



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

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Sub. H.B. 318

132nd General Assembly
(As Passed by the General Assembly)

- Reps.** Patterson and LaTourette, Boggs, Lepore-Hagan, Carfagna, Slaby, Rogers, Scherer, K. Smith, Miller, Sheehy, Brenner, Fedor, Hambley, Henne, R. Smith, Cera, Green, Sykes, Anielski, Antonio, Arndt, Ashford, Barnes, Boyd, Brown, Craig, Cupp, Duffey, Edwards, Faber, Galonski, Gavarone, Ginter, Greenspan, Hagan, Holmes, Hoops, Hughes, Ingram, T. Johnson, Kelly, Koehler, Landis, Leland, Lipps, Manning, McClain, O'Brien, Patton, Pelanda, Perales, Ramos, Reineke, Rezabek, Riedel, Romanchuk, Ryan, Seitz, Stein, Strahorn, Thompson, West, Wiggam, Young
- Sens.** Lehner, Manning, Oeslager, Tavares, Beagle, Balderson, Brown, Dolan, Eklund, Gardner, Hackett, Hoagland, Hottinger, Huffman, Kunze, LaRose, McColley, Obhof, O'Brien, Peterson, Schiavoni, Sykes, Terhar, Thomas, Uecker, Wilson, Yuko

Effective date: November 2, 2018; appropriations effective August 2, 2018

ACT SUMMARY

SCHOOL SAFETY AND SECURITY

School resource officers

- Establishes qualifications and training requirements for school resource officers (peace officers) and specifies some services they may provide to school districts and schools.
- Requires school resource officers appointed on and after November 2, 2018, to complete 40 hours of specialized training certified by the Ohio Peace Officer Training Commission.
- Requires any school district that obtains school resource officer services to enter into a memorandum of understanding with the appropriate law enforcement agency describing the district's school resource officer program.

* This version corrects the text regarding emergency removal of a student (p. 14).

Other safety and security provisions

- Appropriates \$12 million to the Attorney General for FY 2019 to provide grants to public schools, including those of county boards of developmental disabilities, and chartered nonpublic schools for school safety and school climate programs and training.
- Requires the Department of Public Safety, in consultation with the Facilities Construction Commission, to conduct a study of school security in public and participating chartered nonpublic school buildings by February 1, 2019.
- Transfers unused capital funds from the School Security Grants Program to the General Revenue Fund.

"SAFE ACT"

Title

- Entitles the portion of the act regarding Positive Behavior Intervention and Supports (PBIS), suspensions, expulsions, and emergency removal as the "Supporting Alternatives for Education Act," or the "SAFE Act."

Positive Behavior Intervention and Supports (PBIS)

- Clarifies that each public school must implement a PBIS framework and specifies objectives and contents of the framework.
- Requires all teacher preparation programs to include PBIS instruction for students pursuing a license to teach in any of grades pre-K through 5.
- Requires each school district to provide professional development in PBIS to teachers and administrators.
- Requires each district's professional development committee to establish model courses and monitor a district's provision of professional development in PBIS.
- Includes as a nongraded measure on a district's or school's state report card a statement of whether it has implemented a PBIS framework.

Suspension and expulsion

- Specifies that a student may be expelled for one year for bringing or possessing a knife only if that knife is capable of causing serious bodily injury, as defined by the district or school.



- Requires a school district or school to permit suspended students to complete missed assignments.
- Specifies that any in-school suspension must be served in a supervised learning environment.
- Prohibits out-of-school suspension or expulsion of students in grades pre-K through 3 for minor offenses, but phases in full implementation of the prohibition until the 2021-2022 school year.
- Requires each school district and school to annually report all out-of-school suspensions and expulsions of pre-K through 3 students, categorized by type of offense.
- Requires the Department of Education, by October 1 of school years 2018-2019 through 2021-2022, to issue a report with a summary of the best practices of implementing a PBIS framework and the total number of out-of-school suspensions and expulsions issued for pre-K through 3 students.

Emergency removal

- Reduces from three to one the number of school days within which a post-removal hearing must be held regarding a student's emergency removal.
- Specifies that emergency removal of a student in any of grades pre-K through 3 may be only for the remainder of the school day, unless the student committed an offense warranting suspension or expulsion.

Grants to implement PBIS

- Appropriates \$2 million to the Department of Education in FY 2019 for competitive grants to public schools to implement PBIS frameworks, or evidence- or research-based social and emotional learning initiatives, in buildings that serve any of grades K through 3.

