



“All who have meditated on the art of governing mankind have been convinced that the fate of empires depends on the education of youth.”

– Aristotle

Public Education In Ohio

Tuition and Residency

In Ohio, a child may attend school in the school district in which his or her parent lives. The parent is not responsible for paying tuition (though the parent may be responsible for other school-related fees). “Parent” refers to either parent, unless the parents are separated or divorced, in which case, “parent” refers to the residential parent who has legal custody of the child. A child who does *not* live with parents can attend a public school without paying tuition if:

- the child is in the legal or permanent custody of a government agency or a person other than the child’s natural or adoptive parent;
- the child resides in a “home” for children within the school district;
- the child receives special education.

If the parents’ residential district participates in open enrollment, they may send their child to a *contiguous* school district without tuition payment as long as the contiguous district also has an open enrollment policy. Each district determines its own policy and must make the policy available to district residents upon request.

In 2004, Ohio adopted a rule to allow grandparents to get physical custody of and control over their grandchildren. This rule entitles grandchildren to attend school near the grandparent’s home without paying tuition and without requiring a legal change in custody. Instead, the child’s parent, guardian or custodian completes a power of attorney document that allows the child to attend school in the grandparent’s school district. If the child’s parent cannot be located, the grandparent can create a *child caretaker authorization affidavit* to provide the same benefit. Whether parents who simply prefer the

grandparents’ school district and do not wish to pay tuition can use this law has yet to be tested.

In addition, students may attend school without paying tuition under certain circumstances, as follows:

- All individuals who are at least 18 years of age, who have not received a diploma, who live apart from their parents, and who support themselves, may attend school in the district in which they live.
- Any children under age 18 who are married may attend school in the district in which they live.
- Any child who lives with another adult while the parent(s) are in the military may attend school in the caretaker adult’s district as long as the child’s parent(s) intend to return to that district when the military tour ends.
- Any child under age 22 who moves outside the home district after a parent’s death may attend school in the district he or she attended before the parent’s death for the rest of the current school year.
- Any child under age 22 whose parents are building a new home may attend school in the new school district for up to 90 days without paying tuition as long as the parents give the superintendent of the new district a sworn statement indicating the location of the new home, their intent to live in it, and written confirmation by the builder that the house is being built.
- Any child whose parents have contracted to buy a home in a new school district may attend school in that district for up to 90 days if the parents provide a sworn statement indicating the location of the home, their intent to live there, and confirmation by the real estate officer or bank officer that the parents are in the process of buying the home.
- A child who, with the parent, is under the care of a shelter for domestic violence may attend school in the district in which the shelter is located.
- Any child whose parent has moved out of the

district after the child's senior year of high school has started may complete the senior year within that district, as long as the board of education consents.

States require payment from one district to another if one district is providing education to students under a *consortium*. A consortium consists of various districts that have legally banded together to provide educational services at a central location. Many consortiums are formed to provide services to special education students who require specialized services too costly to provide in each different district. Also, vocational schools may be open to students in a number of districts. While tuition is required in all of these instances, the sending school district, rather than the parent, pays the tuition.

Rarely, a district may send a special education child to another district, a private school or a residential placement for educational services. Most of these placements are made through special education procedures or by court order, and the sending district pays tuition to the receiving school(s) for these students.

Finally, a district's board of education may allow students who live with their parents in another district to pay tuition to attend its schools. Each district that accepts tuition-paying students does so under its own plan and with its own requirements.

Custody

Only a parent or guardian may control educational decisions for a child under the age of 18. Ohio recognizes natural or adoptive parents as the rightful decision-makers for their minor children unless the state has revoked parental rights through very specific court proceedings. However, courts may become involved in determining who will make decisions for a minor child in several situations, including when parents

divorce or die, or when a child is removed from the parents' custody.

Compulsory attendance

Ohio mandates compulsory education for all children living in Ohio who are between six and 18 years of age. Attendance is required until the student meets the state's minimum standard and receives a diploma.

Valid Medical Excuse

Children who have a physical or mental disability and a valid excuse may be excused from compulsory school attendance. A valid excuse can be written by a certified licensed physician or clinical psychologist, or by a school psychologist. A properly excused child may be entitled to have the school district provide home instruction if the child will be out of school for a lengthy period of time.

The home instruction program should meet the child's individual needs and be taught by a teacher qualified in the required subject areas. Home instruction should continue until the student is medically able to return to school.

Home Schooling

Parents may wish, for a variety of reasons, to educate their children at home. This is known as *home schooling*. A parent who wishes to home school a child must apply to the county or state superintendent. In the application, the parent must agree to educate the child in all areas prescribed by state standards, and must provide details about how this will be done, who will teach, and what textbook, courses or teaching materials will be used. Also, the parent must provide assurance that the child will receive a minimum of 900 hours of home education for the school year. The parent must be a high school graduate, but need not be a certified teacher to home school his or her own child.

