**OEA Government Relations**

**House Bill 404 – Additional Flexibility for Schools, Student and Educators Due to Covid-19**

**November 20, 2020**

Status: House Bill 404 (R-Manchester/D-Sweeney) received final approval from the General Assembly on November 19, 2020. The bill will be effective immediately upon being signed by the Governor.

**Evaluations - prohibition on use of student growth measures**

* Extends to the 2021-2022 school year a prohibition against using value-added data, other high-quality student data, any other metric used to evaluate positive student outcomes, or any other academic growth data to measure student learning attributable to a teacher, principal, or school counselor while conducting performance evaluations.
* Extends to the 2020-2021 school year a separate authorization for a district board to complete a principal's performance evaluation without a student growth measure.

**Evaluations - authority not to complete**

* Specifies that for the 2020-2021 school year a school district board of education may elect not to complete a performance evaluation of a district employee, including a teacher, school counselor, administrator, or superintendent if the district or board determines that it is impossible or impracticable to do so.
* If a district board elects not to evaluate an employee for the 2020-2021 school year, the employee shall be considered not to have had evaluation procedures complied with pursuant to section the Revised Code for purposes of section 3319.11 of the Revised Code.
* The district board may collaborate with any bargaining organization representing employees of the district in determining whether to complete evaluations for the 2020-2021 school year.
* Nothing in this section shall preclude a district board from using an evaluation completed prior to the effective date (immediately upon Governor’s signature) of this section in employment decisions.

**Evaluations – pilot programs**

* Extends the authority for a school district that did not participate in the teacher evaluation pilot program established for the 2019-2020 school year and that completes evaluations for the 2020-2021 school year without a student growth measure to continue evaluating teachers who are on a two- or three-year evaluation cycle on their longer evaluation cycles. These teachers must remain at the same point in their evaluation cycle and retain their evaluation rating for the 2021-2022 school year as for 2019-2020, in addition to the 2020-2021 school year under current law (typically, teachers on these longer evaluation cycles are required to have student growth measures. Without them, teachers evaluated less frequently under current law would revert to a full evaluation in the following school year, meaning that a district otherwise would need to evaluate all of their teachers in the 2021-2022 school year).

**Licenses – deadline extensions**

* Extends, from December 1, 2020, until July 1, 2021, the temporary extension of continuing law deadlines under H.B. 197 of the 133rd General Assembly with which a state agency must comply if the deadlines occur on or before April 1, 2021.
* Extends, from December 1, 2020, until July 1, 2021, the temporary extension of continuing law deadlines under H.B. 197 of the 133rd General Assembly with which a licensee must comply to maintain a valid license if the deadlines occur on or before April 1, 2021.
* Extends, from December 1, 2020, until July 1, 2021, the provision under H.B. 197 of the 133rd General Assembly that allows a license that would otherwise expire on or before April 1, 2021, to remain valid until July 1, 2021.

**Diagnostic assessments for 2020-2021**

* Specifies that school districts, community schools, STEM schools, chartered nonpublic schools, the State School for the Deaf, and the State School for the Blind may not be penalized for failing to administer to a student in the fall of the 2020- 2021 school year the Kindergarten Readiness Assessment, any diagnostic assessments, or the third-grade English Language Arts achievement assessment, as otherwise required under continuing law, if:
  + (1) The student is being quarantined;
  + (2) The student, or a member of the student's family, is medically compromised and the student cannot attend school, or another physical location outside of the home, for the testing;
  + (3) The student resides in a geographic area that is subject to an order issued by the Governor, the Department of Health, or the board of health of a city or general health district that requires all persons in that area to remain in their residences; or
  + (4) The student is receiving instruction primarily through a remote learning model up through the deadline for the prescribed assessments and they cannot be administered remotely.
* States that the above provisions should not be construed as prohibiting a district or school from administering any of the above assessments if it elects to do so.

**Kindergarten and first grade health screenings**

* Specifies that a school district, community school, or STEM school may not be penalized for failing to conduct health screenings for a student in kindergarten or first grade prior to November 1, 2020, as otherwise required under continuing law, if that student was a "qualifying student" prior to that date.
* Requires a district or school to conduct health screenings prescribed under continuing law for kindergarten and first grade students who did not receive those screenings for the 2020-2021 school year prior to the bill's effective date (immediately upon Governor’s signature), but specifies that a school may forego screenings until they can be safely conducted for a particular student if that student is a "qualifying student."
* "Qualifying student" if: (1) The student is being quarantined; (2) The student, or a member of the student's family, is medically compromised and the student cannot attend school, or another physical location outside of the home, for the screening; (3) The student resides in an area subject to a stay-at home order from the Governor, Department of Health, or local board of health; or (4) The student is receiving instruction primarily through a remote learning model, and the screening cannot be administered remotely.

**Food processing registration exemption for schools**

* The bill extends from December 1, 2020, to July 1, 2021, the termination date of provisions of H.B. 197 of the 133rd General Assembly authorizing the Department of Agriculture to exempt from regulation a food processing establishment at a school or other entity that has (1) a food service operation license (issued by local boards of health), and (2) is transporting food from the establishment only for purposes of the Seamless Summer Option Program or the Summer Food Service Program administered by the U.S. Department of Agriculture.

**Retirant reemployment penalty waiver**

* Extends, from December 1, 2020, until July 1, 2021, the existing temporary penalty waiver under H.B. 197 of the 133rd General Assembly for a retired state retirement system member who has received a retirement allowance for less than two months and is reemployed by any of the following public employers during that two-month period:
  + Department of Rehabilitation and Correction;
  + Department of Youth Services;
  + Department of Mental Health and Addiction Services;
  + Department of Veterans Services;
  + Department of Developmental Disabilities.

**College Credit Plus for the 2020-2021 and 2021-2022 school years**

* Extends the authority for the Chancellor of Higher Education to extend, waive, or modify requirements of the College Credit Plus Program for the 2020-2021 and 2021-2022 school years. (Under H.B. 197 of the 133rd General Assembly, this authority was granted for the 2019-2020 school year only.)

**Open meetings during Covid-19**

* Extends the authorization for members of a public body to hold or attend meetings and hearings via electronic technology from December 1, 2020, until July 1, 2021. The bill gives boards of trustees of institutions of higher education the same temporary authority as other public bodies to conduct meetings through electronic communications.