⁶ ORC 3319.33

³⁷ ORC 3313.71

³⁸ ORC 3302.031

³⁹ ORC 3301.133

⁴⁰ ORC 3301.0714(L)

⁴¹ ORC 3313.81

⁴² ORC 3313.811

⁴³ ORC 3313.814

⁴⁴ ORC 3301.073

⁴⁵ ORC 3302.07; ORC 3302.05

⁴⁶ ORC 3314.015; ORC 3304.072

⁴⁷ ORC 3301.08

⁴⁸ ORC 3375.01

⁴⁹ ORC 3319.60

⁵⁰ ORC 3301.13

- Employ competent persons to analyze and publish data, promote research, advise and counsel boards of education, and encourage teacher training in the instruction of gifted children.⁵¹
- Inspect, at least annually, all institutions under the control of the departments of Job and Family Services, Mental Health, Developmental Disabilities, and Rehabilitation and Correction, which employ teachers and, if desirable, report on such matters to the directors of such departments and the governor.⁵²
- Develop a standards-based state framework for the evaluation of teachers.⁵³

Quasi-Legislative Functions

GENERAL

- Prescribe minimum standards to be applied to all elementary and secondary schools in the state that shall provide for licensing and assignment of teachers and administrators, instructional materials and equipment, the proper organization and supervision of each school, records and reports, buildings, health and sanitary facilities, admission of pupils, promotion from grade to grade, requirements for graduation, and such other factors as the State Board finds necessary.⁵⁴
- Adopt rules and regulations for the carrying out of any function imposed on it.⁵⁵
- Provide regulations for State Board government and the government of its employees.⁵⁶

SCHOOL FINANCE

- Adopt rules for the distribution of federal funds for adult education programs.⁵⁷
- Adopt rules prescribing procedures necessary to implement the Autism Scholarship Program⁵⁸ and the Jon Peterson Special Needs Scholarship Program.⁵⁹
- Acting jointly with the Auditor of State, develop rules governing the methods by which superintendents, treasurers, and board presidents are to estimate revenues for purposes of signing any certificate of available funds required by [ORC 5705.412](#).⁶⁰
- Adopt rules for the implementation of state subsidies for districts that must pay tuition for children in Department of Youth Services facilities,⁶¹ school lunch and breakfast programs,⁶² and special transportation programs for eligible disabled or special education students.⁶³

LICENSURE AND PROFESSIONAL DEVELOPMENT

- Adopt standards for and administer provisions of law relative to the issuance of teachers' licenses and establish standards and courses of study for preparation of teachers.⁶⁴
- Prescribe minimum qualifications for the issuance of educational aide permits and issue such permits upon the payment of such fees and according to such regulations as it may establish.⁶⁵
- Establish standards for the licensing of school district treasurers and business managers for the renewal of such licenses, and for the issuance of duplicate copies of such licenses.⁶⁶

⁵¹ ORC 3301.07(K)

⁵² ORC 3301.15

⁵³ ORC 3319.112

⁵⁴ ORC 3301.07(D)

⁵⁵ ORC 3301.07(N)

⁵⁶ Id.

⁵⁷ ORC 3301.40(C)

⁵⁸ ORC 3310.41

⁵⁹ ORC 3310.52 et seq.

⁶⁰ ORC 5705.412(D)

⁶¹ ORC 3317.024(B)

⁶² ORC 3317.024(D)

⁶³ ORC 3317.024(F)

⁶⁴ ORC 3319.22 et seq.

⁶⁵ ORC 3319.088

⁶⁶ ORC 3301.074

- Prescribe standards and requirements that shall be met by persons who are eligible for the Ohio scholarship fund for teacher trainees for the purpose of relieving the teacher shortage.⁶⁷
- Adopt rules for administration of a grant program designed to reward teachers who have obtained certificates or licenses issued by the National Board for Professional Teaching Standards.⁶⁸

DATA AND TECHNOLOGY

- Establish a statewide education information system and adopt rules for its implementation and for the preparation of annual information profiles of individual school districts.⁶⁹
- Adopt rules governing the purchasing and leasing of data processing services and equipment for educational service centers and all local, exempted village, city, county and joint vocational school districts, including provisions for the establishment of an Ohio Education Computer Network (OECN), which may include up to 27 data acquisition sites operating concurrently.⁷⁰

SPECIAL EDUCATION

- Under the provisions of [ORC Chapter 3323](#), promulgate standards governing special education programs and their operation,⁷¹ including programs operated by county boards developmental disabilities,⁷² and for identifying, locating, and evaluating all handicapped children in the state.⁷³
- Establish procedures and standards for the placement of handicapped children in appropriate educational programs,⁷⁴ and for the protection of the constitutional right of such children to due process of law.⁷⁵
- Adopt a state plan for the provision of special education services to all handicapped children in the state, whether or not of compulsory school age, and adopt such standards and procedures as are necessary to develop, implement, monitor, and assure compliance with the state plan.⁷⁶
- Adopt regulations relative to the admission of pupils to the state school for the blind and the state school for the deaf, and provide educational programs in reference to the instruction of the blind or deaf.⁷⁷

STUDENT ACHIEVEMENT

- Establish school district performance indicators, annually determine and identify school districts in the report cards, assist school districts in the development of continuous improvement and corrective action plans, and evaluate progress of corrective action plans.⁷⁸
- Establish rules for designating grade point average (GPA) equivalences for purposes of determining when a student may be exempted from passing a subject area graduation test.⁷⁹
- Establish and submit to the governor and General Assembly a clear and measurable set of educational performance goals with specific timetables for their achievement, and submit, in July of each odd-numbered year, a report on the progress made toward these goals.⁸⁰

⁶⁷ ORC 3315.33-3315.35

⁶⁸ ORC 3319.55

⁶⁹ ORC 3301.0714

⁷⁰ ORC 3301.075

⁷¹ ORC 3323.02

⁷² ORC 3301.07(J)

⁷³ ORC 3323.03

⁷⁴ ORC 3323.04

⁷⁵ ORC 3323.05

⁷⁶ ORC 3323.06

⁷⁷ ORC 3325.01 et seq.

⁷⁸ ORC 3302.01-3302.05

⁷⁹ ORC 3313.615

⁸⁰ ORC 3301.0717

ACADEMIC STANDARDS

- Prescribe standards for part-time schools or classes.⁸¹
- Develop and recommend a model high school science curriculum, lists of minimum supplies and equipment for high school science, and science safety procedures, which shall include safety training for students and teachers.⁸²
- Formulate and prescribe minimum standards requiring the use of phonics as a technique in the teaching of reading in grades K-3, and provide appropriate in-service training for teachers in such grades.⁸³
- Adopt statewide academic standards for grades K-12 in English language arts, mathematics, science and social studies, as well as related model curricula, achievement tests, and diagnostic assessments.⁸⁴ Adopt national standards for physical education,⁸⁵ and make available a list of suggested grade-appropriate supplemental readings in American history and government.⁸⁶
- Approve test for scientifically based reading instruction for teachers assigned to students with reading improvement and monitoring plans.⁸⁷
- Require that all public schools emphasize and encourage, within existing units of study, the teaching of energy and resource conservation, beginning in the primary grades.⁸⁸

Quasi-Judicial Functions

GENERAL MONITORING AND OVERSIGHT

- Classify and charter high schools, pursuant to the State Board's adopted standards, and revoke charters of schools not meeting its standards.⁸⁹
- Approve and have general oversight of community school sponsors, provide technical assistance to community schools and, under certain circumstances, suspend the operation of a community school.⁹⁰
- Investigate complaints filed in reference to the transportation of nonresident pupils under certain conditions.⁹¹
- Select and approve the operator of any college-preparatory boarding school, and approve the contract and/or bylaws of such operator.⁹²
- Order the dissolution of school districts not maintaining grades kindergarten through 12, the merger of such districts with other districts if the surrounding districts are unable to reach a voluntary agreement, and authorize exceptions to school districts where topography, scarcity of population and other factors make compliance impracticable.⁹³

PROFESSIONAL CONDUCT PERSONNEL ITEMS

- Suspend, limit, revoke or deny a license pursuant to [ORC 3319.31](#), and prescribe and furnish forms to prosecutors in the state by which the prosecutors of the state may promptly notify the State Board of Education of the conviction of any person holding a valid teaching license of any of the offenses listed in [divisions \(B\)\(2\) or \(C\) of section 3319.31 of the Revised Code](#).⁹⁴

⁸¹ ORC 3313.56; ORC 3321.09

⁸² ORC 3301.0720

⁸³ ORC 3301.07(M)

⁸⁴ ORC 3301.079 et seq.

⁸⁵ ORC 3301.079(A)(3)

⁸⁶ ORC 3301.079(A)(1)(b)

⁸⁷ ORC 3313.608(C)(6)

⁸⁸ ORC 3301.07(L)

⁸⁹ ORC 3301.16

⁹⁰ ORC 3314.015; ORC 3314.302; ORC 3314.072

⁹¹ ORC 3327.05

⁹² ORC 3328 et seq.

⁹³ ORC 3311.29

⁹⁴ ORC 3319.31; ORC 3319.52(B)

- Investigate, initiate disciplinary action and conduct hearings with respect to the suspension, limitation, revocation and denial of teaching licenses, and enforce orders relating to the denial or suspension of teaching licenses for failure of the holder to pay child support.⁹⁵

TERRITORY TRANSFERS

- Determine whether a portion of the territory of a school district included within territory annexed to a municipal corporation shall become part of a city school district or the school district of which a village is a part, unless the district in which the territory is located is a party to an annexation agreement with the city school district.⁹⁶
- In cases where transfer is opposed by the board of education offered the territory, approve or disapprove a transfer of territory from one or more local school districts to an adjoining local school district or districts within an educational service center.⁹⁷
- Approve or disapprove transfer of territory from an exempted village or city school district⁹⁸ and propose consolidation of school districts,⁹⁹ the transfer of school district territory,¹⁰⁰ or the creation of a new local school district.¹⁰¹

⁹⁵ ORC 3319.312

⁹⁶ ORC 3311.06(C)(2)

⁹⁷ ORC 3311.059

⁹⁸ ORC 3311.24

⁹⁹ ORC 3311.37

¹⁰⁰ ORC 3311.38

¹⁰¹ ORC 3311.26

Reference Material B: Investigation of Complaints

References to the Ohio Revised Code and Ohio Administrative Rules are found at the State Board page on the Ohio Department of Education Web site at www.education.ohio.gov.

Investigation of Complaints

The Superintendent of Public Instruction, or his or her designee, may investigate complaints about school districts and educator conduct that allege a violation of federal or state law, federal regulations, state rules, or educator standards adopted by the State Board of Education; and take appropriate action in assuring school district compliance with applicable laws, rules and regulations.

The Superintendent, or his or her designee, shall not be required to investigate complaints about school districts or educator conduct which come within the purview of the duties and responsibilities of locally elected boards of education provided there is no allegation of a violation of federal or state law, and federal regulations or state rules.

All complaints regarding school districts and educator conduct must be filed with the Superintendent of Public Instruction or his/her designee. (An educator is any individual holding or seeking to hold a license, certificate or permit issued by the State Board of Education.) In accordance with state law, complaints regarding educator conduct shall remain confidential and be excluded from the public record.

Investigation and Review of Complaints of Educator Misconduct

The Superintendent, or his/her designee, will review all complaints to determine whether they reasonably appear to be the basis for action under [ORC 3319.31](#), [3319.15](#) and [3319.151](#).

If a complaint does not reasonably appear to present a violation of [ORC 3319.31](#), [3319.15](#) or [3319.151](#), the Superintendent, or his or her designee, will not initiate an investigation.