At the end of the school year, the parent must send an academic assessment report to the superintendent. The report should include the

results of a nationally normed, standardized achievement test that was administered to the child by a certified teacher or someone acceptable to the superintendent and the parent. If the child's composite achievement test score is at or above the 25th percentile, then the child's performance level will be considered reasonably proficient. The parent also must submit a written narrative, prepared by a certified teacher or someone acceptable to both the superintendent and the parent. The narrative must state that samples of the child's work have been reviewed and indicate that the child's academic work matches his/her abilities.

Age / Schooling Certificate

A student may be excused from compulsory school attendance if the student must work to help a parent or legal guardian. In order to be excused, a student must submit an application to the district superintendent for an *age or schooling certificate*. This certificate allows the student to work if that student has attended school within the district for the past two years and has diligently attempted to complete the necessary course work.

To be eligible for an age or schooling certificate, the student may not be addicted to drugs or alcohol, and must demonstrate that the student's home conditions are such that the student's financial support is necessary. Also, the student must be employed where children are lawfully allowed to work and the employer must provide the school district superintendent with written confirmation of the employment offer. If the student stops working for any reason whatsoever, the employer must notify the superintendent within 48 hours.

While excusing a student from compulsory school attendance, an age or schooling certificate does not necessarily excuse the student from all educational programming requirements. A student of 14 or more years of age must continue in a part-time educational program through night or day courses offered by the district, if available, or outside the district if necessary. A child of 16 or more years of age may have this

requirement specifically waived by the district's superintendent.

Truancy

Truancy is considered a major juvenile offense that subjects the parents to court action. According to Ohio law, parents must make sure their children are not truant from school. -

A child who is absent 10 or more consecutive days without a valid excuse is considered truant and subject to the juvenile legal system. The juvenile legal system may impose penalties on either the parent, the child or both. However, a school district may choose to notify the parent and student before referring the student to juvenile court. The district also may require the parents and the student to appear at school. If the parents and student do not respond to the school's summons, the school may refer the case to the court as well as to the registrar of the Ohio Bureau of Motor Vehicles (BMV).

If the case is referred to the BMV, the BMV registrar may suspend the student's driver's license permanently until the student reaches the age of 18 or satisfies the BMV that he or she is attending school.

Alternatives to Public Education

Voucher Programs

Voucher programs, also known as scholarship programs, were established by the state for students who live in a public school district that has been classified as "needing improvement" and has been placed under a federal court order requiring the state superintendent to manage the district. Students may use these scholarships to help pay tuition costs for private schooling. Currently, only six states have instituted voucher programs. While Ohio is included among these six states, Cleveland is the only city in the state to have a voucher program.

Voucher programs give priority to low-income families who cannot afford to pay private school tuition costs or move to another school district. To receive scholarships, which may cover up to 90 percent of private school tuition, students must apply. Students who receive scholarships may choose to attend any private or public school that has applied to participate in the voucher program. However, any student who wishes to attend a participating private school still must apply for admission and be accepted to that school. Students who choose to stay in a school found to be in need of improvement can apply for grants so they can receive help from tutors.

To participate in the voucher program, a private school must be located within the boundaries of the failing school district. Another public school district also may apply to participate if it is located next to the failing school district.

The Cleveland voucher program is available for students in kindergarten through third grade. Students who receive scholarships will continue to receive scholarship money each year through tenth grade. At the time this book was printed, a statewide voucher program had been proposed, but not enacted.

Charter schools

A *charter school* is a nonsectarian public school that is frequently established to meet students' various learning styles. Agencies established by the Ohio legislature supervise Ohio's charter schools. Charter schools may be started *only* in school districts the state has determined to be "challenged school districts" and in Ohio's major urban districts. However, a student need not live within a "challenged" district to attend a charter school.

Like traditional public schools, charter schools have open enrollment policies and must follow federal and state laws prohibiting discrimination based on race, disability, gender, national origin, or religion. Charter schools do not require parents to pay tuition, and are exempt from state statutes that do not specifically apply to them. Therefore,

they have more autonomy than traditional public schools.

There are two major types of charter schools: *facility-based schools* and *Internet schools*. A facility-based school is housed in a building and runs much like an ordinary public school, but with fewer students than a regular public school. The small size allows students to receive more attention.

An Internet- or computer-based school that allows students to work at home and get their assignments primarily through the Internet can serve students anywhere within the State of Ohio. Each Internet school provides students with computer systems at no cost to parents.

Facility-based and Internet schools also may specify that they will work with at-risk students, gifted students, or that they will work only with an all-female or all-male student body. All students may attend these specially designated schools, even if they do not fall into a particular category.

