

# Using House Bill 318 Requirements to Create Caring Communities

There is tremendous excitement and momentum building in Ohio around Positive Behavioral Interventions and Supports (PBIS) and the importance of school climate to student success. Ohio's recently adopted strategic plan for education, *Each Child, Our Future*, explicitly recognizes the need for a positive climate in every school to support student well-being, academic achievement and future success. Most recently, Ohio enacted the *Supporting Alternatives for Fair Education (SAFE) Act*, House Bill 318. It is one of the strongest state laws in the country addressing multi-tiered behavioral supports in the interest of reducing disciplinary referrals, especially for prekindergarten through grade 3 students. This bill strengthens requirements for school districts to implement PBIS, social-emotional learning supports and trauma-informed practices. Supported by new legislative mandates, the Ohio Department of Education is enthusiastic to continue building statewide capacity to implement PBIS.

**Positive Behavioral Interventions and Supports** is a framework that guides districts and schools in in developing policies and practices that proactively define, teach and support appropriate behavior. PBIS suggests a shift in thinking about behavior and discipline. Rather than telling students what NOT to do, emphasis is placed on *teaching* students what TO do. Schools implementing PBIS actively teach behavioral expectations across all environments, promote positive behavior through encouragement and reinforcement, and provide correction of inappropriate behavior through prompting, re-teaching and opportunities to correct behavior. PBIS creates consistent, predictable learning environments that increase positive behavior and academic outcomes for each student.

The results of these measures are evident. Ohio schools implementing PBIS with fidelity have demonstrated noteworthy reductions in their rates of office discipline referrals, suspensions and expulsions. With these reductions, administrators and teachers have more time to focus on academic progress, students who previously were removed from the academic environment now spend more time receiving direct instruction, and decreased behavior distractions in the classroom increases academic instruction time for other students in the classroom.

Gov. Kasich signed HB 318 in August 2018, with an effective date of Nov. 2, 2018. Broadly, this act:

- Specifies requirements for the implementation and training of Positive Behavioral Interventions and Supports and other social-emotional programs for students;
- Outlines parameters for the suspension and expulsion of students, particularly for students in grades prekindergarten through grade 3;
- Specifies details regarding the role and training of school resource officers; and
- Provides grant funding for school safety training and school climate.

**Please see the following Frequently Asked Questions regarding this act.**

## 1. What are the main components of HB 318?

HB 318 formalizes preventative and supportive school safety, discipline and climate policies and practices. Find the act and the [official legislative analysis here](#).

## POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS

### 2. What is Positive Behavioral Interventions and Supports (PBIS)?

PBIS is a schoolwide systematic approach to embed evidence-based practices and data-driven decision-making to improve school climate and culture to achieve improved academic and social outcomes and increase learning for all students. PBIS encompasses a wide range of systemic and individualized positive strategies to reinforce desired behaviors, diminish reoccurrences of challenging behaviors and teach appropriate behavior to students. PBIS is a framework that supports the needs and culture of the school by helping school personnel adopt and organize evidence-based behavioral interventions into an integrated continuum that enhances academic and social behavior outcomes for all students.

Implementation of locally selected interventions and systems will create positive behavioral outcomes for students and safe and supportive cultures in schools. These prevention-oriented programs help school personnel adopt and organize evidence-based behavioral systems into an integrated continuum that enhances academic and social behavior outcomes for all students. The administrators, teachers and students should choose the interventions and supports that will improve behaviors and enhance their unique culture.

### 3. What is the structure of the PBIS framework?

The PBIS framework provides a continuum of behavioral intervention supports based on a three-tiered model or multi-tiered system of support (MTSS). The three-tiered framework provides for all students to receive behavioral instruction supports at the universal tier (Tier I). Building a universal set of clearly defined and positively stated behavioral expectations is the core of the process that applies to all students, all staff and all settings. The second level of the continuum (Tier II) focuses on at-risk students who need more than universal supports for behavioral success. PBIS provides interventions for this targeted group of students. The third level of support is individualized and intensive (Tier III) for students who need more personalized assistance. For the successful implementation and sustainability of this multi-tiered system of behavioral supports, a staff consensus and administrative support is essential.

### 4. Do we have to eliminate other initiatives if we begin with schoolwide PBIS?

No. Effective programs and practices currently in place in the school can become part of the schoolwide PBIS system. Schoolwide PBIS will allow for consistency in these practices. PBIS is the sum of effective programs, interventions and support. PBIS will improve the intentionality of working on other areas of need.