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CONTENT AND OPERATION

SCHOOL SAFETY AND SECURITY

School resource officers

The act establishes the qualifications and training requirements for school resource officers. A "school resource officer" under the act is any certified peace officer appointed through a memorandum of understanding between a law enforcement agency and a school district.¹ Essentially, the act's provisions apply only to school resource officer (peace officer) services, and it appears that districts and schools may continue to procure other forms of security services through other means. But on and after the act's November 2, 2018, effective date, school resource officer services may be procured only in accordance with the act.

¹ R.C. 3313.951.



For purposes of the act, the term "peace officer" is limited to deputy sheriffs, marshals or deputy marshals, and police officers or constables of municipal, township, joint district, or housing authority police forces.²

Completion of specialized training

Each school resource officer appointed on or after November 2, 2018, must complete, within one year after appointment, at least 40 hours of specialized training. It must be completed through one of the following, as approved by the Ohio Peace Officer Training Commission:

- (1) The National Association of School Resource Officers;
- (2) The Ohio School Resource Officers Association; or
- (3) A course that satisfies the act's conditions and is taught by a peace officer certified to conduct the training.

Any school resource officer appointed prior to November 2, 2018, is exempt from the specialized training requirement.³

Dual role of Ohio Peace Officer Training Commission

The act requires the Ohio Peace Officer Training Commission to both:

- (1) Develop and conduct a basic school resource officer training course that includes instruction regarding skills, tactics, and strategies necessary to address the specific nature of school climate and security (see below) and establish criteria for successful completion of that course; and
- (2) Adopt rules for the approval of the National or Ohio School Resource Officer Association or a peace officer certified to conduct specialized training and select the entity that will actually conduct the specialized training.⁴

Provision of specialized training program

Under the act, the National Association of School Resource Officers, the Ohio School Resource Officers Association, or a peace officer certified to conduct a basic school resource officer training course must be approved by the Ohio Peace Officer

² R.C. 3313.951(A)(3). See R.C. 109.71(A)(1), not in the act.

³ R.C. 3313.951(B)(1) and (2).

⁴ R.C. 3313.951(B)(4).



Training Commission to provide the specialized training. Regardless of which entity conducts the training, the program itself also must be certified by the Commission and include instruction regarding skills, tactics, and strategies necessary to address the specific nature of:

- (1) School campuses;
- (2) School building security needs and characteristics;
- (3) The nuances of law enforcement functions conducted in a school environment (see below);
- (4) The mechanics of being a positive role model for youth, including appropriate communication techniques;
- (5) Providing assistance on classroom management tools and managing the behaviors of children with special needs;
- (6) Compulsory attendance laws; and
- (7) Identifying the trends in drug use, eliminating the instance of drug use, and encouraging a drug-free school environment.⁵

Nuances of law enforcement functions

The program must include instruction on "understanding" the following concepts as nuances of law enforcement functions in a school environment:

- (1) The psychological and physiological characteristic of students;
- (2) The appropriate role of school resource officers regarding discipline and reducing the number of referrals to juvenile court; and
- (3) The use of developmentally appropriate interview, interrogation, de-escalation, and behavior management strategies.⁶

Types of services provided by a school resource officer

A school resource officer may carry out any responsibilities outlined in the officer's employment engagement, contract, or memorandum of understanding with a school or district. These include providing a safe learning environment, providing

⁵ R.C. 3313.951(B)(3).

⁶ R.C. 3313.951(B)(3)(c).

resources to school staff, fostering positive relationships, or developing problem resolution strategies.

The act also specifically permits a school resource officer to provide assistance with adoption, implementation, and amendment of comprehensive school emergency management plans. When doing so, it requires a school resource officer to consult with local law enforcement and first responders.

However, the act expressly vests the school district or school administrator with final decision-making authority regarding all matters of school discipline.⁷

Memorandum of understanding

Any school district that is already receiving school resource officer services on November 2, 2018, or that wishes to obtain such services after that date, must enter into a memorandum of understanding with the appropriate law enforcement agency clarifying the (1) purpose of the school resource officer program, and (2) roles and expectations between the participating entities. If a district is already receiving services, the memorandum must be entered into within one year after the act's November 2, 2018, effective date.⁸

Contents

The memorandum of understanding must address the following items:

- (1) Goals for the school resource officer program;
- (2) Background requirements or suggested expertise for employing law enforcement in the school setting, including an understanding of child and adolescent development;
- (3) Professional development, including training requirements that focus on age-appropriate practices for conflict resolution and developmentally informed de-escalation and crisis intervention methods;
- (4) Roles, responsibilities, and expectations of the parties involved, including school resource officers, law enforcement, school administrators, staff, and teachers;
- (5) A protocol for how suspected criminal activity versus school discipline is handled;

⁷ R.C. 3313.951(D) and (E). See also R.C. 3313.536, not in the act.