If a complaint reasonably appears to present a violation of [ORC 3319.31](#), [3319.15](#) or [3319.151](#), the Superintendent, or his/her designee, may initiate an investigation. If an investigation is initiated, the Superintendent, or his/her designee, will direct the complaint to the appropriate investigative staff.

If sufficient evidence exists to warrant an action pursuant to [ORC 3319.31\(C\) or \(F\)](#), the State Board of Education delegates authority through [Ohio Administrative Rule 3301-73-25](#) and this policy to the Superintendent, or his/her designee, to issue an administrative order to automatically revoke a license or deny issuance of a license.

If sufficient evidence exists to warrant an action pursuant to [ORC 3319.31\(B\)](#), [3319.15](#) or [3319.151](#), the State Board of Education delegates authority through [Ohio Administrative Rule 3301-73-02](#) and this policy to the Superintendent, or his/her designee, to initiate proceedings under Chapter 119 of the Ohio Revised Code.

The Superintendent's, or his or her designee, authority extends to notifying the educator that an investigation has been completed and, based upon that investigation, the results warrant initiating an action for the State Board to limit, suspend, revoke or deny licensure pursuant to [ORC 3319.31\(B\)](#), [3319.15](#) or [3319.151](#).

The Superintendent, or his or her designee, shall notify the educator of his/her rights under [Chapter 119 of the ORC](#) including the right to a hearing and right to be represented by counsel.

Procedure for Presenting Consent Agreements to the Advising Board Member

In lieu of initiating proceedings under [Chapter 119 of the Ohio Revised Code](#), the Superintendent through [ORC 3319.311\(E\)](#) and this policy may enter into a consent agreement with an educator for violations of [ORC 3319.31\(B\)](#), [3319.15](#) or [3319.151](#).

Upon the completion of a case investigation, a case that may be appropriate for a consent agreement will be placed on the agenda for the next possible regularly scheduled consent agreement review meeting. Department staff shall notify the Advising Board Member that a case is ready for review and shall add the case to the agenda for the next possible regularly scheduled review meeting.

Two weeks prior to the regularly scheduled review meeting, Department staff will provide the following materials to the Advising Board Member for each case scheduled for review:

EXECUTIVE CASE SUMMARY – lists the misconduct allegations, the potential violations of the Licensure Code of Professional Conduct for Ohio Educators, the disciplinary ranges for each potential violation, aggravating and mitigating factors, proposed consent agreement terms, and other considerations (i.e. past precedent, legal issues, credibility concerns, etc.).

CASE INVESTIGATION REPORT – documents the details of the case investigation including the educator's criminal history, the records obtained during the investigation, the witnesses interviewed and whether the allegations can be substantiated.

MISCELLANEOUS SUPPORTING DOCUMENTATION – May include psychological evaluations, last chance agreements with employing district, treatment records, police reports, court records, etc.

Department staff shall provide additional information and case records upon request by an Advising Board Member.

Scheduled Reviews of Consent Agreements

Potential consent agreements will be reviewed by the Advising Board Member of the State Board of Education, a representative from the Attorney General's Office, a representative from the Office of Professional Conduct and any other Department Staff deemed necessary by the Superintendent.

Consent agreements shall be reviewed at regularly scheduled review meetings. The meetings are not public meetings as the information being reviewed is confidential pursuant to [ORC 3319.311](#) and [Ohio Administrative Code Rule 3301-73-04](#) and any discussions regarding the information are protected by attorney-client privilege.

Meetings will occur at least once a month at a mutually agreeable time, but additional meetings may be scheduled more frequently as needed to ensure the efficient administration of the consent agreement process.

Department staff shall prepare and maintain the agendas for each review meeting.

Decisions Regarding Consent Agreements

After reviewing a case and/or a proposed settlement offer, a decision will be made regarding the terms of the proposed consent agreement by consensus of the members of the reviewing panel. If there is no consensus by the members of the reviewing panel, the State Superintendent of Public Instruction will make the decision regarding the terms of the proposed consent agreement. The State Superintendent of Public Instruction cannot delegate this duty.

Decisions regarding consent agreements and their terms and conditions will be based on the ethical standards and disciplinary guidelines adopted by the State Board in the [Licensure Code of Professional Conduct for Ohio Educators](#), state laws and rules, including but not limited to [Chapter 119 of the Ohio Revised Code, Sections 3319.31](#) and [3319.311 of the Ohio Revised Code](#), and [Chapter 3301-73 of the Ohio Administrative Code](#), and applicable case law. The past precedent of prior disciplinary decisions of the State Board shall be considered.

Department staff shall be responsible for entering all decisions of the review panel into the case file. Department staff shall maintain records to identify which board member reviewed a case as an Advising Board Member.

Negotiating and Executing Consent Agreement Terms

Department staff will negotiate the approved consent agreement offer with the educator and/or his/her attorney. The Advising Board Member will be notified if a counterproposal is received so the case can be scheduled for further review.

Department staff shall be responsible for drafting and facilitating the execution of the agreed upon consent agreements. The Superintendent, or his/her designee, will sign approved consent agreements on behalf of the State Board of Education.

Procedure for Presenting Personnel Matters to the State Board of Education

A personnel matter shall be presented to the State Board upon the recommendation of the Superintendent of Public Instruction.

If an administrative hearing was held in accordance with [Chapter 119 of the ORC](#), the administrative record presented to the State Board shall consist of the Report and Recommendation of the hearing officer who presided over the administrative hearing, any timely filed objections to the Report and Recommendation, and any other relevant records or materials which will assist the State Board in making a final determination regarding the personnel matter.

The Superintendent's recommendation to the State Board shall be the recommendation of the hearing officer.

The Superintendent, or his/her designee, may return a Report and Recommendation to a hearing officer to correct typographical errors, make technical changes or review clear misapplications of state laws or rules. The Superintendent, or his/her designee, shall not return a Report and Recommendation to a hearing officer due to disagreement with the hearing officer's recommendation regarding a personnel matter.

Pursuant to [Rule 3301-73-05\(C\) of the Ohio Administrative Code](#), the State Board may take action on a personnel matter without an administrative hearing being held if an educator, properly notified of his/her right to an administrative hearing, fails to request a hearing in accordance with [Chapter 119 of the ORC](#).

Given there will be no Report and Recommendation from a hearing officer, the administrative record presented to the State Board shall consist of an affidavit from an administrator in the Office of Professional Conduct regarding the personnel matter, and any other relevant records or materials which will assist the State Board in making a final determination regarding the personnel matter, including certified court documents, police records, and records from other governmental agencies.

The Superintendent's recommendation to the State Board shall be based on the facts contained in the administrative record presented to the State Board and all applicable laws and rules. The Superintendent's recommendation may consider the State Board's prior resolutions in similar personnel matters.

A personnel matter may not be presented to the State Board without an administrative hearing if the only basis for action is pursuant to Section 3319.31(B)(1) of the ORC.

In accordance with [Rule 3301-73-22\(B\)](#), the State Board may accept a voluntary surrender or voluntary denial of a license in a personnel matter.

The administrative record presented to the State Board shall consist of a properly executed voluntary surrender or voluntary denial form and any other relevant records or materials which will assist the State Board in making a final determination regarding the personnel matter.

The Superintendent's recommendation to the State Board shall be consistent with the language of the voluntary surrender or voluntary denial form.

A resolution regarding a voluntary surrender or voluntary denial shall be eligible for inclusion on the State Board's Consent Agenda. However, such a resolution may be removed from the Consent Agenda in accordance with other applicable State Board policies.

If the State Board accepts a voluntary surrender or voluntary denial of a license, the State Board's action constitutes a disciplinary action and the voluntary surrender or voluntary denial is not considered a relinquishment of a license as provided for in [Rule 3301-24-13 of the Ohio Administrative Code](#).

The State Board, upon review of the administrative record provided by the State Superintendent, may approve, modify, or reject the recommendation of the Superintendent regarding a personnel matter.

If the State Board modifies or rejects the Superintendent's recommendation, the reasons for such modification or rejection shall be included in the final State Board resolution.

There shall be no public participation before the State Board concerning personnel matters. The State Board's review of a personnel matter shall be limited to the administrative record, including any Report and Recommendation by the presiding hearing officer, objections to such report, post-hearing motions and other documents or evidence admitted into the record.

Any action taken by the State Board under this policy and pursuant to [Section 3319.31 of the Ohio Revised Code](#), is a disciplinary action and shall be reported to the National Association of State Directors of Teacher Education and Certification's (NASDTEC) Clearinghouse and may be reported, based on the discretion of the Superintendent or his/her designee, to other entities charged with law enforcement responsibilities or duties to prevent educator misconduct.

Media Contacts and Personnel Matters

If a State Board member is contacted by the media regarding a personnel matter, it is advised that the State Board member contact the Department of Education's Office of Communications and Outreach.

Compliance with State Laws and Rules in Personnel Matters

If any action is initiated pursuant to Section 3319.31 of the ORC, the State Superintendent of Public Instruction, or his/her designee, shall comply with applicable state laws and rules, including but not limited to Chapter 119 of the ORC, Sections 3319.31 and 3319.311 of the ORC, Chapter 3301-73 of the Ohio Administrative Code and any other rules or policies promulgated by the State Board.

Ex parte Communications in Personnel Matters

As public servants, a State Board member may be contacted on occasion by individuals, including educators or alleged victims, regarding personnel matters. In its role regarding personnel matters, the State Board acts in a quasi-judicial manner; thus, ex parte communication should be avoided if possible. If a Board member is contacted by an interested party, he or she should respectfully decline to comment. Likewise, if a Board member receives any written correspondence, he or she should not read it but rather forward it to the Department of Education's Office of Professional Conduct.

If ex parte communication occurs regarding a personnel matter, the State Board member involved is advised to review the State Board's policy on recusal and decide if he/she should recuse himself from voting on the personnel matter.

Recusal of State Board Members in Personnel Matters

Each State Board member shall decide whether it is in the best interest of the Board and any parties involved in an educator personnel matter to recuse himself from voting on a personnel matter. Possible reasons for recusal may be a personal relationship with the educator or alleged victim, a business relationship with the educator or alleged victim, or substantive discussions with the educator, alleged victims or other community members which impact a State Board member's impartiality in deciding a personnel matter.

An Advising Board Member shall recuse himself from voting on any matter which he/she has reviewed in his/her capacity as an Advising Board Member.

Reference Material C: Quasi-Judicial Role

Quasi-Judicial Role Generally

When the State Board of Education (SBOE) issues a final “adjudication”¹⁰² that determines the rights or duties of adverse parties, and the SBOE has provided notice, a hearing and the opportunity to present evidence, the SBOE has acted in a quasi-judicial capacity. See *Union Title Co. v. State Bd. of Educ.*, 51 Ohio St.3d 189 (1990); *Rossford Exempted Village School Dist. v. State Bd. of Educ.* 45 Ohio St.3d 356 (1989); *State, ex rel. Bratenahl Local School Dist. Bd. of Educ. v. State Bd. of Educ.*, 53 Ohio St.2d 173 (1978). Pursuant to [Ohio Revised Code \(ORC\) 119.12](#) and [Section 4\(B\), Article IV of the Ohio Constitution](#), a party adversely affected by such final decisions of the SBOE may appeal to the court of common pleas. See *Union Title*, 51 Ohio St.3d at 194-195; *Rossford*, 45 Ohio St.3d at 654-655; *State, ex rel. Bratenahl*, 53 Ohio St.2d at 176.