A school must enroll at least 25 students in order to qualify as a charter school (whether it is a facility-based or an Internet school), and it must may serve only as many students as its charter application allows. A charter school that receives too many applications must institute a lottery process so that each child who applies is given an equal opportunity for admission. Returning students and their siblings receive admission preference. Each charter school establishes its own admission policy within its charter's guidelines.

Like all public schools, students in charter schools must take state tests to determine if they have made adequate yearly progress. If students do not perform adequately, Ohio will classify the school as not having met the standard for adequate yearly progress and may sanction the school. Charter schools must meet state requirements as well as the federal requirements of the No Child Left Behind Act and the Individuals with Disabilities Education Act. (*See an explanation of these acts later in this chapter.*)

Ohio School Funding & Management

Both traditional public schools and charter schools are funded on a per-pupil basis by the state according to certain formulas. Local school districts also receive funding through local property taxes. These taxes may not be passed on to charter schools. Public schools, both traditional and charter schools, are eligible for grant programs through state, federal and private foundations. Public schools must adhere to federal and state regulations regarding school districts' operation and management, and are governed by local, elected, boards of education. All students residing within the boundaries of a school district are eligible for enrollment and cannot be denied an education unless expelled.

Private schools are funded through tuition costs, fundraising, donations, and private grants. They also receive money from state grants and by meeting certain federal and state requirements. Because private schools are subject to fewer state and federal regulations than public schools, their administrators can create specialized programs, alter the curriculum of instruction, and hire a teacher who holds a bachelor's degree, but not necessarily a teaching degree. Private schools can set admission standards and may refuse admission to any student for non-discriminatory reasons. Private school students must, however, take the Ohio Graduation Test or meet a state-approved alternative requirement.

Parochial schools are private schools that incorporate religious education into their curriculum. Students who enroll in parochial schools are not required to belong to any particular religious organization, but they are expected to participate in the school's religious classes and services.

Student Rights

First Amendment Rights

Students do not lose their First Amendment right to freedom of speech when they enter school, but public, private and parochial schools may limit students' rights to express opinions when the expressions are vulgar or offensive, or interfere with the educational instruction of other students. Also, school administrators may censor student expressions in speech and in writing if they are produced as part of a school activity or curriculum (such as an article for a school newspaper), and if there is a legitimate reason for doing so (for example, if school officials determine that the subject matter is inappropriate). A school official may not, however, censor only one side of a debated issue.

School officials may exercise censorship control over the speech and written materials of organizations, including religious and political organizations, that are not affiliated with the school, but only if the materials cause a disruption and interfere with the education and environment of the school. School administrators also may ban the distribution of materials that are vulgar, offensive, or coercive, and they may limit when and where these materials are distributed.

The First Amendment requires public schools to remain neutral with respect to religion. Teachers and administrators may not force students to pray, read religious text for which there is no approved educational purpose, or lead students in prayer. However, public school students *do* have a right to voluntarily pray before, during, or after school, and schools may not ban religious clothing. If a public school allows

student-run clubs to meet outside of class time, a student-formed religious club also must be permitted to meet. Public schools also may implement a moment of silence, but may not require students to pray. In addition, courts have ruled that reciting the Pledge of Allegiance must be a voluntary act, and it is a violation of First Amendment rights for schools to require students to recite the pledge.

Regulations on dress and hairstyles have caused students to voice concerns over their rights to freedom of speech as guaranteed by the First Amendment. Courts, however, generally have upheld any school dress regulation as long as the adopted codes are specific, do not discriminate and have some basis, such as to promote appropriate behavior and avoid unruly conduct. Hair codes are more difficult to enforce, but may be permitted when implemented for safety or other legitimate reasons. Each state follows its own regulations on hair and dress code enforcement.

Student rights also include the freedom of association. This is the right to form clubs and groups and to meet during non-instructional time without school administration interference. If a school allows any student-initiated groups to form, administrators may not discriminate against and prohibit the formation of a particular student-run group. Schools officials and staff members also may not lead, participate, or control these groups.

Students attending public schools generally have fewer limitations placed upon their freedom of speech than do students attending private or parochial schools. Because the First Amendment right of free speech is protected by the federal government, which funds and regulates public schools, it has greater control over public schools regarding First Amendment rights than over private and parochial schools that receive little or no federal funding.

Student Discipline

In Ohio, school officials generally may discipline a student for conduct that disrupts the school

day or endangers the health or welfare of the student or others. Typically, a local school district will, through its Board of Education, circulate a student code of conduct. A school official typically determines consequences for unacceptable behavior. These may vary greatly and include warnings, corporal punishment (with limitations), detention, in-school suspensions, Saturday school, out-of-school suspensions and expulsions.

Some school disciplinary codes include broad prohibitions against “willful misconduct,” “disobedience” and “intentional disruption.” Increasingly, schools are using these more general prohibitions to impose discipline for actions that occur outside school.