⁸ R.C. 3313.951(C)(1).



- (6) The requirement for coordinated crisis planning; and
- (7) Any other discretionary items determined appropriate by the parties.⁹

Student input

The act permits a school district to give students an opportunity to provide input during the drafting of a memorandum of understanding.¹⁰

Grants for safety and school climate programs and training

The act appropriates \$12 million from the General Revenue Fund for FY 2019 to the Attorney General to award grants for school safety and school climate programs and training. Grants may be awarded to public and chartered nonpublic schools and schools operated by county boards of developmental disabilities. The Attorney General must operate the grant program in consultation with the Superintendent of Public Instruction and the Director of Mental Health and Addiction Services.

The grants may be used for at least the following:

- (1) School resource officer certification training;
- (2) Any type of active shooter and school safety training;
- (3) All grade level type educational resources;
- (4) Training to identify and assist students with mental health issues; and
- (5) Any other training related to school safety.

Participating schools and county boards must work with or contract with the county sheriff's office or the appropriate local police department to develop these programs and training.¹¹

Study of school security

The act requires the Department of Public Safety, in consultation with the Facilities Construction Commission, to conduct a study of school security in existing buildings of public schools and participating chartered nonpublic schools. The study must include:

⁹ R.C. 3313.951(C)(2).

¹⁰ R.C. 3313.951(C)(3).

¹¹ Section 4.



- (1) The types of physical security measures used in school buildings;
- (2) Options for possible security upgrades for school buildings;
- (3) An analysis of the most cost-effective ways to add physical security changes to existing school buildings;
- (4) The number of school buildings with a school resource officer;
- (5) The number of buildings with school security personnel not reported in (4), including school buildings that use retired law enforcement as school security; and
- (6) Recommendations for improving school security.

The Department must submit the study to the Governor and to each member of the General Assembly by February 1, 2019.¹²

Finally, the act specifies that in the interest of maintaining student and staff safety, any information provided by a school to the Department of Public Safety is a security record and is not a public record.¹³

Transfer of unused School Security Grant funds

The act transfers to the General Revenue Fund the unused capital funds from the School Security Grants Program, which reimbursed public and chartered nonpublic schools for emergency communications systems and security entrance systems purchased between January 2013 and March 2017.¹⁴

"SAFE ACT"

Overview

A portion of the act is designated as the "Supporting Alternatives for Education Act," or the "SAFE Act."¹⁵ These provisions specify the objectives and contents of the Positive Behavior Intervention and Supports (PBIS) framework that each public school is required to implement under continuing law and administrative rule. The SAFE Act also promotes use of the PBIS framework in lieu of suspending or expelling younger

¹² Section 8.

¹³ See R.C. 149.433, not in the act.

¹⁴ Section 7. See <https://www.legislature.ohio.gov/download?key=10170&format=pdf> for the LSC fiscal note for H.B. 318, as enacted.

¹⁵ Section 11.



students by gradually prohibiting out-of-school suspension and expulsion of those students for minor offenses. In addition, it makes related changes to the process for emergency removal of students, with specific provisions applying only to younger students. Finally, it makes an appropriation for PBIS implementation grants.

Positive Behavior Intervention and Supports (PBIS)

Adoption of a PBIS framework

The act clarifies that each public school must implement a PBIS framework on a system-wide basis designed to improve academic and social outcomes and increase learning for all students. It requires the Department of Education to oversee compliance with framework implementation. Each framework may focus on the following:

(1) Comprehensive, school-wide data systems that enable monitoring of academic progress, behavioral incidents, attendance, and other critical indicators across classrooms;

(2) School-wide investment in evidence-based curriculum and effective instructional strategies, matched to students' needs, and data to support teachers' academic instruction;

(3) An expectation by school administrators that classroom practices be linked to and aligned with the school-wide system; and

(4) Improving staff climate and culture regarding the role of discipline in the classroom, established through the use of positive and proactive communication and staff recognition.¹⁶

Training on PBIS

Teacher preparation programs

The act requires that each teacher preparation program include a course for all students pursuing a license to teach in any of grades pre-K through 5 that provides instruction on:

(1) PBIS and social-emotional development;

¹⁶ R.C. 3319.46. Conforming changes in R.C. 3313.534. R.C. 3319.46 applies to community schools, STEM and STEAM schools, and college-preparatory boarding schools through references in R.C. 3314.03(A)(11)(d), 3326.11, and 3328.24, none in the act. See also Ohio Administrative Code 3301-35-15.