The law is clear that the SBOE decisions are to be made solely on the record of the hearing, the report of the hearing officer and any objections or responses filed by the parties.¹⁰³ Therefore, with regard to matters that are the subject, or may become the subject, of a Chapter 119 administrative hearing, or where a SBOE decision would otherwise meet the definition of an adjudication, it has long been the policy of the Board that individuals or their attorneys are not permitted to address the Board, either in the context of a public meeting or otherwise. If a Board member is contacted by an interested party, he or she should respectfully decline to comment. Likewise, if a Board member receives any written correspondence, he or she should not read it but rather forward it to the ODE legal office.

Quasi-Judicial Functions of the SBOE

A review of Ohio authorities indicates that, when the SBOE takes the following actions, it assumes a quasi-judicial role:

- Revocation of a district or school charter: Pursuant to [ORC 3301.16](#),¹⁰⁴ the SBOE shall revoke the charter of any school district or school that fails to meet the elementary or high school standards prescribed by the SBOE. In addition, the SBOE shall revoke the charter of any nonpublic school that does not comply with proficiency test requirements. [ORC 3301.16](#) expressly mandates that the SBOE comply with the notice and hearing requirements of [ORC Chapter 119](#).
- School Personnel Licensure determinations: Pursuant to [ORC 3319.31\(B\)](#)¹⁰⁵ and [\(C\)](#),¹⁰⁶ the SBOE may refuse to issue an educator's license to an applicant, or limit, suspend or revoke a license. [ORC. 3319.311](#) sets forth the notice and hearing requirements applicable to the SBOE determinations regarding licensure.

¹⁰² ORC §119.01(D) defines an “adjudication” as: [T]he determination by the highest or ultimate authority of an agency of the rights, duties, privileges, benefits, or legal relationships of a specified person, but does not include the issuance of a license in response to an application with respect to which no question is raised, nor other acts of a ministerial nature.

¹⁰³ Ohio Administrative Code Rule 3301-89-02 (Territory transfer rules)

¹⁰⁴ ORC §3301.16 provides: Pursuant to standards prescribed by the state board of education as provided in division (D) of section 3301.07 of the Revised Code, the state board shall classify and charter school districts and individual schools within each district except that no charter shall be granted to a nonpublic school unless pursuant to division (K) of section 3301.0711 [3301.07.11] of the Revised Code the school elects to administer the tests prescribed by division (B) of section 3301.0710 [3301.07.10] of the Revised Code beginning July 1, 1995. The state board shall revoke the charter of any school district or school which fails to meet the standards for elementary and high schools as pre-scribed by the board. The state board shall also revoke the charter of any nonpublic school, that does not comply with section 3313.612 [3313.61.2] of the Revised Code or, on or after July 1, 1995, does not participate in the testing program prescribed by division (B) of section 3301.0710 [3301.07.10] of the Revised Code. In the issuance and revocation of school district or school charters, the state board shall be governed by the provisions of Chapter 119 of the Revised Code.

¹⁰⁵ ORC §3319.311(B) provides: For any of the following reasons, the state board of education, in accordance with Chapter 119, and section 3319.311 [3319.31.1] of the Revised Code, may refuse to issue a license to an applicant, may limit a license it issues to an applicant, or may suspend, revoke, or limit a license that has been issued to any person: (1) Engaging in an immoral act, incompetence, negligence, or conduct that is unbecoming to the applicant's or person's position; (2) A plea of guilty to, a finding of guilt by a jury or court of, or a conviction of any of the following: (a) A felony; (b) A violation of section 2907.04 or 2907.06 or division (A) or (B) of section 2907.07 of the Revised Code; (c) An offense of violence; (d) A theft offense, as defined in section 2913.01 of the Revised Code; (e) A drug abuse offense, as defined in section 2925.01 of the Revised Code, that is not a minor misdemeanor; (f) A violation of an ordinance of a municipal corporation that is substantively comparable to an offense listed in divisions (B)(2)(a) to (e) of this section.

¹⁰⁶ ORC §3319.311(C) provides: “The state board may take action under division (B) of this section on the basis of substantially comparable conduct occurring in a jurisdiction outside this state or occurring before a person applies for or receives any license.”

- Payment in lieu of transportation determinations: Pursuant to [ORC 3327.02\(E\)\(1\)](#),¹⁰⁷ if the department of education cannot resolve through mediation a dispute regarding the impracticality of transporting a student and an offer of payment in lieu of providing transportation, the SBOE shall conduct a hearing in accordance with [ORC Chapter 119](#) to decide the issue.
- Approval of a municipal annexation of school territory: Pursuant to [ORC 3311.06\(C\)](#),¹⁰⁸ when a portion of district territory is annexed by an adjoining city or village for municipal purposes, the SBOE must approve the incorporation of the annexed district territory into the adjoining city or village district territory. [OAC 3301-89-01](#) et seq. sets forth the notice and hearing procedures applicable to this provision.
- Transfer of city, village or local district territory to adjoining city, village or local district initiated by local board or resident petition: Pursuant to [ORC 3311.24](#),¹⁰⁹ the SBOE must approve or disapprove a request for a territory transfer emanating from either a local board or a petition from residents of the territory proposed to be transferred. [OAC §3301-89-01](#) et seq. sets forth the notice and hearing procedures applicable to this provision.
- Community school sponsorship disapprovals and revocations: Pursuant to [ORC 3314.015](#) the decision to disapprove an entity for sponsorship of a community school or to revoke approval for such sponsorship is subject to the provisions of [ORC Chapter 119](#).
- The SBOE quasi-judicial role could potentially apply to any other matter where a hearing is offered and adjudication is made by the SBOE, even if such hearing is not required by law.

¹⁰⁷ ORC. §3327.02(E)(1) provides:

(a) Upon the request of a parent, guardian, or other person in charge of the pupil who rejected the payment in lieu of transportation, the department shall conduct mediation procedures.

(b) If the mediation does not resolve the dispute, the state board of education shall conduct a hearing in accordance with Chapter 119 of the Revised Code. The state board may approve the payment in lieu of transportation or may order the board of education to provide transportation. The decision of the state board is binding in subsequent years and on future parties in interest provided the facts of the determination remain comparable.

¹⁰⁸ ORC §3311.06(C), in part, provides:

(2) When the territory so annexed to a city or village comprises part but not all of the territory of a school district, the said territory becomes part of the city school district or the school district of which the village is a part only upon approval by the state board of education, unless the district in which the territory is located is a party to an annexation agreement with the city school district.

¹⁰⁹ ORC §3311.24, in part, provides:

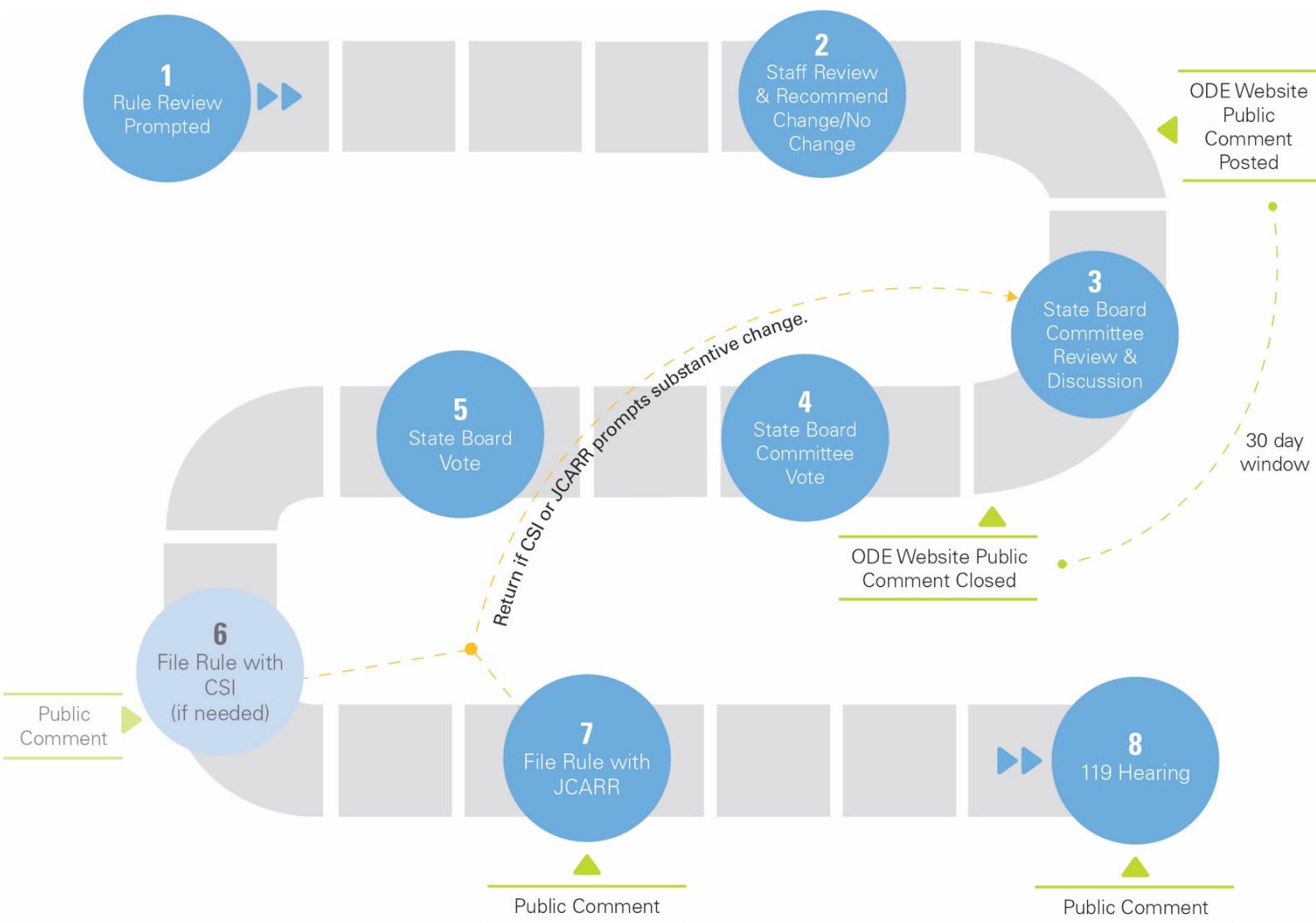
(A) Except as provided in division (B) of this section, if the board of education of a city, exempted village, or local school district deems it advisable to transfer territory from such district to an adjoining city, exempted village, or local school district, or if a petition, signed by seventy-five per cent of the qualified electors residing within that portion of a city, exempted village, or local school district proposed to be transferred voting at the last general election, requests such a transfer, the board of education of the district in which such proposal originates shall file such proposal, together with a map showing the boundaries of the territory proposed to be transferred, with the state board of education prior to the first day of April in any even-numbered year. The state board of education may, if it is advisable, provide for a hearing in any suitable place in any of the school districts affected by such proposed transfer of territory. The state board of education or its representatives shall preside at any such hearing. Not later than the first day of September the state board of education shall either approve or disapprove a proposed transfer of territory filed with it as provided by this section.

Reference Material D: State Board of Education's Rule Process

Reasons for Reviewing OAC Rules

- Five-Year Rule Review: [ORC 119.03](#) requires rules to be “reviewed” at least once every five years. Reviewing a rule entails determining whether the rule should be amended, rescinded, or remain unchanged and subsequently filing the proposed rule-action with the [Joint Committee on Agency Rule Review \(JCARR\)](#), [Legislative Service Commission \(LSC\)](#), and the [Secretary of State](#) in order to maintain a record of rules filed.
- Legislation: Legislation frequently requires the State Board to amend, rescind or adopt new rules.
- Program: Changing program policies or practices may also necessitate rule-action for State Board approval.

Rules posted for public comment by the Ohio Department of Education can be found [here](#).