Out-of-school *suspensions* and *expulsions* are the most severe of the possible consequences. For out-of-school suspensions lasting up to and including 10 days, the student must receive oral or written notice of the charges. If the student denies the charges, school administrators must provide an explanation and evidence and offer the student a chance to present his/her side of the story at an informal hearing. Frequently, the notice and hearing will take place at the same time in the disciplinarian’s office. If a student poses a risk or ongoing threat, the student may be immediately removed from the school, even though notice and the chance to explain must be given before consequences are determined. If a student is suspended for 10 or fewer days, the school need not give the student an opportunity to retain legal counsel, cross-examine witnesses, or call his/her own witnesses. However, parents who disagree with a suspension of 10 or fewer days may appeal the decision to the school’s superintendent according to the district’s policies.

In Ohio, any out-of-school suspension of more than 10 days is considered an expulsion. Students who face being excluded from school for longer than 10 days have certain rights. For example, the school must provide a written notice of the intent to expel to the student’s parents (or to the student, if 18 years of age). This initial notice must outline the infraction and set a date for a hearing not

longer than 10 days after the student's removal from school, to be conducted by the superintendent or representative. The student must be allowed to hear evidence against him/her, present his/her own evidence, and bring legal counsel. The hearing must be recorded to create a permanent, verbatim transcript of the proceeding.

If, at the hearing, it is decided that the student should be expelled, the district must send a second notice to the student outlining the length of the expulsion and his/her right to appeal to the Board of Education and state court. In Ohio, a student generally may be expelled for no more than 80 school days (which may extend into the next school year). For specific infractions, including drug or weapon offenses, a student over age 16 may be permanently expelled. A student, unless disabled, is not eligible to receive educational services from the expelling school; nor does the student have a chance to make up missed work. Nevertheless, the student may apply to receive educational services from another public or private school in the state during the period of the expulsion. The other school *may*, but is not obligated to, accept the student into regular classes or provide educational services until the student fully serves the expulsion term. However, any grade or credit earned at the other school during the time of the expulsion will not be applied to the student's record in the expelling school. Due to state and local school boards' zero tolerance policies, expulsions occur more frequently than in the past. Under the zero tolerance policy, anyone bringing drugs, firearms, knives, or other weapons to school may be expelled. School districts may decide to include medicines or pocket knives in this list.

These general provisions are modified for students that have been identified as or suspected of having a disability. For such a student, educational services must be continued, according to the *Individualized Education Plan (IEP)*, during periods of discipline beyond 10 days. If the student's conduct: 1) was caused by, or was directly and substantially related to, the disability; or 2) was the direct result of the school's failure to

implement the IEP, then the behavior is considered a "manifestation" of the disability. Schools now may remove a student with disabilities who possesses drugs or weapons in school, or inflicts serious bodily injury on another person, even if the infraction is a manifestation of a disability, for up to 45 days. If the disabled student is removed from school, the district must continue to educate the student in an interim alternative educational setting. (*See sections later in this chapter for a more detailed explanation of discipline provisions as they apply to children with special needs.*)

Student Right to Privacy

Increasingly, school districts are turning to traditional law enforcement techniques to secure their buildings and prevent drug or weapon use on school grounds. In Ohio, only law enforcement officials may carry guns onto school grounds. Also, no person may enter a school building with a concealed weapon, even if certified to carry a concealed weapon. Schools may use metal detectors to help ensure student safety.

Similarly, locker searches conducted by school officials are permitted in emergency situations. A district's board of education may authorize random locker searches, as long as notice is posted in a conspicuous location. School boards also may specifically grant school administrators the authority to search a locker when there is reasonable suspicion that the locker contains evidence of violations of law or school rules.

Searches of other personal property or persons are more strongly regulated, although they do not require a warrant. A school administrator may search a student or a student's belongings if there is good reason to believe an inappropriate item will be found. School officials must be especially careful about justifying a search of a student's person, and about conducting the search so that it is limited in scope and not overly intrusive.

Harassment

Harassment refers to severe, pervasive, or objectively offensive conduct based upon a

student's actual or perceived race, color, national origin, gender, disability, sexual orientation, religion, or other identifying characteristic. Harassment includes physical, emotional, and/or sexual conduct that causes harm to the targeted student, often affecting a child's performance in educational or social activities. *Bullying* (using power inappropriately to intimidate or harm another) also may affect a student's school performance, but is not necessarily related to the target's race or other identifying characteristic.

Federal laws prohibit particular types of harassment, but no comprehensive law addresses all forms of harassment in schools. At this time, there is no law specifically prohibiting bullying, though most schools prohibit all forms of harassment, bullying, hazing, and other behavior that interferes with learning. Also, the No Child Left Behind Act of 2001 requires school districts receiving federal money to provide a plan for making classroom environments conducive to learning and schools safe and drug free.