### 5. Does PBIS mean we will no longer provide consequences for negative behavior?

PBIS is proactive in teaching behavior expectations and providing positive reinforcement to reduce negative behavior. However, PBIS does not ignore inappropriate behavior. PBIS supports developmentally appropriate consequences that are designed to improve student behavior. Through the PBIS process, schools develop a consistent schoolwide plan for inappropriate behavior that matches consequences to the severity of the inappropriate behavior to maintain consistency across the school and district.

### 6. How long will it take to implement PBIS?

After school staff is trained, the length of time it takes to get started varies by school. Schools typically take two to three years to fully implement all three tiers of PBIS. The process is ongoing and constantly adapted to meet the changing needs of the school and address current concerns. Many schools begin noticing improvements right away. However, it may take a few years to change the school's culture and climate regarding the handling of inappropriate behavior.

### 7. What are the desired results of PBIS?

The results of PBIS include the following:

1. Preventing chronic behavioral challenges.

2. Providing early intervention for children and youth displaying minor but repeated patterns of problem behavior.
3. Providing proactive supports to children and youth at risk and those with emotional disturbances to allow them to successfully remain in the general education environments with the appropriate supports.
4. Providing instruction, practice and reinforcement for students regarding expected behaviors in the various school settings.

**8. Are districts required to implement the PBIS framework on a systemwide basis?**

Yes. HB 318 revised [Ohio Revised Code 3319.46](#) and requires each school district to implement a PBIS framework for all of schools in the district.

**9. Does HB 318 require professional development on a schoolwide PBIS framework?**

Yes, each school district must provide professional development or continuing education in PBIS by November 2021.<sup>1</sup> Specifically, each district, including community schools, must provide this training to:

- Teachers in buildings that serve students in any of grades preK (preschool) through 3 who completed a teacher preparation program prior to Nov. 2, 2018; and
- Administrators who serve students in any of grades preK through 3 who have not already completed a course, professional development or continuing education in PBIS.

**11. How is administrator defined for PBIS training requirements?**

The law specifically includes the following personnel as administrators: district superintendents, building principals and assistant principals serving students in grades prekindergarten through 3 as required to complete PBIS training requirements. This list may not include all personnel who serve as administrators. Because a district’s local professional development committee (LPDC) is responsible for monitoring compliance with the training requirements, local professional development committees may want to consider the following definition when monitoring for training compliance:

Any district or school personnel working under an administrator’s license issued by the Ohio Department of Education under Ohio Administrative Code 3301-24-05(D). This includes, but is not limited to, school district superintendents, assistant superintendents, building principals, building assistant principals, administrative specialists, deans of students, chief academic officers, appointed CEOs and supportive administrators such as curriculum directors, supervisors, preschool directors and special education directors.

Each district’s local professional development committee is required to monitor the training of staff obligated to complete the PBIS training by Nov. 2, 2021, which is three years from the effective date of the bill.<sup>2</sup>

**12. Will the Ohio Department of Education provide training opportunities for districts?**

To support teachers and LPDCs, the Ohio Department of Education will offer PBIS training through regional educational service centers and state support teams beginning in 2019-2020 school year.

**13. How will the Ohio Department of Education monitor implementation of PBIS?**

The law requires schools to report annually to the Ohio Department of Education on their levels of PBIS implementation.<sup>3</sup> The Department also will collect annually additional reporting on incidents of restraint and seclusion, out-of-school suspensions and expulsions.

**14. Will PBIS be part of a district’s or building’s Ohio School Report Card?**

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<sup>1</sup> ORC 3319.237

<sup>2</sup> ORC 3319.237(B)

<sup>3</sup> ORC 3319.46(B)(1)(c)

The act requires that a school district's or building's Ohio School Report Card include, without an assigned letter grade, an answer of "yes" or "no" indicating whether the district or building has implemented a PBIS framework in compliance with the act.<sup>4</sup>

### **15. Will schools or districts receive additional money to train teachers and administrators in PBIS?**

HB 318 appropriates \$2 million to be spent through the 2019-2020 school year for competitive School Climate Grants to implement positive behavioral interventions and supports frameworks and/or evidence- or research-based social emotional learning initiatives in eligible school buildings. Districts or buildings may use grant funding to fulfill PBIS training requirements. Grants will be limited to a maximum of \$5,000 per school building and \$50,000 per applicant.

## **STUDENT DISCIPLINE AND ENGAGEMENT**

It is important to keep in mind there may be additional requirements, under the Individuals with Disabilities Education Act (IDEA), codified in Ohio law at ORC 3323.02, related to suspensions and expulsions for children with disabilities. The requirement to provide a free appropriate public education (FAPE) under IDEA applies to all children with disabilities ages of 3-21, including children with disabilities who have been suspended or expelled from school.