Joint Committee on Agency Rule Review (JCARR)

[JCARR](#) is the legislative oversight committee comprised of five senators and five representatives that reviews administrative rules on behalf of the General Assembly. The purpose of JCARR is to ensure that rules comply with relevant sections of the Revised Code and, colloquially speaking, to prevent agencies from “getting in rule” what they could not “get in law”.

Rules filed with JCARR are subject to a 65-day jurisdiction period during which rule content is scrutinized by committee staff. JCARR meets about once every three weeks as required by law.

JCARR does not approve rules; rather, the only action the committee can take is to recommend invalidation of a rule (or part thereof) to the General Assembly. The vote to recommend invalidation is based on one or more of the following prongs:

- The agency lacks the statutory authority to promulgate the rule;
- The rule violates the intent of the legislation;
- The rule conflicts with an existing rule of the agency or other rule-making entity;
- The rule was filed with an incomplete or inaccurate Rule Summary and Fiscal Analysis (RSFA) form; or
- The rule fails to comply with the requirements of SB 2 (Common Sense Initiative).

Common Sense Initiative (CSI)

[CSI](#) was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Codified by Senate Bill 2 of the 129th General Assembly, CSI requires state agencies to balance the critical objectives of administrative rules with the costs of compliance by the regulated parties. Pursuant to the executive order, rules should facilitate economic growth, be as easy and inexpensive to comply with as possible, and be transparent, responsive, fair and consistent. Accordingly, state agencies are required to eliminate, reduce, or justify rule language that could potentially have an “adverse” impact on “business”.

- “Business” includes profit and nonprofit operations (of any size), but does not include public schools or districts.
- “Adverse impact” includes rule language that:
 - Requires a license, permit, or any other prior authorization to engage in or operate a line of business;
 - Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action, for failure to comply with its terms, or
 - Requires specific expenditures or the report of information as a condition of compliance.

Prior to filing a rule with JCARR, CSI requires state agencies to subject any such rule language to extensive stakeholder review, document any feedback collected from the regulated community on how an adverse impact could be reduced or eliminated, and either implement the recommendations or provide justification (to CSI) as to why such rule language should be eliminated.

The CSI process applies only to rules containing language that could have an “adverse” impact on “business”. In addition, CSI does not require an agency to eliminate an adverse impact; rather, CSI strictly requires the agency to justify that impact.

Reference Material E: Student Transportation and Payment in Lieu of Transportation

Generally

Pursuant to [Ohio Revised Code Section 3327.01](#), city, local and exempted village school districts are required to transport students in grades kindergarten through eight who live more than two miles from their assigned school. Students in these grades who are attending State Board approved nonpublic or community schools are also entitled to transportation. City, local and exempted village school districts may also provide transportation for resident students in grades 9 through 12. A district providing transportation for resident high school students who are attending its schools must also provide transportation to resident high school students who are attending State Board approved nonpublic or community schools.

A district Board is not required to transport elementary or high school students to and from a nonpublic or community school when such transportation would require more than 30 minutes of direct travel time as measured by school bus from the public school building to which the pupils would otherwise be assigned.

Offers of Payment in Lieu of Transportation

Upon contact from a resident parent/guardian whose student is attending a State Board approved nonpublic or community school, a city, local or exempted village school district may determine whether it is practical to provide transportation for that student.

If the district Board determines that it is impractical to transport the student, the district Board may offer payment in lieu of transportation.

Pursuant to [Ohio Revised Code Section 3327.02](#), the district Board must consider the following factors when evaluating whether it is impractical to transport an eligible student:

- The time and distance required to provide the transportation
- The number of students to be transported
- The cost of providing transportation, including the cost of equipment, maintenance, personnel and administration
- Whether similar or equivalent service is provided to other students eligible for transportation
- Whether and to what extent the additional service unavoidably disrupts current transportation schedules
- Whether other reimbursable types of transportation are available

Based upon these factors, the district board may pass a resolution declaring the impracticality of transportation. The resolution shall include each student's name and the reason for impracticality. The district board shall report its determination to the State Board.

The board of education of a local school district shall also submit the resolution to its educational service center. If the educational service center governing board considers transportation by school conveyance practicable, it shall inform the local board and transportation shall be provided by such local board. If the educational service center board agrees with the view of the local board, the local board may offer payment in lieu of transportation in accordance with the requirements of [Ohio Revised Code Section 3327.02](#).

After passing a resolution declaring the impracticality of transportation, the district board shall offer payment in lieu of transportation in the manner specified by [Ohio Revised Code Section 3327.02](#). The district board must inform the student's parent/guardian of the resolution as well as the right of the student's parent/guardian to either accept the offer or reject it and request that ODE initiate mediation procedures. In addition, the district board must issue the student's parent/guardian a contract or other form on which the parent /guardian is given the option to accept or reject the offer in lieu of transportation. The parent/guardian must acknowledge and return the contract or form to the public school indicating acceptance or rejection.

If the parent/guardian accepts the offer of payment in lieu of transportation, the district board will then verify attendance for the school identified and make payment to the parent/guardian at the end of the school year. The amount to be paid shall not be less than the amount determined by ODE as the minimum for payment in lieu of transportation, and not more than the amount determined by ODE as the average cost of student transportation for the previous school year. Payment may be prorated if the time period involved is only a part of the school year.

If the parent/guardian rejects the offer of payment in lieu of transportation they may request ODE to conduct mediation procedures. Mediation is a fact-finding meeting; mediation does not resolve the dispute. Once mediation is requested, the State Board shall conduct a hearing in accordance with [Chapter 119 of the Revised Code](#). The school district shall provide transportation for the student from the time the parent or guardian requests mediation until the matter is resolved.

Following a recommendation by the mediator and a [Chapter 119](#) hearing, the State Board may approve the district's impracticality determination or may order the district board to provide transportation. The decision of the State Board is binding in subsequent years and on future parties in interest, provided that the facts of the determination remain comparable.

Reference Material F: Community Schools

Types of Community Schools

There are two types of community schools that may be created. “Conversion” community schools, which are created by converting all or part of an existing public school, may operate in any school district in the state. A conversion school is sponsored by the board of education that owns the school that has been converted.

“Start-up” community schools, which do not involve the conversion of an existing public school, are new schools that may be sponsored only in “challenged” school districts. A “challenged” school district is defined as a district within the original pilot project area in Lucas County; a district in academic emergency or academic watch; or a “big eight” school district.

In 2003, the General Assembly established a sub-category of community school called the “internet- or computer-based community school,” which is also known as the “e-school.” The internet- or computer-based community school may be either a conversion school or a new start-up school. An “internet- or computer-based community school” is defined as a community school in which students “work primarily from their residences” on assignments provided “via an internet- or other computer-based instructional method that does not rely on regular classroom instruction.” There may be a “mixed” delivery of services, meaning that instruction may be delivered through “comprehensive instructional methods that include internet-based, other computer-based, and non- computer-based learning opportunities.”

Oversight Responsibilities

ODE is responsible for the oversight of sponsors of community schools and must provide technical assistance to schools and sponsors in their compliance with applicable laws, the terms of their sponsor contracts and in their development and start-up activities. Specifically, ODE is required to do the following:

- Conduct training sessions and distribute informational materials, in providing technical assistance to proposing parties, governing authorities, and sponsors;
- Approve entities to be sponsors of community schools and monitor the effectiveness of those sponsors in their oversight of the schools with which they have contracted;
- Enter into written agreements with sponsors regarding the manner in which the sponsors will conduct their sponsorship;
- Adopt rules containing criteria, procedures, and deadlines for processing applications for the approval of sponsors, for oversight of sponsors, for revocation of the approval of sponsors, and for entering into written agreements with sponsors;
- Notify an entity of the number of community schools that the entity may sponsor, upon approval of the entity to be a sponsor;
- Assist any community schools in excess of a sponsoring entity’s limit in securing new sponsors, if the entity exceeds the number of schools that it may sponsor, and assume sponsorship of the schools if they are unable to secure new sponsors;
- Determine whether the mission proposed to be specified in the contract of a community school to be sponsored by a state university board of trustees or the board’s designee is related to the university’s teacher preparation program;
- Determine if any tax-exempt entity under § 501(c)(3) of the Internal Revenue Code that is proposed to be a sponsor of a community school is an education-oriented entity;
- Adopt procedures for use by a community school’s governing authority and sponsor when the school permanently closes and ceases operation, including procedures for data reporting to ODE, handling of student records, distribution of assets, and other matters related to ceasing operation of the school;
- Suspend the operation of any community school, if conditions at the school do not comply with applicable health and safety standards and the sponsor fails to take action.

If the state board of education finds that a sponsor is not in compliance or is no longer willing to comply with its contract with any community school or with ODE’s rules for sponsorship, the state board or its designee must

conduct a hearing. After the hearing, if the state board or its designee has confirmed the original finding, ODE may revoke the sponsor's approval to sponsor community schools and may assume the sponsorship of any schools with which the sponsor has contracted until the earlier of the expiration of two school years or until a new sponsor is secured by the school's governing authority.

Reporting Requirements

The sponsor of each community school must report to ODE on the academic and fiscal performance and the organization and operation of the community school on at least an annual basis. Also, on or before the first day of November of each year, the sponsor must submit to ODE, in accordance with guidelines adopted by ODE, a report that describes the special education and related services provided by that school to enrolled students during the previous fiscal year and the school's expenditures for those services.

ODE, as part of its general oversight responsibility, must submit a report by the last day of December of each year to the Governor, Speaker of the House of Representatives, President of the Senate, and Chairpersons of the House and Senate Education Committees. The report must address community school operations, the effectiveness of academic programs, legal compliance, and the financial condition of Ohio's community schools. Additionally, ODE is required to issue periodic legislative recommendations to enhance the operation and performance of community schools.

Sponsor Contract

The operation of a community school is governed by the terms of the contract with the sponsoring entity. The "sponsor contract," also known as the "charter," has many provisions that are mandated by law, as well as many provisions that have been negotiated by the parties. The sponsor contract both describes the specific characteristics and objectives of the community school and binds the community school to the minimum requirements imposed by law. A copy of every sponsor contract must be filed with the Superintendent of Public Instruction.

Reference Material G: Land Transfers

Statutory and Rule Guidance

This memo provides a broad overview of school district territory transfers in Ohio. The Ohio Revised Code provides for the following types of school district territory transfers:

1. Transfer of territory from a city, exempted village or local school district to an adjoining city, exempted village or local district initiated by board action of the district seeking to transfer territory from its district. The district in which the proposal originates must file a copy of the proposal and a map with the State Board prior to April 1 in any even-numbered year. ([ORC Section 3311.24](#))
2. Transfer of territory from a city, exempted village or local school district to an adjoining city, exempted village or local school district initiated by a petition signed by at least 75% of the qualified electors residing in the portion of the district proposed to be moved and who actually voted in the last general election. The district in which the proposal originates must file a copy of the proposal and a map with the State Board prior to April 1 in any even-numbered year. A board of education receiving the petition must request the board of elections to check the sufficiency of signatures on the petition. ([ORC Section 3311.24](#))
3. Transfer of school district territory in conjunction with a municipal annexation, either by action of the State Board of Education or agreement between the affected districts. ([ORC Section 3311.06](#))
4. Creation of a new local school district from one or more local school districts, or parts thereof, by the State Board of Education. The issue can be subject to a referendum vote if 35% of qualified voters in the proposed new district area sign a duly filed petition. The petition must be filed with the State Superintendent within thirty days of the Board's adoption of a resolution proposing the creation of the new district. ([ORC Section 3311.26](#))
5. Creation of a new school district by proposal initiated by the State Board of Education. ([ORC Section 3311.37](#))
6. Transfer of school district territory by proposal initiated by the State Board of Education. ([ORC Section 3311.38](#))
7. Transfer of all or part of a local school district to an adjoining district(s) within the same Educational Service Center (hereinafter referred to as ESC). Can be initiated by ESC board resolution or a petition signed by qualified electors residing in the affected area or districts proposed to be transferred. The required number of signatures is at least 55% of the number of qualified electors living in the area who voted in the last general election. ([ORC Section 3311.22](#))
8. Transfer of all or part of a local school district to an adjoining ESC or to an adjoining city or exempted village school district. Can be initiated by ESC board resolution or a petition signed by qualified electors residing in the affected area. The required number of signatures is at least 55% of the number of qualified electors living in the area who voted in the last general election. ([ORC Section 3311.231](#))
9. Two or more school districts may be merged in counties with a population less than 100,000 in the most recent federal decennial census. Ten percent of the qualified voters in each district must sign a petition bearing the names of five electors of the district who will serve on a merger study commission. If the commission agrees on a merger proposal, and a majority of a district's commissioners approve the proposal, it will be placed on the ballot in that district. ([ORC Section 3311.25](#))

[Ohio Administrative Code Rule 3301-89-02\(B\)](#): Procedures of the state board of education in a request for transfer of territory under [section 3311.06](#) or [3311.24 of the Ohio Revised Code](#).