(2) Classroom systems for establishing the foundation for positive behavior, such as supervision, acknowledgment, prompts, and "precorrection;"

(3) Classroom systems for responding to unwanted behavior, including error correction and other strategies;

(4) Classroom data collection systems;

(5) Effective instructional strategies and how to implement them with fidelity;

(6) Matching curriculum to student needs and data; and

(7) The impact of trauma, toxic stress, and other environmental variables on learning behavior.¹⁷

Professional development

As part of the school-wide implementation of a PBIS framework, each school district, by November 2021 (three years after the act's effective date), must provide professional development or continuing education in PBIS. Specifically, it must provide this training to (1) teachers in buildings that serve students in any of grades pre-K through 3 who completed a teacher preparation program prior to November 2, 2018, and (2) administrators who serve students in any of grades pre-K through 3 who have not already completed a course, professional development, or continuing education in PBIS. Each district's local professional development committee must monitor compliance with this requirement and establish model professional development courses to assist in compliance.¹⁸

State Board policy regarding PBIS

By January 31, 2019 (90 days after the act's effective date), the State Board of Education must amend its policy and standards for the implementation of a PBIS framework to reflect the act's changes, including the new training provisions.¹⁹ The act does not affect the State Board's policy and standards for the use of physical restraint or seclusion.

¹⁷ R.C. 3319.237(A).

¹⁸ R.C. 3319.237(B).

¹⁹ R.C. 3319.46(A).



Compliance with PBIS as a nongraded report card measure

The act requires that a school district's or building's state report card include, without an assigned letter grade, an answer of "yes" or "no" as to whether it has implemented a PBIS framework in compliance with the act.²⁰

Suspension and expulsion

Continuing law authorizes the suspension of any student for up to ten days for minor infractions and expulsion for up to 80 days for serious violations of the student code of conduct. The law further specifies a number of serious offenses for which expulsions of a year are required or may be authorized, namely (1) bringing a firearm or knife to school, (2) possessing a firearm or knife at school, (3) making a bomb threat, or (4) causing serious physical harm to persons or property.²¹

Provisions applicable to all students regardless of grade level

Expulsion for a knife at school

The act specifies that a student may be expelled for bringing or possessing a knife only if it is "capable of causing serious bodily injury," as defined by the district board or school governing authority.²²

Ability to make up work

The act requires, rather than permits as under former law, a district or school to allow a student to complete classroom assignments missed during both in-school and out-of-school suspensions.²³

Supervised learning environment

The act specifies that the entirety of an "in-school suspension" must be served in a supervised learning environment within a school setting.²⁴

²⁰ R.C. 3302.03(C)(2)(h).

²¹ R.C. 3313.66(A) and (B).

²² R.C. 3313.66(B)(3) and 3313.661(A).

²³ R.C. 3313.66(A).

²⁴ R.C. 3313.66(A)(2) and (K)(2).



Notice to the district treasurer

The act removes the requirement that a district superintendent or school principal notify the district treasurer within one school day after the suspension of a student. However, it maintains the required notification of the treasurer within one school day after an expulsion.²⁵

Provisions applicable only to students in grades pre-K through 3

Out-of-school suspension or expulsion for "minor offenses" prohibited

The act prohibits a public school from issuing an out-of-school suspension or expulsion for a student in grades pre-K through 3 except for serious offenses or as necessary to protect the immediate health and safety of the student, classmates, classroom staff and teachers, or other school employees.

A school district's or school's authority to issue an in-school suspension for a student in grades pre-K through 3 is expressly not affected by the act, provided the suspension is served in a supervised learning environment.²⁶

Phased implementation

The act phases in implementation of this prohibition. To that end, for each of school years 2018-2019 through 2021-2022 each district and school must report to the Department of Education the number of out-of-school suspensions and expulsions issued to students in grades pre-K through 3, according to the following categories:

- *Category 1:* A serious and specific offense for which suspension or expulsion is statutorily required (bringing a firearm to school) or statutorily authorized (possessing a firearm, bringing a knife capable of bodily injury, making a bomb threat, or causing serious harm to persons or property).
- *Category 2:* An offense not listed in *Category 1* but for which the district or school determined suspension was necessary to protect the immediate health and safety of the student, the student's classmates, or the classroom staff or teachers.
- *Category 3:* A "minor offense" not described in *Category 1* or *Category 2*.