In Ohio, schools and teachers who are acting appropriately and seeking to help students develop their skills are protected from liability (civil or criminal responsibility) for ordinary school situations. Typically, schools and teachers are held liable for only the most severe cases of intentional misconduct. However, Ohio students must be supervised, and schools and their teachers may be held liable for foreseeable injuries if supervision is inadequate. Also, schools must respond to code of conduct violations and respond in a timely manner to harassment complaints.

Child Abuse Reporting Obligations

Ohio has laws aimed at protecting children from abuse and neglect. *Child abuse* is actual, deliberate physical or mental injury or death or the threat of injury to a child's health or welfare. Abuse includes inappropriate sexual behavior. The definition of *child neglect* is broader and includes situations where parents refuse to provide proper or necessary subsistence, education, or either physical or mental health care.

Under Ohio law, *mandatory reporters* must immediately report child abuse or neglect to local law enforcement or human services agencies. Mandatory reporters include teachers and other authorized school employees, counselors, health care professionals, child care workers, attorneys, priests and others who work closely with children or are charged with protecting children. Mandatory reporters must report any known or suspected abuse or neglect and cannot be sued for following through on this obligation. If they *fail* to report known abuse or neglect, they may face both criminal and civil liability.

Other community members are not required to report abuse or neglect, but they may choose to contact law enforcement or human services agencies with good faith reports of possible abuse or neglect.

Special Education

General Provisions

In general, the federal *Individuals with Disabilities Education Act* (IDEA) was passed to ensure that: 1) all children with disabilities a free, appropriate public education that meets their unique needs and prepares them for employment and independent living; 2) the rights of children with disabilities and parents of such children are protected; and 3) states and localities receive support in educating disabled students. Also, the Act provides for assistance to states in developing early intervention services and educational assessment tools.

Early Intervention Programs

IDEA provides for early intervention services for children from birth until age three if they: 1) are experiencing a developmental delay in one or more areas or 2) have a diagnosed physical or mental condition that is likely to result in developmental delay. *Developmental delay* is a delay in one or more areas of development (cognitive; physical, including vision, hearing and nutrition;

communication; social or emotional; and/or adaptive behavior).

In Ohio, the Ohio Department of Health (ODH) provides early intervention services under the “Help Me Grow” (HMG) system. The ODH makes IDEA funds available to county Family and Children First Councils (FCFC), which administer Ohio’s early intervention programs. These funds may be used to maintain a system of services for eligible infants and toddlers, provide direct services for eligible children if not already provided by other public agencies or private sources, and to expand services for eligible children.

The state of Ohio, through its local agencies, must identify and evaluate all eligible infants and toddlers at no cost to the family. Children from birth to three years who are referred for services must receive a developmental screening within 45 days of referral, and eligibility must be determined within 45 days following the screening by a Developmental Evaluation Team, which includes the parents and at least two qualified personnel from two different disciplines.

Eligible children must be provided many services at no cost. In certain circumstances based on need, specialized services such as counseling, nursing, health services, therapy, and transportation also may be paid for through IDEA funds. Within 45 days of eligibility determination, an Individualized Family Service Plan (IFSP) is prepared. The IFSP identifies the services to be provided to an eligible child and includes a summary of the child’s development, the family’s resources and concerns about the child, outcomes to be achieved, and a list of resources. Specific services must be identified and provided, if possible, in the child’s natural environment. Individualized Family Service Plans must be reviewed 120 days after services begin, and at least once a year afterwards.

In addition, a licensed professional (in nursing, social work, early childhood education or a related discipline) with a minimum of two years’ experience working with children age birth to five must coordinate the delivery of services to

the child with a variety of agencies. This service coordinator also helps the child to transition to preschool or to the local school district.

Early Intervention Procedural Safeguards

Parents whose child is receiving early intervention services must be notified regularly of certain procedural rights such as the right to receive written notice before any change of service and the right to administrative review of complaints. Parents must give written consent before their child can receive any evaluation or services. For more information on Ohio’s Early Intervention Program (age 0-3), visit the Ohio Department of Health’s Web site at <http://www.odh.state.oh.us/ODHPrograms/EI/earlyint1.htm>.

Child Identification Requirements

Each state must have a program to identify, locate and evaluate children requiring special education and related services. The program must include highly mobile children with disabilities, such as migrant and homeless children, and those who continue to advance in school, but need special education.

Ohio’s state rules make each school district responsible for identifying, locating and evaluating all children below age 22 living within the school district who need special education and related services.

Free Appropriate Public Education

The IDEA also requires school districts to provide all eligible students with a *Free Appropriate Public Education* (FAPE). Free Appropriate Public Education is special education and related services that: 1) have been provided at public expense, under public supervision and direction, and without charge; 2) meet the standards of the state’s educational agency; 3) include an appropriate preschool, elementary or secondary school education in the state involved; and 4) meet the IEP requirements. Each school district

must adopt and implement written procedures ensuring FAPE to all children with disabilities, aged three through 21 years.