[Ohio Administrative Code Rule 3301-89-02](#) requires the Department to send a request for information to each of the districts involved in a proposed transfer. Each district is asked:

1. Why is the request being made?
2. Are there racial isolation implications?
 - a. What is the percentage of minority students in the relinquishing district?
 - b. What is the percentage of minority students in the acquiring district?
 - c. If approved, would the transfer result in an increase in the percentage of minority pupils in the relinquishing district?
3. What long-range educational planning for the students in the districts affected has taken place?

4. Will the acquiring district have the fiscal and human resources to efficiently operate an expanded educational program?
5. Will the acquiring district have adequate facilities to accommodate the additional enrollment?
6. Will both the districts involved have pupil population and property valuation sufficient to maintain high school centers?
7. Will the proposed transfer of territory contribute to good district organization for the acquiring district?
8. Does the acquiring district have the capacity to assume any financial obligation that might accompany the relinquished territory?
9. Will the loss of either pupils or valuation be detrimental to the fiscal or educational operation of the relinquishing school district?
10. Have previous transfers caused substantive harm to the relinquishing district?
11. Is the property wealth in the affected area such that the motivation for the request could be considered a tax grab?
12. Are there any school buildings in the area proposed for transfer?
13. What are the distances between the school buildings within:
 - a. The present area?
 - b. The proposed area?
14. What are the distances between:
 - a. The area proposed for transfer and each building in the proposed school district?
 - b. The area proposed for transfer and each building in the proposed school district?
15. If approved, will the requested transfer create a school district with noncontiguous territory?
16. Is the area being requested an isolated segment of the district of which it is a part?
17. Will the municipal and school district boundary lines become coterminous?
18. For each district affected:
 - a. What is the inside millage?
 - b. What is the outside operating millage?
 - c. What is the bonded indebtedness millage?
19. What is the levy history in each of the affected districts?
20. Will the transfer of school district territory cause a negative impact on the state of Ohio?
21. How will the projected revenues and expenditures as set forth in the most recent five-year forecasts be impacted by the transfer, if implemented? Each district shall provide the department of education with copies of their most recent five-year forecasts.
22. What designation did each of the affected districts and buildings receive on their state report cards for the last five years?
23. How will the proposed transfer affect the educational offerings/programs of the affected districts?
24. What course offerings will be available through the acquiring district, as compared to the relinquishing district?
25. How will the proposed transfer affect the athletic programs and extracurricular activities of the affected districts? Will similar programs and activities be available to students of the affected districts?

Ohio Administrative Code Rule 3301-89-03(B) – Factors to be considered by a hearing officer appointed to hear a request for a transfer of territory under section 3311.06 or 3311.24 of the Ohio Revised Code

(B) Other factors that a hearing officer shall consider in hearing any request for a transfer of territory for school purposes include, but are not necessarily limited to:

1. Documented agreements made by public agencies involved in municipal annexation proceedings should be honored;
2. A previous agreement entered into by the school districts concerned should be honored unless all concerned districts agree to amend it;
3. The statement signed by the school district boards of education after negotiations as required by [paragraph \(D\)\(4\) of Rule 3301-89-04 of the Administrative Code](#);
4. There should not be undue delay in requesting a transfer for school purposes after a territory has been annexed for municipal purposes;

5. The transfer shall not cause, preserve, or increase racial isolation;
6. All school district territories should be contiguous unless otherwise authorized by law;
7. School district boundary lines that have existed for a long period of time should not be changed if substantial upheaval results because of long-held loyalties by the parties involved;
8. The pupil loss of the relinquishing district should not be such that the educational program of that district is severely impaired;
9. The fiscal resources acquired should be commensurate with the educational responsibilities assumed;
10. The educational facilities of districts should be effectively utilized; and
11. The preference of the residents with school-age children who live in the territory sought to be transferred to another school district shall be considered if evidence establishing that preference is admitted, provided the articulated reasons are not contrary to existing statutes or rules.

Ohio Administrative Code Rule 3301-89-01(F)

A request for transfer of territory will be considered upon its merit with primary consideration given to the present and ultimate good of the pupils concerned.

Ohio Administrative Code Rule 3301-89-02(I) the State Board's Obligation

After the time for filing objections and responses has ended, the state board of education will then consider the hearing officer's report, objections, and responses, and adopt a resolution which approves, disapproves, or modifies the recommendation of the hearing officer. **The decision of the state board of education will be made solely on the record of the hearing, the report of the hearing officer and any objections or responses filed by the parties.** (Emphasis added.)

CASE LAW SUMMARY

Most transfers are brought under [ORC Sections 3311.24](#) and [3311.06](#). The parties proposing the transfer have the burden of proof at the hearing before the hearing officer. *Levey v. State Board of Educ.*, 1995 Ohio App. LEXIS 765; *Samson v. State Board of Educ.*, 1998 Ohio App. LEXIS 3750. The burden of proof means the petitioners must present their case first and must establish facts by evidence that support a recommendation to transfer the property in question. Of course the respondents can rebut that evidence via cross-examination and the presentation of their own case following the petitioners' presentation.

The hearing officer must consider the answers to the 25 questions and the 11 factors in reaching a recommendation. The state board is not bound by the recommendation of the hearing officer. If the board agrees with the hearing officer and adopts his/her report, it does not have to list all relevant factors that led to its decision in its resolution. *Fairborn City School Dist. v. State of Ohio, Bd. of Educ.*, 1996 Ohio App. LEXIS 4659. However, if the board rejects the hearing officer's recommendation it must identify the basis of its decision. A reviewing court will then limit its inquiry to determining whether the stated reasons are supported by the evidence produced at the hearing and whether such reasons are in accordance with law.

Schreiner v. State of Ohio, Dept. of Educ., 99-LW-4725 (10th Dist. Ct. App. 1999).

As the above would suggest, the board's decisions in land transfer matters brought pursuant to [ORC. 3311.06](#) can be appealed to the Court of Common Pleas in Franklin County. *Union Title Co. v. State Board of Educ.*, 51 Ohio St.3d. 189 (1990). Similarly, the board's decisions in [ORC 3311.24](#) matters can also be appealed to the Court of Common Pleas in Franklin County. *Rossford Exempted Village School District v. State Board of Educ.*, 45 Ohio St.3d 356 (1992). The standard of review utilized by the reviewing court is whether the Board's decision is supported by reliable, probative, and substantial evidence and is in accordance with law. If so, the common pleas court will affirm the board's decision. Further appeal can be taken to the 10th District Court of Appeals in Franklin County. The appellate court's role is more limited than that of the lower court. The appellate standard of review is whether the lower court abused its discretion. Abuse of discretion connotes more than an error of judgment; it is a decision that is arbitrary or capricious, one that is without a reasonable basis or clearly wrong. However, courts of appeals have complete authority to review the board's decision to determine whether it is in compliance with law. *Bartchy v. State Bd. of Edn.*, 120 Ohio St.3d 205 (2008); *Concerned Citizens for Quality Edn. v. Ohio Dept. of Edn.*, 2011 WL 2519091 (10th Dist. June 23, 2011).

Given the “present and ultimate good of the pupils” provision in [Rule 3301-89-01\(F\)](#), no one of the listed factors in [3301-89-03](#) can be determinative of a land transfer request. The many competing factors must be balanced to achieve what is in the best interests of all of the students concerned. “It is appropriate for the board to consider both the social and educational needs of all affected students, as well as the potential financial implications of a transfer.” *Garfield Hts. City School Dist. v. State Bd. of Educ.*, 62 Ohio App.3d 308, 319, 323 (1990). Accord, *Cincinnati School Dist. v. State Bd. of Educ.*, 113 Ohio App.3d 305 (1996). The listed factors are not a form of veto; the board still must decide what is in the present and ultimate good of the pupils.

Cincinnati School Dist. v. State Bd. of Educ., supra. However, analysis of the enumerated factors is an integral part of determining what is in the best interest of the students concerned. *Garfield Hts.; Schreiner*. The “pupils” referred to in [Rule 3301-89-01\(F\)](#) are not limited to the students living in the area to be transferred. It also includes all students affected by the proposed transfer. The potential benefit a transfer would confer on pupils living in a particular area subject to transfer must be balanced against evidence of potential harm the transfer might inflict on other students in the affected districts. *Garfield Hts.* at 319; *Schreiner*.

It is the duty of the State Board of Education and not the courts to weigh the competing factors and determine whether the transfer is in the best interests of the students. *Schreiner; Fairborn City; Garfield Hts.* The common pleas court merely determines whether the evidence supports the board’s decision.

The State Board of Education is entitled to consider all relevant factors and not just those set forth in [Chapter 3301-89 of the Ohio Administrative Code](#) when deciding a territory transfer case. *Fairborn City*. However, the factors considered must not be inconsistent with the purpose of the statute ([ORC Section 3311.24](#) or [3311.06](#)). *Schreiner*.

Promoting a sense of community is a valid ground for seeking and granting a transfer. *Schreiner; Garfield Hts.; Levey*. If the state board wanted to consider tax equalization (e.g., transferring valuable commercial property from a wealthy district to a poor district) as a factor in deciding a transfer case, it has the discretion to do so. *Fairborn City*. However, maintaining existing boundaries of city school districts is not, by itself, a legitimate factor weighing against a transfer. *Schreiner*.

Evidence of a loss of revenue is a legally sufficient basis for the State Board of Education to determine that a territory transfer would cause some detriment to the fiscal or educational operation of a school district. The question of whether, or how much, it should weigh against the transfer is dependent upon the facts and evidence in each case. *Spitznagel v. State Bd. of Edn.*, 126 Ohio St.3d 174 (2010); *Bartchy v. State Bd. of Edn.*, 120 Ohio St.3d 205 (2008).

The fact that a transfer would make the municipal boundaries and the city school district boundaries coterminous does not require that the transfer be granted. *Fairborn City*.

When the revenue generated by property far exceeds the cost of educating students from the area, the state board may conclude that the proposed transfer is a “tax grab” and deny the transfer. *Fairborn City; Samson*.

The state board of education has the discretion to determine whether a particular set of facts constitutes an undue delay in requesting a transfer following a municipal annexation. The board could conclude that delays of one and three years were too long, especially when the transfer request came only after the property had been commercially developed. *Fairborn City*.