²⁵ R.C. 3313.66(D).

²⁶ R.C. 3313.668(B)(1) and (4).



Using the numbers reported for the 2018-2019 school year as a base line, each district or school must reduce the number of *Category 3* suspensions according to the following schedule:

Percentage of Reduction in Category 3 suspensions				
2017-2018	2018-2019	2019-2020	2020-2021	2021-2022
0%	0%	25%	50%	100%

For the 2021-2022 school year, and each year thereafter, all out-of-school suspensions and expulsions of students in grades pre-K through 3 must be for only *Category 1* or *Category 2* offenses.

After the 2021-2022 school year, a district must report the number of out-of-school suspensions and expulsions if the Department determines that continued reporting is necessary.²⁷

Consultation with mental health professional

Beginning with the 2018-2019 school year, a school principal, whenever possible, must consult with a mental health professional under contract with the district or school before issuing an out-of-school suspension or expulsion for a student in grades pre-K through 3. If a need for additional mental health services is indicated, the principal or mental health professional, without a financial burden to the district or school, must assist the student's parent or guardian with locating providers or obtaining those services. That assistance might include referral to an independent mental health professional.

This and all other provisions of the act expressly do not limit a district's responsibility to provide special education and support services in the manner required by state and federal law.²⁸

Department reports

Using the data submitted by districts and schools under the act, by October 1 of school years 2018-2019 through 2021-2022, the Department of Education must submit to the General Assembly and the Superintendent of Public Instruction a report containing the following:

²⁷ Section 9.

²⁸ R.C. 3313.668(B)(2) and Section 10.

(1) A summary of the best practices of implementing a PBIS framework by school districts throughout Ohio; and

(2) The total number of out-of-school suspensions and expulsions issued by a district or building to students in grades pre-K through 3, disaggregated by category of offense, and disaggregated within each category of offense according to sex, race, whether the student is economically disadvantaged, and whether the student has a disability.²⁹

Emergency removal

Provisions applicable to all students regardless of grade level

Under continuing law, a building principal or teacher, without prior notice and hearing, may remove a student whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process. That law requires written notice as soon as practicable and a post-removal hearing. The act requires that the hearing be held the next school day after the removal, instead of within three school days after the removal as under former law.³⁰

Provisions applicable only to students in grades pre-K through 3

The act also specifies that a student in grades pre-K through 3 removed under this provision must be permitted to return to curricular and extracurricular activities on the school day following the day the student was removed. If the student is returned to activities in accordance with this requirement, the district or school can forego the written notice and one-day post-removal hearing requirements. However, a school district may not initiate a suspension or expulsion proceeding against a young student who was removed unless (1) the student committed a serious offense or (2) it is necessary to protect the immediate health and safety of the student, the student's classmates, or the classroom staff and teachers.³¹

Grants to implement PBIS

The act appropriates to the Department of Education \$2 million of State Lottery profits for FY 2019 to provide competitive grants to school districts, community schools, and STEM or STEAM schools to implement PBIS frameworks or evidence- or research-based social and emotional learning initiatives. Only school buildings that serve any of

²⁹ Section 9(F).

³⁰ R.C. 3313.66(C)(1) and (3).

³¹ R.C. 3313.66(C)(2).



grades K through 3 are eligible. A grant must not exceed \$5,000 per eligible building, up to a maximum of \$50,000 per grant applicant. The Superintendent of Public Instruction must administer and award the grants according to the priority schedule described below.

Order of priority for PBIS grants	
First	Proposals serving at least one building where the percentage of economically disadvantaged students exceeds the statewide average.
Second	Proposals serving at least one building with a high suspension rate, as determined by the state Superintendent.
Third	All other proposals by order of receipt.

All grant funds must be used within two years from the date of an award.³²

HISTORY

ACTION	DATE
Introduced	08-09-17
Reported, H. Education & Career Readiness	02-28-18
Re-referred by H. Rules & Reference	03-06-18
Reported, H. Finance	04-10-18
Passed House (92-2)	04-11-18
Reported, S. Finance	06-06-18
Passed Senate (33-0)	06-06-18
House concurred in Senate amendments (71-20)	06-27-18

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³² Section 5.