Evaluations and Re-evaluations of Students with Special Needs

Under IDEA, school districts must conduct evaluations and reevaluations to determine initial and ongoing eligibility for special education and related services. Before conducting such an evaluation, a district must get consent from parents or legal guardians, and must explain, in writing, the district's proposed evaluation procedures.

Following an initial evaluation to determine the educational needs of a child with a disability, the district must re-evaluate the child at least once every three years, or at the request of a parent or teacher, or if conditions warrant a re-evaluation. However, re-evaluations may not require new assessments in all educational areas. The IEP team may waive additional testing of the student if it finds that existing evaluation data is sufficient. A re-evaluation is required before a district can determine that a student no longer qualifies as a student with a disability.

The district must test all suspected areas of disability and educational need, and may not use only one procedure as the sole criterion for determining eligibility or an appropriate program for a student. When evaluating a student, the district also must consider information provided by the parents and professionals working with the child. Parents who disagree with the results of the district's evaluation can request an *Independent Educational Evaluation* (IEE) at public expense.

Role of the Individualized Education Plan (IEP) and the IEP Team

The IEP is the written plan of specific special education and related services designed to meet the unique educational needs of a child with a disability. Each child with a disability should have an IEP in effect on the first day of school each year, and it must be implemented as written. The

IEP is a working document, generally reviewed and revised at least once a year. It is put together by the IEP team, which must include the child's parents; at least one of the child's regular education teachers (if the child participates in the general curriculum); at least one of the child's special education teachers; a qualified district representative who can provide resources and help implement a curriculum for the child; someone who can interpret evaluation results and implications for instruction; and the child, if appropriate.

At a minimum, according to Ohio law, an IEP should outline:

- the child's present levels of performance;
- short-term goals and instructional objectives;
- measurements, criteria, and a schedule for evaluation;
- a statement outlining the specific special education services to be provided and the extent to which the child will participate in regular education programs,
- when services will start and how long they will last;
- how services will be delivered; and
- any modifications or additions to the proposed program to fit the particular needs of the child.

When putting together a plan, the IEP team must review special factors and other considerations, including the need to address behavior, English proficiency, visual impairments, communication, assistive technology devices and services, physical education services, extended school-year services, transition services to students age 16 or over, and state- or district-wide assessment requirements.

Resolving Disagreements Concerning Special Needs Children

Disagreements between parents and the school district regarding a child's special education services may be resolved informally by bringing an expert, advocate, or attorney to an IEP meeting, or discussing the matter with the school's special education coordinator. If informal methods are ineffective, the Ohio Department of

Education (ODE) provides a free mediation service to resolve special education disputes. Also, parents may file a written complaint with the ODE. Finally, if those resolution methods do not work, parents or districts may file a request for an impartial due process hearing.

For additional information concerning all aspects of special education in Ohio, visit ODE's Web site at: <http://www.ode.state.oh.us/>.

Identification of Gifted and Talented Students

Ohio recognizes the specific challenges and benefits of instructing gifted and/or talented children. All Ohio school districts must have a plan or local board policy, approved by the ODE and distributed to all parents, to identify gifted and talented children in their schools. This identification must be based on tests and check-lists that appear on an approved list prepared by ODE and assessments must be available on a regular basis. In their screening assessments, districts must include children who are culturally and linguistically diverse, come from low socio-economic backgrounds, and children with special needs.

In Ohio, children may be identified as gifted in four different categories: superior cognitive ability, specific academic ability in a field (including math, language arts, science, or social studies), creative thinking ability, and visual/performing arts ability. Each field has its own criteria, which must typically be met on a measurement within the preceding two years for the assessment to be valid.

During the identification process, parents must be notified about assessment results and about whether the child has been identified as gifted and/or talented. Parents also may submit assessments performed outside the district by trained personnel for consideration. A parent who disagrees with the district's determination may appeal according to school board policy.

While Ohio schools must have a plan for identifying gifted and talented students, they do not have to provide special services for these students. For complete information concerning Ohio's gifted and talented programming, visit the ODE Web site at: www.ode.state.oh.us/.

Federal Legislation and Education

A number of federal acts or amendments affect any U.S. educational programs. Many of these acts or amendments apply to all schools in the state that receive federal funds, including all public schools and most private schools. Religious schools, however, may not be subject to some of the requirements of the federal acts or amendments listed below.

Title IX

Established to promote gender equality in schools, Title IX of the Educational Amendments of 1972 prohibits any federally funded educational programs or activity from discriminating based upon sex. Title IX extends to all areas of public schooling and protects all students and employees of educational institutions that receive federal funds.