The requirement that school district territory be contiguous ([ORC 3311.06\(B\)](#)) means being in actual contact, touching along a boundary or at a point. *Garfield Hts.; In re Transfer of Territory from Streetsboro City School Dist.*, 1992 Ohio App. LEXIS 3072. The mere fact that school buses would cross through part of another district in transporting students if the transfer were permitted does not prove that the district would be noncontiguous. *Streetsboro*.

When an area is surrounded on three sides by another district and the fourth side has an active railroad crossing between the area and the district it currently belongs to, the area can be considered an isolated part of its current district. These facts support transfer of the area to the district that borders three sides of the area.

Furthermore, the increased safety of pupils from not having to cross the railroad tracks to get to school also supports the decision to grant the transfer. *Levey*.

The desires of residents in the area to be transferred to increase opportunities for their children to participate with neighboring children in neighborhood schools, to improve safety of the children in getting to school, and to decrease distances traveled to school are legitimate motivations for requesting a transfer. *Levey*.

A developer's desire to transfer property to another district so that new homes would sell faster is not a motivation for requesting a transfer which supports a recommendation to transfer the property. *Samson*.

The transferring district has no discretion to disapprove a transfer once the state board has acted to approve it. *Rossford; State ex rel. Bell v. Cambridge Bd. of Educ.*, 45 Ohio St.2d. 316 (1976); *Streetsboro*.

However, after a hearing and state board action to approve a transfer, the district that would otherwise receive the property has the discretion to reject the transfer. *Garfield Hts. City School Dist. v. State Bd. of Educ.*, 71 Ohio St.3d 590 (1995).

State Board of Education Procedure for Considering Requests Pursuant to [Ohio Revised Code Sections 3311.37 AND 3311.26](#)

[Section 3311.37 of the Ohio Revised Code \("ORC"\)](#) authorizes the State Board of Education to conduct studies where there is evidence of need for consolidation of two or more contiguous local, exempted village, or city districts or parts of such districts. Any such study must consider the possibility of making improvements in school district organization, as well as the desires of the residents of the affected districts. The study would contain recommendations for State Board consideration and the State Board could adopt, modify, or reject those recommendations. One potential outcome of the study would be a proposal by the State Board to create a new school district from part or all of the territory of the districts involved.

[Section 3311.26 of the ORC](#) authorizes the State Board, by resolution adopted by majority vote of its full Board membership, to propose the creation of a new local school district from one or more local school districts or parts thereof. This could include the creation of a local district with noncontiguous territory from one or more local school districts if one of those districts has entered into an agreement under [section 3313.42 of the ORC](#). Any requests made pursuant to either of these two statutes will be subject to the State Board adopted process described below. (Note, however, that the State Board of Education retains the prerogative to commence the statutory process under either [section 3311.26](#) or [3311.37 of the ORC](#) on its own initiative by adopting a suitable resolution. Such state Board-initiated matters are not subject to the process described in this policy.) Further, the following principles will applied to all requests submitted pursuant to either statute:

1. Evidence of "need" must be established before the State Board will conduct a study;
2. The present and ultimate good of all of the pupils concerned will be the Board's primary consideration;
3. The desires of the residents affected will be considered, but will only be a determinative factor if all other factors are equal.

I. Initial filing of request:

- A. Written Proposal – Prior to considering any request pursuant to [ORC sections 3311.26](#) or [3311.37](#), the individual(s) requesting State Board consideration must present the State Board with a proposal which includes the following:

1. A written explanation of what is being proposed, what statute is being applied, why it is the appropriate statute, what territory and school districts will be affected, and why the request is being made; and
2. Documentation of substantial local support for the proposal (This portion of the proposal should contain information such as a description of the group making the proposal [number of members, number of meetings held, attendance at meetings, etc.], petitions signed by residents of the affected region, local media editorials in favor of the proposal, local groups' endorsements, etc.);

3. An accurate map which shows the present school district boundaries of the territories affected by the proposal; and
4. An accurate map which shows where the school district boundaries of the new district and each affected district would lie if the State Board were to create a new district.

B. Notice to Affected Parties – A copy of the proposal shall also be sent to each school district and ESC that may be affected by the proposal.

II. Establishing the Need for a Study:

If the State Board receives a proposal that meets all of the above-mentioned criteria, the State Board may appoint a subcommittee to consider whether there is evidence of need for the proposed change. The subcommittee will preside over subcommittee meetings wherein the proponents and the opponents of the proposal will have an opportunity to present their positions. These meetings are not hearings, but an opportunity for each side to present their positions to the subcommittee and an opportunity for the subcommittee to ask any questions they may have. In determining whether there is evidence of need to conduct a study, with regard to a request under either statute, the subcommittee will consider written submissions and oral presentations which address the following issues:

A. FISCAL ISSUES

1. Will the new district have the fiscal and human resources to efficiently operate an educational program equivalent to that offered in the other affected districts?
2. Will the affected districts have the fiscal and human resources to continue to efficiently operate their educational programs?
3. Will all of the districts involved have pupil population and property valuation sufficient to maintain high school centers?
4. Will the new district have the capacity to assume the financial obligations associated with the proposed change?
5. Will the loss of either pupils or valuation be detrimental to the fiscal or educational operation of any of the affected districts?
6. Is the property wealth in the affected area such that the motivation for the request could be considered a tax grab, or financially motivated?
7. Would the creation of a new district cause the new district or any of the remaining districts to become low wealth districts? (Status as a low wealth district may be indicated by objective data, such as valuation per pupil.)
8. For each district affected:
 - (a) What is the inside millage?
 - (b) What is the outside operating millage?
 - (c) What is the bonded indebtedness millage?
9. What is the levy history in each of the affected districts?
10. Will the creation of the new proposed district cause a negative financial impact on the State of Ohio?
11. Provide copies of the affected districts' projected revenues and expenditures as set forth in the most recent five year forecasts. How would those forecasts

B. FACILITIES ISSUES

1. Will the new district have adequate facilities to accommodate its anticipated enrollment?
2. What effect would the proposal have on the locations of school buildings within each of the affected districts, as well as the proposed new district?
3. What is the distance between the school buildings in:
 - (a) Each district affected by the proposal at this time?
 - (b) Each district affected if a new district is created by the State Board (including the proposed new district)?

C. ORGANIZATIONAL ISSUES

1. Will the proposed change contribute to good district organization for each of the affected districts?

2. Have previous territory transfer matters caused substantive harm to any of the affected districts?
3. If approved, will the proposed change create any school district with noncontiguous territory? Is any of the area affected by the proposal an isolated segment of the district(s) of which it is a part?
4. Will the municipal and school district boundary lines of the affected districts become coterminous as a result of this proposal, or in the alternative, cause them to not be coterminous?

D. PROGRAMMATIC/PERFORMANCE ISSUES

1. What long-range educational planning for the students in the affected districts has taken place?
2. What designation did each of the affected districts and buildings receive on their State Report Cards for the last five years?
3. How will the proposed change affect the educational offerings/programs of the affected districts?
4. What course offerings will be available at the new district, as compared to the other remaining districts?
5. How will the proposed change affect the athletic programs and extracurricular activities of the affected districts? Will similar programs and activities be available to students of the proposed new district?

E. RACIAL ISSUES

Are there racial isolation implications? What is the percentage of minority students in each district involved? If approved, would the proposal result in an increase in the percentage of minority pupils in the any of the districts involved? If a new district is created, what would be the percentage of minority students in the new district?

F. ADDITIONAL CONSIDERATIONS INCLUDE, BUT ARE NOT LIMITED TO:

1. Documented agreements made by public agencies involved in municipal annexation proceedings should be honored;
2. A previous agreement entered into by the school districts concerned should be honored unless all concerned districts agree to amend it;
3. There should not be undue delay where any part of the affected territory has been annexed for municipal purposes;
4. The creation of a new district shall not cause, preserve, or increase racial isolation;
5. All school district territories should be contiguous unless otherwise authorized by law;
6. School district boundary lines that have existed for a long period of time should not be changed if substantial upheaval results because of long-held loyalties by the parties involved;
7. The pupil loss of any affected district should not be such that the educational program of that district is severely impaired;
8. The fiscal resources available to the new district and each affected district should be commensurate with the educational responsibilities of each district;
9. The educational facilities of the affected districts should be effectively utilized; and
10. The level of student and community involvement/engagement within the affected districts;

III. Determination of Subcommittee:

Once each side has had an opportunity to present information to the appointed subcommittee, supporting its respective position with regard to the proposal, the subcommittee will determine whether or not evidence of need has been established. If the subcommittee determines that evidence of need has not been established, the chair of the subcommittee will report this recommendation to the State Board of Education which will act on the recommendation of the subcommittee. If the State Board of Education adopts a resolution accepting the subcommittee's recommendation, the parties will be notified and no further action will be taken on the proposal. If the State Board adopts a resolution rejecting the subcommittee's recommendation, the State Board will direct the Department of Education to conduct a study on the impact of the proposal.

If the subcommittee determines that evidence of need has been established, the chair of the subcommittee will submit the recommendation to the State Board of Education for a vote of the State Board. If the State Board rejects the recommendation of the subcommittee by resolution, no further action will be taken, and the parties will be notified of the Board's action. If the State Board accepts the recommendation of the

subcommittee, the State Board will direct the Department of Education to conduct a study to consider the possibility of making improvements in school district organization. Such studies will include, but are not limited to: a fiscal and programmatic analysis of each affected district, as well as an analysis of the impact on state funding.

Once a study is completed by the Department of Education, the findings of the study will be presented to the State Board along with a recommendation. The Department's study will either recommend the formation of the proposed new district or indicate that the formation of a new district is not recommended. The State Board may either accept or reject the Department of Education's recommendation by a majority vote of the State Board.

Robert's Rules of Order – Summary of Motions

Point of Privilege: Pertains to noise, personal comfort, etc. or that something should be discussed in executive sessions – may interrupt only if necessary.

Parliamentary Inquiry: Inquire as to the correct motion – to accomplish a desired result or raise a point of order.

Point of Information: Generally applies to information desired from the speaker: “I should like to ask the speaker a question.”

Orders of the Day (agenda): A call to adhere to the agenda (a deviation from the agenda requires Suspending the Rules).

Point of Order: Infraction of the rules or improper decorum in speaking – must be raised immediately after the error is made.

Main Motion: Brings new business (the next item on the agenda) before the assembly.

Divide the Question: Divides a motion into two or more separate motions (must be able to stand on their own).

Consider by Paragraph: Adoption of paper is held until all paragraphs are debated and amended and entire paper is satisfactory; after all paragraphs are considered, the entire paper is then open to amendment and paragraphs may be further amended.

Amend: Inserting or striking out words or paragraphs, or substituting whole paragraphs or resolutions.

Withdraw/Modify Motion: Applies only after question is stated; mover can accept an amendment without obtaining the floor.

Commit/Refer/Recommit to Committee: State the committee to receive the question or resolution; if no committee exists, include size of committee desired and method of selection the members (election or appointment).

Extend Debate: Applies only to immediately pending question; extends until a certain time or for a certain period of time.

Limit Debate: Closing debate at a certain time, or limiting to a certain period of time.

Postpone to a Certain Time: State the time the motion or agenda item will be resumed.

Object to Consideration: Objection must be stated before discussion or another motion is stated.

Lay on the Table: Temporarily suspends further consideration/action on pending question; may be made after motion to close has carried or is pending.

Take From the Table: Resumes consideration of item previously “laid on the table” – state the motion to take from the table.

Reconsider: Can be made only by one on the prevailing side who has changed position or view.

Postpone Indefinitely: Kills the question/resolution for this session; exception – the motion to reconsider can be made this session.