### **16. Does HB 318 require districts to revise their zero tolerance policies?**

Each district must have a board-adopted zero tolerance policy for violent, disruptive or inappropriate behaviors.<sup>5</sup> The policies must comply with the requirements of ORC 3313.668 and 3319.46. Revised policies must:

- Not include suspension, expulsion or removal of a student solely on the basis the student's absences from school without legitimate excuse,<sup>6</sup>
- Include strategies to address violent, disruptive or inappropriate behaviors that range from prevention to intervention;<sup>7</sup>
- Include a PBIS framework as positive strategy to address violent, disruptive or inappropriate behaviors;
- Ensure that no student in grades prekindergarten through 3 receive out-of-school suspensions or are expelled, except in situations authorized in Ohio Revised Code.<sup>8</sup>

Ohio Revised Code sections [3313.534](#), [3313.668](#) and [3319.46](#) should be read for more specific information.

### **17. Does HB 318 specify any instances when students in grades prekindergarten through 3 may be issued out-of-school suspensions or expelled?**

Yes, but only in limited circumstances. Unless the provisions of ORC 3313.668(B)(1)(a) or (b) apply, a school district or school is prohibited from issuing an out-of-school suspension or an expulsion to a student in any of grades prekindergarten through 3.

ORC 3313.668(B)(1)(a) and (b) distinguish the degree of consequence for different actions. As amended by HB 318, ORC 3313.668(B)(1)(a) states a school district or a school may issue an out-of-school suspension or expulsion, in accordance with ORC 3313.66, for such a student for engaging in any of these behaviors:

- Bringing a firearm to a school or onto any other district property;<sup>9</sup>

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<sup>4</sup> ORC 3302.03(C)(2)(h)

<sup>5</sup> ORC 3313.534

<sup>6</sup> ORC 3313.668(A)

<sup>7</sup> ORC 3313.534(A).

<sup>8</sup> ORC 3313.534(A); ORC 3313.668(B)

<sup>9</sup> ORC 3313.66(B)(2)(a)

- Bringing a firearm to an interscholastic competition, an extracurricular event, or any other school program or activity that is not on the district's property;<sup>10</sup>
- Bringing a knife capable of causing serious bodily injury to a school or other school property, an interscholastic competition, an extracurricular event, or other program or activity sponsored by the school or in which the district is participating;<sup>11</sup>
- Possessing a firearm or knife capable of serious bodily injury at a school, on district property, at an interscholastic competition, an extracurricular event, or any other school program or activity, which the firearm or knife was initially brought onto school property by another person;<sup>12</sup>
- Committing an act that is a criminal offense when committed by an adult and that results in serious physical harm to persons or property while the student is at school, on other district property, or at an interscholastic competition, an extracurricular event, or any other school program or activity;<sup>13</sup> and
- Making a bomb threat to a school building or to any premises at which a school activity is occurring at the time of the threat.<sup>14</sup>

If a student has not engaged in any of the behaviors specified in ORC 3313.668(B)(1)(a), then ORC 3313.668(B)(1)(b) specifies that a school district or school may issue an out-of-school suspension not to exceed 10 days or an expulsion to a student in any of grades prekindergarten through 3 only as needed to protect the immediate health and safety of the student, student's fellow classmates, classroom staff and teachers, or other school employees.

#### **18. May a student, regardless of grade level, be expelled for bringing or possessing a knife at school?**

Only if it is, "capable of causing serious bodily injury," as defined by the district board or school governing authority. For consistency, the Department suggests considering the definition of "serious bodily injury" from OAC 3301-51-05, which pertains to procedural safeguards for children with disabilities and, in part, addresses situations in which a child may be removed for causing a serious bodily injury upon another person while at school or during a school function. The definition referenced in OAC 3301-51-05(K)(20)(h)(i)(c) is "'serious bodily injury' means bodily injury which involves – (A) a substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty."<sup>15</sup>

#### **19. How does Ohio Revised Code define "serious physical harm?"**

"Serious physical harm to persons" is defined in ORC 2901.01(A)(5). "Serious physical harm to property" is defined in ORC 2901.01(A)(6).

#### **20. How is credit awarded for work completed by students serving out-of-school suspensions?**

Most recently, the Ohio General Assembly passed [HB 491](#), which among other changes, revised [ORC 3313.66\(A\)](#). It provides that the school board must adopt a policy establishing parameters for completing and grading assignments missed because of a student's suspension. District policy must provide the pupil an opportunity to do both of the following:

- Complete any classroom assignments missed because of the suspension; and
- Receive at least partial credit for a completed assignment.