Each school must have a Title IX Coordinator who works with the Office of Civil Rights within the U.S. Department of Education to enforce Title IX policies. The Office of Civil Rights protects the anonymity of anyone who files a complaint, and the institution that is the subject of the complaint must not retaliate against someone who complains. Any school that does not comply with Title IX may have to pay money, including any attorney fees, to the person who brought the complaint. Also, violations of Title IX may jeopardize the school's federal funding.

Section 504 of the Rehabilitation Act of 1973 / Americans with Disabilities Act

Section 504 of the Rehabilitation Act of 1973

The Rehabilitation Act of 1973 made it unlawful to discriminate against individuals with disabilities in activities funded by federal subsidies or grants. Section 504 of the Act covers all public or private programs or activities that receive federal assistance, and therefore includes all public elementary and secondary schools and most colleges and universities. According to Section 504, schools may not discriminate against students with disabilities and must provide such students with reasonable accommodations and, in some cases, services. Section 504 protects individuals with impairments that substantially limit a major life activity, such as learning. Unlike IDEA, which covers students in public schools until age 22, Section 504 covers all individuals no matter the age. For example, college students are covered, as are employees if they work for a company that receives federal funds.

Section 504 requires that knowledgeable people from a variety of sources determine students' eligibility. Eligible students are entitled to a Section 504 plan to address their educational needs. Students may receive their services in the regular classroom or a special education room, based on individual needs. Schools must re-evaluate students periodically or before a significant placement change is made. Although a plan must be developed to outline services under Section 504, it is not as detailed as an IEP written under IDEA, and does not address implementation accountability. Also, parents of children under age 18 may help develop the plan, but do not have the procedural safeguards provided in IDEA to help them enforce the plan. There is a free approp-

riate education requirement under Section 504, but it is not as encompassing as the requirement under IDEA. All students who are classified under IDEA are also covered by nondiscrimination under Section 504. Because the eligibility definition under Section 504 is broader, however, not all students on 504 plans may be covered under IDEA.

Americans With Disabilities Act of 1990 (ADA)

In 1990, Congress enacted the American with Disabilities Act (ADA), a civil rights statute extending the concepts of Section 504 to: 1) employers with 15 or more employees; 2) all activities of state and local governments, including employment and education; and 3) all places that offer goods and services to the public. The Act requires public places to make reasonable modifications to policies, practices, and buildings unless those modifications would fundamentally alter the nature of the services or be an undue burden.

The regulations of the ADA parallel Section 504 regulations. While most schools provide Section 504 plans rather than ADA plans, school districts must have an ADA policy and make it available upon request to parents. Neither Section 504 nor the ADA covers active alcohol or drug users.

No Child Left Behind

The federal No Child Left Behind Act went into effect in 2001. It requires teachers and paraprofessionals to obtain a "highly qualified" status by the end of the 2005-2006 school year. This standard applies primarily to those who teach core academic subject areas.

No Child Left Behind also requires schools to implement a statewide accountability system to ensure continual and substantial academic improvement for all students. This accountability system (*Adequate Yearly Progress*, or AYP), seeks to narrow the achievement gaps among students by requiring schools and districts to

report achievement ratings of state-developed annual goals to the state. The achievement ratings, gathered through the use of a statewide assessment, determine how well schools are performing.

The statewide assessments are based upon annual measurable goals for reading and mathematics. The state determines what percentage of students must test as proficient on these assessments for a school or district to be “adequately progressing.” Also, 95 percent of all students must participate in the statewide assessment based upon these annual objectives for a school to meet AYP. Elementary and middle schools also must maintain a certain attendance level, and secondary schools must maintain a certain graduation rate. A school district that does not have the necessary percentage of proficient students still may meet the AYP standard if it has reduced the number of non-proficient students by at least 10 percent from the previous year’s report.

If a school and/or district fails to meet the state’s AYP standard, the state will apply sanctions (such as requiring implementation of a school improvement plan) to bring about improvement. If a school fails to meet the AYP standard for two years in a row, the school will earn “School Improvement Status.” Students enrolled in such a school can choose to enroll in another of the district’s schools that is *not* under “improvement” status. This is known as *school choice*. Schools that continue to fail to make AYP will receive supplemental services from the state and other arrangements may be made for the school’s management. For example, such a school may be closed and reopened as a charter school, or school staff may be replaced.

In response to the No Child Left Behind Act, Ohio has restructured its assessment methods to

enhance student learning and instruction. Proficiency testing will be phased out as new assessments (such as the Readiness Assessment-Literacy test in kindergarten and the Ohio Graduation Test (OGT) for 10th grade students) are implemented.

Family Educational Rights and Privacy Act / Student Records

The federal Family Educational Rights and Privacy Act (FERPA) protects the confidentiality of educational records maintained by any educational institution receiving federal funds (or by someone acting for the institution). FERPA provides parents and eligible students (those beyond age 18 or in a post-secondary program) certain rights regarding records, files, documents, or other materials containing personal information about the student. Some information (such as name, address, phone, degree, etc., as might be found in a directory) can be disclosed without the student’s consent, but affected parents and students must be notified first.