Previous Question: Closes debate if successful; may be moved to “Close Debate” if preferred.

Informal Consideration: Move that the assembly go into “Committee of the Whole” – informal debate as if in committee.

Appeal Decision of the Chair: Appeal for the assembly to decide – must be made before other business is resumed; debatable if relates to decorum, violation of rules or order of business.

Suspend the Rules: Allows a violation of the assembly’s own rules; the object of the suspension must be specified.

Robert's Rules of Order – Motions Chart

Part 1, Main Motions.								
<i>These motions are listed in order of precedence. A motion can be introduced if it is higher on the chart than the pending motion.</i>								
§	PURPOSE	YOU SAY:	INTERRUP T?	2ND ?	DEBATE ?	AMEND ?	VOTE?	RECONSIDER ?
§21	Adjourn	I move to adjourn	No	Yes	No	No	Majority	No
§21	Adjourn at a fixed time	I move to adjourn the meeting at ----- time	No	Yes	No	Yes	Majority	Yes
§20	Take break (with no motion pending)	I move to recess for...	No	Yes	No	Yes	Majority	No
§20	Take break (if moved while motion pending)	I move to recess for...	No	Yes	No	Yes	Majority	No
§19	Register complaint/ point of privilege	I am raising a question of privilege	Yes only if necessary	No (unless made in a motion)	No	No	No/ President decides	No
§18	Follow agenda	I call for the orders of the day	Yes	No	No	No	No/demand by 1 member unless set aside by 2/3 vote	No
§17	Lay aside temporarily	I move to lay the question on the table	No	Yes	No	No	Majority	Negative only
§16	Close debate	I move the previous question	No	Yes	No	No	2/3	Yes
§15	Limit or extend debate	I move that debate be limited to...	No	Yes	No	Yes with 2/3 vote	2/3	Yes
§14	Postpone to a certain time	I move to postpone the motion to...	No	Yes	Yes	Yes	Majority	Yes for affirmative; limit on negative
§13	Refer to committee	I move to refer the motion to...	No	Yes	Yes	Yes	Majority	Yes ¹
§12	Amend	I move to amend the motion by...	No	Yes	Yes ²	Yes	Majority	Yes
§11	Postpone indefinitely/ kill the motion	I move that the motion be postponed indefinitely	No	Yes	Yes	No	Majority	Yes ³
§10	Main motion	I move that [or to...]	No	Yes	Yes	Yes	Majority	Yes

§ indicates the section from Robert's Rules.

¹Robert's allows for this, unless the committee has not started consideration. The Board's policies and procedures allow for it to be overruled by a majority of the members.

²Whenever the motion to which it is applied is debatable and debate should be limited to desirability of the amendment, not the merits of the motion that is being amended.

³Both the motion of postpone indefinitely and the main motion will become pending, with the motion to postpone indefinitely being voted on first.

Robert's Rules of Order – Motions Chart (continued)

Part 2, Incidental Motions.								
<i>No order of precedence. These motions arise incidentally and are decided immediately.</i>								
§	PURPOSE	YOU SAY:	INTERRUP T?	2ND ?	DEBATE ?	AMEND ?	VOTE?	RECONSIDER?
§23	Enforce rules	Point of order	Yes	No	No	No	None/ President rules on the issue	No
§24	Submit matter to assembly	I appeal from the decision of the chair	Yes ⁴	Yes	Varies	No	Majority	Yes
§25	Suspend rules	I move to suspend the rules	No	Yes	No	No	2/3 vote ⁵	No
§26	Avoid main motion altogether/ object to the consideration of the motion	I object to the consideration of the question	Yes	No	No	No	2/3 vote	Negative vote only
§27	Divide motion	I move to divide the question	No	Yes	No	Yes	Majority	No
§33	Parliamentary law question	Parliamentary inquiry	Yes	No	No	No	None/ President answers	No
§33	Request for information	Point of information	Yes	No	No	No	None/ President rules on the issue	No

Part 3, Motions That Bring a Question Again Before the Assembly.

No order of precedence. Introduce only when nothing else is pending.

§	PURPOSE	YOU SAY:	INTERRUP T?	2ND ?	DEBATE ?	AMEND ?	VOTE?	RECONSIDER?
§34	Take matter from the table	I move to take from the table...	No	Yes	No	No	Majority	No
§35	Cancel previous action	I move to rescind...	No	Yes	Yes	Yes	2/3 with notice	Negative vote only
§37	Reconsider motion	I move to reconsider...	No	Yes	Varies	No	Majority	_____

§ indicates the section from Robert's Rules.

¹Must be made at the time of the ruling.

²With minor exceptions.

Appendix A: Ohio Revised Code

ORC 3301.01: State board of education.

(A) There is hereby created the state board of education consisting of nineteen members with eleven elected members, one each to be elected in accordance with section [3301.03](#) of the Revised Code from each of the districts established in accordance with division (B) of this section, and with eight members to be appointed by the governor with the advice and consent of the senate. In addition to the nineteen elected or appointed members, the chairperson of the committee of the senate that primarily deals with education and the chairperson of the committee of the house of representatives that primarily deals with education shall be nonvoting ex officio members of the board.

(B)

(1) The territory of each state board of education district for each elected voting member of the board shall consist of the territory of three contiguous senate districts as established in the most recent apportionment for members of the general assembly, but the territory of no senate district shall be part of the territory of more than one state board of education district. Each state board of education district shall be as compact as practicable. The districts shall include, when practicable, some districts that primarily consist of territory in rural areas and some districts that primarily consist of territory in urban areas.

(2) If, after the apportionment for members of the general assembly is made in any year, the general assembly does not during that year enact legislation establishing state board of education districts in accordance with division (B)(1) of this section, the governor shall designate the boundaries of the districts in accordance with division (B)(1) of this section no later than the thirty-first day of January of the year next succeeding such apportionment. Upon making such designation, the governor shall give written notice of the boundaries of the districts to each member of the state board of education, including the nonvoting ex officio members; the superintendent of public instruction; the president of the senate; the speaker of the house of representatives; and the board of elections of each county in each new district. On the first day of February in any year in which the governor designates the boundaries of state board of education districts under this section, the state board of education districts as they existed prior to that date shall cease to exist and the new districts shall be created.

Effective Date: 10-05-2000

ORC 3301.02: Elected and appointed state board members – terms of office.

(A) Elected voting members of the state board of education shall be elected as required by expiration of respective terms, each for a term of four years or until a successor is elected and qualified. One elected member shall be elected from each district respectively in which the term of office of a board member expires on the first day of January following the election. The term of office of each member so elected shall begin on the first day of January immediately following this election.

(B) At any time the boundaries of state board of education districts are changed under division (B) of section [3301.01](#) of the Revised Code, a member of the state board whose term will not expire within two years of the time the change in boundaries is made shall represent, for the remainder of the term for which the member was elected, the state board district containing the largest portion of the population of the district from which the member was elected. If more than one member whose term will not so expire would represent the same district under the provisions of this section, either the general assembly, if the general assembly enacted legislation establishing those districts under division (B)(2) of section [3301.01](#) of the Revised Code, or the governor, if the governor designated the boundaries of the districts under that division, shall designate which member shall represent each district for the balance of the members' terms.

(C) Appointed voting members of the board shall serve four-year terms beginning the first day of January and ending on the thirty-first day of December. Except as provided in division (D) of this section, members may be reappointed.

(D) No person, elected or appointed, shall hold the office of member of the state board of education for a period of longer than two successive terms of four years. Terms shall be considered successive unless separated by a period of four or more years. Only terms beginning on or after January 1, 1996, shall be considered in determining an individual's eligibility to hold office.

Effective Date: 03-18-2002

ORC 3301.03: Board members to be qualified electors – oath, salary, expenses.

Each elected voting member of the state board of education shall be a qualified elector residing in the territory composing the district from which the member is elected, and shall be nominated and elected to office as provided by Title XXXV of the Revised Code. Each appointed voting member of the board shall be a qualified elector residing in the state. At least four of the appointed voting members shall represent rural school districts in the state, as evidenced by the member's current place of residence and at least one of the following:

- (A) The member's children attend, or at one time attended, school in a rural district;
- (B) The member's past or present occupation is associated with rural areas of the state;
- (C) The member possesses other credentials or experience demonstrating knowledge and familiarity with rural school districts.

No elected or appointed voting member of the board shall, during the member's term of office, hold any other office of trust or profit or be an employee or officer of any public or private elementary or secondary school. Before entering on the duties of office, each elected and appointed voting member shall subscribe to the official oath of office.

Each voting member of the state board of education shall be paid a salary fixed pursuant to division (J) of section 124.15 of the Revised Code, together with the member's actual and necessary expenses incurred while engaged in the performance of the member's official duties or in the conduct of authorized board business, and while en route to and from the member's home for such purposes.

(D) As used in this section only, "office of trust or profit" means:

- (1) A federal or state elective office or an elected office of a political subdivision of the state;
- (2) A position on a board or commission of the state that is appointed by the governor;
- (3) An office set forth in section 121.03, 121.04, or 121.05 of the Revised Code;
- (4) An office of the government of the United States that is appointed by the president of the United States.

Amended by 130th General Assembly File No. TBD, HB 483, §101.01, eff. 9/15/2014.

Effective Date: 10-05-2000

Note: The amendment to this section by 129th General Assembly File No.10, SB 5, §1 was rejected by voters in the November, 2011 election.

ORC 3301.04: Meetings.

Between the first and thirty-first day of January of each odd-numbered year, the state board of education shall hold an organization meeting at which time it shall adopt rules of procedure, elect a president and a vice-president each of whom shall serve for two years or until the president's or vice-president's successor is elected and qualified, and transact such business as the board deems advisable.

The state board of education shall adopt, by the thirty-first day of March each year, a calendar indicating the dates on which the board will hold its regular meetings for the following fiscal year. The board may hold special meetings on dates not indicated on the adopted calendar at such times as they may be called as provided in this section. Special meetings of the board may be called by the president, and, upon written request signed by at least a majority of the members, the president shall call a special meeting of the board. The president, or the president's designee, shall give notice through the superintendent of public instruction to each member of the board at least ten days prior to the time of any special meeting. The notice may be delivered by regular mail or by electronic means. The state board of education shall hold its meetings anywhere in Ohio designated by the board.

Amended by 129th General Assembly File No.128, SB 316, §101.01, eff. 9/24/2012.

Effective Date: 10-05-2000

ORC 3301.05: Public meetings, official records of board.

A majority of the voting members of the state board of education shall constitute a quorum for the transaction of business. Official actions of the state board, including the making and adoption of motions and resolutions, shall be transacted only at public meetings open to the public. The superintendent of public instruction, or a subordinate designated by him, shall record all official actions taken at each meeting of the board in a book provided for that purpose, which shall be a public record. The record of the proceedings of each meeting of the board shall be read at its next succeeding meeting and corrected and approved, which approval shall be noted in the proceedings. The president shall sign the record and the superintendent of public instruction or his subordinate attest it.

Effective Date: 05-19-1992

ORC 3301.06: Vacancy on board.

A vacancy in the state board of education may be caused by death, nonresidence, resignation, removal from office, failure of a person elected to qualify within ten days after the organization of the board or of the person's election, removal from the district of election or from residence in the state, or absence from any two consecutive regular meetings of the board if such absence is caused by reasons declared insufficient by a vote of twelve members of the board. When a vacancy occurs in the office of an elected member, the governor shall, within a period of thirty days and with the advice and consent of the senate, appoint a qualified person residing in the district in which the vacancy occurred to fill the vacancy until the next general election at which members of the state board of education are elected, at which time a qualified elector residing in the district in which the vacancy occurred shall be elected for the unexpired term. Such member shall assume office at the next succeeding meeting of the board. When a vacancy occurs in the office of an appointed member, the governor shall, within a period of thirty days and with the advice and consent of the senate, appoint a qualified person to serve the remainder of the term.