The policy may permit grade reductions on account of the pupil's suspension, but a failing grade on a completed assignment solely on account of the pupil's suspension is prohibited. This provision applies to all students.<sup>16</sup>

<sup>10</sup> ORC 3313.66(B)(2)(b)

<sup>11</sup> ORC 3313.66(B)(3)

<sup>12</sup> ORC 3313.66(B)(3)

<sup>13</sup> ORC 3313.66(B)(4)

<sup>14</sup> ORC 3313.66(B)(5)

<sup>15</sup> This definition is the same as contained in 34 CFR 300.530(h)(i)(3) and 18 USC 1365.

<sup>16</sup> ORC 3313.66(A)(3)

**21. Is it considered an absence when a student is on out-of-school suspension but completes schoolwork during the suspension?**

Time out of school due to out-of-school suspensions are considered absences, even if the student completes all work missed due to the out-of-school suspension. A student can be considered present only if a properly credentialed or licensed teacher provides direct instruction during the suspension. This provision applies to all students in grades prekindergarten through 3.

**22. Can a student’s out-of-school suspension continue into the next school year after the summer break?**

No, suspensions cannot carry over into the next school year.<sup>17</sup> However, the district superintendent may require the student to participate in community service or an alternative consequence for the number of hours equal to the time left on the suspension during the first full week of summer vacation.

**23. Does the emergency removal provision apply to students in grades preK through 3?**

Yes, a student in grades preK through 3 may be removed for the remainder of the school day under ORC 3313.66(C) if the student’s presence poses a continuing danger to others or property or is an ongoing threat of disrupting the academic process in a classroom or elsewhere on school premises. The student must be permitted to return to curricular and extracurricular activities on the school day following the day the student was removed.<sup>18</sup> 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.<sup>19</sup> However, a school district may not initiate a suspension or expulsion proceeding against a student in any of grades prekindergarten through 3 who was removed unless (1) the student committed an act described in ORC 3313.66(B)(1)(a) 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.<sup>20</sup>

**24. Where must students serve in-school suspensions?**

All in-school suspensions must be served in a supervised learning environment.<sup>21</sup>

**25. What is the definition of a supervised learning environment?**

HB 318 does not define “supervised learning environment,” leaving the definition a matter of local discretion. The Department recommends that districts define the term in their board-approved policies for in-school suspensions. Districts may consider defining supervised learning as “direct instruction by a properly credentialed or licensed teacher with students of similar age.”

**26. Are schools required to reduce their overall number of suspensions in HB 318 for grades preK through 3?**

Yes. Using the numbers reported in Ohio’s Education Management Information System (EMIS) for the 2018-2019 school year as a base line, each district or school must reduce the number of minor offense suspensions for grades preK through 3 according to the following schedule:

- 2018 – 2019 – 0 percent reduction
- 2019 – 2020 – 25 percent reduction
- 2020 – 2021 – 50 percent reduction
- 2021 – 2022 – 100 percent reduction

For the 2021-2022 school year and each year thereafter, all out-of-school suspensions and expulsions of students in grades preK through 3 must be for offenses described in ORC 3313.668(B)(1)(a) or (b).<sup>22</sup>

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<sup>17</sup> ORC 3313.66(A)(1)

<sup>18</sup> ORC 3313.66(C)(2)

<sup>19</sup> ORC 3313.66(C)(2)(a)

<sup>20</sup> ORC 3313.66(C)(2)(b)

<sup>21</sup> ORC 3313.66(A)(2)

<sup>22</sup> Section 9, HB 318

**27. Is a mental health consultation required prior to giving an out-of-school suspension to or expelling a student in grades preK through 3?**

*Whenever possible*, the principal is required to consult with a mental health professional under contract with the district or school before suspending or expelling a student in these grades. If the events leading up to the suspension or expulsion indicate a need for additional mental health services, the principal or the district's mental health professional must, in a manner that does not result in a financial burden to the district or school, assist the student's parent or guardian with locating providers or obtaining services.<sup>23</sup> To support the district or the school's decisions, the Department recommends districts or schools document when a mental health professional is not consulted, providing its justification for not consulting a mental health professional.

**28. How is mental health professional defined?**

While it does not define "mental health professional," HB 318 specifies that the mental health professional is one that is "under contract with the district or school."<sup>24</sup> Districts may consider defining "mental health professional" as "Mental health professionals may include licensed social workers, counselors, therapists or psychologists. Mental health professional means an individual who is licensed, certified, or registered under the Revised Code, or otherwise authorized in this state, to provide mental health services for compensation, remuneration, or other personal gain."<sup>25</sup>

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<sup>23</sup> ORC 3313.668(B)(2)

<sup>24</sup> ORC 3313.668(B)(2)

<sup>25</sup> ORC 2305.51