There are some exceptions to the general rule that the school cannot disclose information without parent consent. For example, the school may release educational records to other school officials who have a legitimate educational interest in the information, or information may be shared in an emergency to protect the health or safety of the student or others. Each school must comply with FERPA and notify parents and eligible students annually of their rights. For more information about FERPA, visit the U.S. Department of Education’s Web site at: <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>.

Chapter Summary

- A child may attend a public school without tuition payment if his or her parent lives in that school district. There are also other circumstances in which a child can attend a public school without tuition, such as when a child lives with someone other than a parent or receives special education.
- Ohio mandates compulsory education for all children living in Ohio who are between six and 18 years of age. Attendance is required until the student meets the state's minimum standard and receives a diploma. However, this requirement may be waived or modified if a child has a valid medical excuse, the parents decide to educate the child at home, or the child is eligible for an *age or schooling certificate*.
- According to Ohio law, parents are responsible for making sure their children are not truant from school.
- There are several state-approved alternatives to public education. In certain situations and through a "voucher" program, public funds may be available for students to attend private schools. Also, the Ohio legislature has established agencies to supervise *charter schools* in Ohio; these schools have more autonomy than traditional public schools.
- Traditional public schools and charter schools are funded on a per-pupil basis by the state according to certain formulas, and local school districts also receive funding through local property taxes. Private or parochial schools are funded through tuition costs, fundraising, donations and private grants, and (if they meet federal and state requirements) state grants.
- Students do not lose their First Amendment rights when they enter school, but public, private and parochial schools may limit students' rights to express opinions when the expressions are vulgar or offensive, or when they interfere with the educational instruction of other students.
- In Ohio, school officials generally may discipline a student for conduct that disrupts the school day or endangers the health or welfare of the student or others.
- Students have some limited privacy rights. Schools may use metal detectors and, in emergency situations, locker searches. In some cases, a school administrator may search a student or a student's belongings if there is good reason to believe an inappropriate item will be found.
- The No Child Left Behind Act of 2001 requires school districts receiving federal funds to provide a plan for making classroom environments conducive to learning and schools safe and drug free. While federal laws prohibit particular types of harassment, however, no comprehensive law addresses all forms of harassment in schools.
- Under Ohio law, *mandatory reporters* must immediately report child abuse or neglect to local law enforcement or human services agencies. Mandatory reporters include teachers and other authorized school employees.
- The Individuals with Disabilities Education Act (IDEA) provides for free and appropriate public education, including early intervention services, for children with special needs. The Ohio Department of Health (ODH) also provides early intervention services through its "Help Me Grow" program.
- Each state must have a program to identify, locate and evaluate children requiring special education and related services.
- Under the IDEA, school districts must determine initial and ongoing eligibility for special education and related services by conducting evaluations.

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Chapter Summary *continued*

- The *Individualized Education Plan (IEP)* is the written plan of specific special education and related services designed to meet the educational needs of a child with a disability.
- All Ohio school districts must have a plan or local board policy to identify gifted and talented children in their schools, although they are not required to provide special services for these students.
- Title IX of the Educational Amendments of 1972 prohibits any federally funded educational program or activity from discriminating based upon sex.
- Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 make it unlawful to discriminate against individuals with disabilities in activities of the federal government and in all places that offer goods and services to the public.
- The No Child Left Behind Act of 2001 requires public schools to implement, at the state level, an accountability system that will ensure continual and substantial academic improvement for all students.
- The federal Family Educational Rights and Privacy Act (FERPA) protects the confidentiality of educational records maintained by any educational institution that receives federal funds. With some exceptions, the general rule is that a school cannot disclose information about a student without parental consent.

Web Links:

OSBA's "Law You Can Use" articles:

(go to <http://www.ohioabar.org/pub/lycu> and search for article by title or by topic)

“No Child Left Behind Act’ Aims To Foster School Accountability”

“Circumstances Say Whether Minors Are ‘Emancipated’”

“Grandparents Can Get Authority To Make School Decisions for Grandchildren”

“Mediation Program Helps Prevent Truancy in Ohio”

“Ohio Law Says Where Students Can Attend School Tuition-Free”

“Ohio To Ensure ‘No Child Left Behind’”

“Parents Must Take Responsibility for Truant Students”

“Public Schools May Test Students for Drugs under Certain Circumstances”

“Schools Must Follow Procedures To Suspend or Expel Students”

“What You Should Know about Home Instruction”

“What You Should Know about Home Schooling”

U.S. Department of Education's Web site:

<http://www.ed.gov/index.jhtml>

Ohio Department of Education's Web site:

<http://www.ode.state.oh.us/>