Effective Date: 10-05-2000

ORC 3301.07: State board of education – powers and duties.

The state board of education shall exercise under the acts of the general assembly general supervision of the system of public education in the state. In addition to the powers otherwise imposed on the state board under the provisions of law, the board shall have the powers described in this section.

(A) The state board shall exercise policy forming, planning, and evaluative functions for the public schools of the state except as otherwise provided by law.

(B)

(1) The state board shall exercise leadership in the improvement of public education in this state, and administer the educational policies of this state relating to public schools, and relating to instruction and instructional material, building and equipment, transportation of pupils, administrative responsibilities of school officials and personnel, and finance and organization of school districts, educational service centers, and territory. Consultative and advisory services in such matters shall be provided by the board to school districts and educational service centers of this state.

(2) The state board also shall develop a standard of financial reporting which shall be used by each school district board of education and each governing board of an educational service center, each governing authority of a community school established under Chapter 3314., each governing body of a STEM school established under Chapter 3328., and each board of trustees of a college-preparatory boarding school established under Chapter 3328. of the Revised Code to make its financial information and annual budgets for each school building under its control available to the public in a format understandable by the average citizen. The format shall show, both at the district and at the school building level, revenue by source; expenditures for salaries, wages, and benefits of employees, showing such amounts separately for classroom teachers, other employees required to hold licenses issued pursuant to sections 3319.22 to 3319.31 of the Revised Code, and all other employees; expenditures other than for personnel, by category, including utilities, textbooks and other

educational materials, equipment, permanent improvements, pupil transportation, extracurricular athletics, and other extracurricular activities; and per pupil expenditures. The format shall also include information on total revenue and expenditures, per pupil revenue, and expenditures for both classroom and nonclassroom purposes, as defined by the standards adopted under section 3302.20 of the Revised Code in the aggregate and for each subgroup of students, as defined by section 3317.40 of the Revised Code, that receives services provided for by state or federal funding.

(3) Each school district board, governing authority, governing body, or board of trustees, or its respective designee, shall annually report, to the department of education, all financial information required by the standards for financial reporting, as prescribed by division (B)(2) of this section and adopted by the state board. The department shall make all reports submitted pursuant to this division available in such a way that allows for comparison between financial information included in these reports and financial information included in reports produced prior to July 1, 2013. The department shall post these reports in a prominent location on its web site and shall notify each school when reports are made available.

(C) The state board shall administer and supervise the allocation and distribution of all state and federal funds for public school education under the provisions of law, and may prescribe such systems of accounting as are necessary and proper to this function. It may require county auditors and treasurers, boards of education, educational service center governing boards, treasurers of such boards, teachers, and other school officers and employees, or other public officers or employees, to file with it such reports as it may prescribe relating to such funds, or to the management and condition of such funds.

(D)

(1) Wherever in Titles IX, XXIII, XXIX, XXXIII, XXXVII, XLVII, and LI of the Revised Code a reference is made to standards prescribed under this section or division (D) of this section, that reference shall be construed to refer to the standards prescribed under division (D)(2) of this section, unless the context specifically indicates a different meaning or intent.

(2) The state board shall formulate and prescribe minimum standards to be applied to all elementary and secondary schools in this state for the purpose of providing children access to a general education of high quality according to the learning needs of each individual, including students with disabilities, economically disadvantaged students, limited English proficient students, and students identified as gifted. Such standards shall provide adequately for: the licensing of teachers, administrators, and other professional personnel and their assignment according to training and qualifications; efficient and effective instructional materials and equipment, including library facilities; the proper organization, administration, and supervision of each school, including regulations for preparing all necessary records and reports and the preparation of a statement of policies and objectives for each school; the provision of safe buildings, grounds, health and sanitary facilities and services; admission of pupils, and such requirements for their promotion from grade to grade as will assure that they are capable and prepared for the level of study to which they are certified; requirements for graduation; and such other factors as the board finds necessary.

The state board shall base any standards governing the promotion of students or requirements for graduation on the ability of students, at any grade level, to earn credits or advance upon demonstration of mastery of knowledge and skills through competency-based learning models. Credits of grade level advancement shall not require a minimum number of days or hours in a classroom.

The state board shall base any standards governing the assignment of staff on ensuring each school has a sufficient number of teachers to ensure a student has an appropriate level of interaction to meet each student's personal learning goals.

In the formulation and administration of such standards for nonpublic schools the board shall also consider the particular needs, methods and objectives of those schools, provided they do not conflict with the provision of a general education of a high quality and provided that regular procedures shall be followed for promotion from grade to grade of pupils who have met the educational requirements prescribed.

(3) In addition to the minimum standards required by division (D)(2) of this section, the state board may formulate and prescribe the following additional minimum operating standards for school districts:

(a) Standards for the effective and efficient organization, administration, and supervision of each school district with a commitment to high expectations for every student based on the learning needs of each individual, including students with disabilities, economically disadvantaged students, limited English proficient students, and students identified as gifted, and commitment to closing the achievement gap without suppressing the achievement levels of higher achieving students so that all students achieve core knowledge and skills in accordance with the statewide academic standards adopted under section 3301.079 of the Revised Code;

(b) Standards for the establishment of business advisory councils under section 3313.82 of the Revised Code;

(c) Standards for school district buildings that may require

the effective and efficient organization, administration, and supervision of each school district building with a commitment to high expectations for every student based on the learning needs of each individual, including students with disabilities, economically disadvantaged students, limited English proficient students, and students identified as gifted, and commitment to closing the achievement gap without suppressing the achievement levels of higher achieving students so that all students achieve core knowledge and skills in accordance with the statewide academic standards adopted under section 3301.079 of the Revised Code.

(E) The state board may require as part of the health curriculum information developed under section 2108.34 of the Revised Code promoting the donation of anatomical gifts pursuant to Chapter 2108. of the Revised Code and may provide the information to high schools, educational service centers, and joint vocational school district boards of education;

(F) The state board shall prepare and submit annually to the governor and the general assembly a report on the status, needs, and major problems of the public schools of the state, with recommendations for necessary legislative action and a ten-year projection of the state's public and nonpublic school enrollment, by year and by grade level.

(G) The state board shall prepare and submit to the director of budget and management the biennial budgetary requests of the state board of education, for its agencies and for the public schools of the state.

(H) The state board shall cooperate with federal, state, and local agencies concerned with the health and welfare of children and youth of the state.

(I) The state board shall require such reports from school districts and educational service centers, school officers, and employees as are necessary and desirable. The superintendents and treasurers of school districts and educational service centers shall certify as to the accuracy of all reports required by law or state board or state department of education rules to be submitted by the district or educational service center and which contain information necessary for calculation of state funding. Any superintendent who knowingly falsifies such report shall be subject to license revocation pursuant to section 3319.31 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the state board shall adopt procedures, standards, and guidelines for the education of children with disabilities pursuant to Chapter 3323. of the Revised Code, including procedures, standards, and guidelines governing programs and services operated by county boards of developmental disabilities pursuant to section 3323.09 of the Revised Code.

(K) For the purpose of encouraging the development of special programs of education for academically gifted children, the state board shall employ competent persons to analyze and publish data, promote research, advise and counsel with boards of education, and encourage the training of teachers in the special instruction of gifted children. The board may provide financial assistance out of any funds appropriated for this purpose to boards of education and educational service center governing boards for developing and conducting programs of education for academically gifted children.

(L) The state board shall require that all public schools emphasize and encourage, within existing units of study, the teaching of energy and resource conservation as recommended to each district board of education by leading business persons involved in energy production and conservation, beginning in the primary grades.

(M) The state board shall formulate and prescribe minimum standards requiring the use of phonics as a technique in the teaching of reading in grades kindergarten through three. In addition, the state board shall provide in-service training programs for teachers on the use of phonics as a technique in the teaching of reading in grades kindergarten through three.

(N) The state board may adopt rules necessary for carrying out any function imposed on it by law, and may provide rules as are necessary for its government and the government of its employees, and may delegate to the superintendent of public instruction the management and administration of any function imposed on it by law. It may provide for the appointment of board members to serve on temporary committees established by the board for such purposes as are necessary. Permanent or standing committees shall not be created.

(O) Upon application from the board of education of a school district, the superintendent of public instruction may issue a waiver exempting the district from compliance with the standards adopted under divisions (B)(2) and (D) of this section, as

they relate to the operation of a school operated by the district. The state board shall adopt standards for the approval or disapproval of waivers under this division. The state superintendent shall consider every application for a waiver, and shall determine whether to grant or deny a waiver in accordance with the state board's standards. For each waiver granted, the state superintendent shall specify the period of time during which the waiver is in effect, which shall not exceed five years. A district board may apply to renew a waiver.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General AssemblyFile No.8, HB 30, §1, eff. 7/1/2011.

Amended by 129th General AssemblyFile No.28, HB 153, §101.01, eff. 6/30/2011.

Amended by 128th General AssemblyFile No.9, HB 1, §101.01, eff. 7/17/2009 and 10/16/2009.

Amended by 128th General Assemblych.9, SB 79, §1, eff. 10/6/2009.

Effective Date: 10-11-2002; 2007 HB119 09-29-2007; 2008 HB529 04-07-2009

Related Legislative Provision: See 128th General AssemblyFile No.9, HB 1, §812.30.

ORC 3301.09: Superintendent of public instruction shall be secretary of board.

The superintendent of public instruction shall serve as secretary to the state board of education, and shall attend all meetings of the board, or designate a subordinate to attend for him if he is unable to be present, except at such times as the board is considering the employment, retention, or salary of the superintendent of public instruction.

Effective Date: 01-03-1956

ORC 3301.13: Department of education – organization – powers and duties.

The department of education hereby created, shall be the administrative unit and organization through which the policies, directives, and powers of the state board of education and the duties of the superintendent of public instruction are administered by such superintendent as executive officer of the board. The department of education shall consist of the state board of education, the superintendent of public instruction, and a staff of such professional, clerical, and other employees as may be necessary to perform the duties and to exercise the required functions of the department. The department of education shall be organized as provided by law or by order of the state board of education. The superintendent of public instruction shall be the chief administrative officer of such department, and, subject to board policies, rules, and regulations, shall exercise general supervision of the department. The department of education shall be subject to all provisions of law pertaining to departments, offices, or institutions established for the exercise of any function of the state government; excepting that it shall not be one of the departments provided for under division (A) of section [121.01](#) of the Revised Code. In the exercise of any of its functions or powers, including the power to make rules and regulations and to prescribe minimum standards the department of education, and any officer or agency therein, shall be subject to Chapter 119. of the Revised Code. The headquarters of the department of education shall be at the seat of government, where office space suitable and adequate for the work of the department shall be provided by the appropriate state agency. There the state board of education shall meet and transact its business, unless the board chooses to meet elsewhere in Ohio as provided by section [3301.04](#) of the Revised Code. There the records of the state board of education and the records, papers, and documents belonging to the department shall be kept in charge of the superintendent of public instruction. The superintendent of public instruction shall recommend, for approval by the board, the organization of the department of education, and the assignment of the work within such department. The appointment, number, and salaries of assistant superintendents and division heads shall be determined by the state board of education after recommendation of the superintendent of public instruction. Such assistant superintendents and division heads shall serve at the pleasure of the board. The superintendent of public instruction may appoint, fix the salary, and terminate the employment of such other employees as are engaged in educational or research duties.

Effective Date: 07-22-1994