

Extracurricular activities law significantly changes

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There were many changes in Ohio school law during 2013. Several resulted from the passage of the biennial budget bill, House Bill (HB) 59, with many of the provisions becoming effective in September 2013. One area of law that changed significantly deals with participation in extracurricular activities by home-schooled students and students enrolled in nonpublic schools.

The statutory changes outline when home-schooled students and students enrolled in nonpublic schools must or may be afforded the opportunity to participate in your district's extracurricular activities. There also were minor changes to the language affecting science, technology, engineering and mathematics (STEM) school students' participation in extracurricular activities at a traditional public school. School districts were required to implement these changes on Sept. 29, 2013. These changes do not apply to cocurricular activities.

Defining extracurricular activities

First, let's look at the definition of an "extracurricular activity." Pursuant to Ohio Revised Code (RC) 3313.537, an extracurricular activity is a "pupil activity program that a school or school district operates and is not included in the school district's graded course of study, including an interscholastic extracurricular activity that a school or school district sponsors or participates in and that has participants from more than one school or district." For example, extracurricular activities may include a high school basketball team, track team or cheerleading squad.

Nonpublic school students

Under the new law, students enrolled in

a nonpublic school have the opportunity to participate in a school district's extracurricular activities if certain criteria are met (RC 3313.5311). First, the student must be entitled to attend the school in the district under RC 3313.64 or RC 3313.65. Second, the nonpublic school that the student is attending may not offer the extracurricular activity.

If these conditions are met, the superintendent must provide the student the opportunity to participate at the school in the district in which the student otherwise would be assigned during the school year. If there is more than one school in the district serving the student's grade level, the student must be afforded the opportunity to participate at the school in which the superintendent would assign the student.

Even if the student is not entitled to attend school in the district, the new law permits, but does not require, a superintendent to allow the student to participate in an extracurricular activity in the district if:

- it is not offered at the nonpublic school that the student attends;
- it is not interscholastic athletics, interscholastic contests or competition in forensics, drama or music.

For a nonpublic school student to participate in the extracurricular activity, the student must be of the appropriate age and grade level for the school that offers the activity. Additionally, the student is required to fulfill the same academic, nonacademic and financial requirements as any other participant in the public school district.

The new law prohibits a school district from imposing additional rules on a nonpublic school student, including additional eligibility requirements, that are not required for other public school students participating in that extracurricular activity. Districts also are prohibited from charging additional participation fees to a student enrolled in a nonpublic school that exceed the fees charged to other students participating in the extracurricular activity.

Home-schooled students

Similar to nonpublic school students, there is a provision in the law that requires a district superintendent to provide a home-schooled student the opportunity to participate in an extracurricular activity (RC 3313.5312).

A home-schooled student must be afforded the opportunity to participate in an extracurricular activity that is offered by the school where the student would be assigned to attend. However, if there is more than one school in the district serving the student's grade level, the student must be afforded the opportunity to participate at the school in which the superintendent would assign the student. If the student wants to participate in an extracurricular activity offered by the district, the student is prohibited from participating in that extracurricular activity at another school or in another district he or she is not entitled to attend.

Even if the student is not entitled to attend school in the district, the new law permits, but does not require, a superintendent to allow a home-schooled student to participate in an extracurricular activity in the district, but

only if the extracurricular activity is not offered in the district that the student would be entitled to attend.

Certain criteria must be met before a home-schooled student may participate in an extracurricular activity under RC 3313.5312. The district superintendent must determine that the home-schooled student is of the correct age and grade level for the school that offers the extracurricular activity. The student also must meet the same nonacademic and financial requirements that any other participant is required to meet.

In addition, the student must meet one of the following academic conditions if he or she was home-schooled in the previous grading period:

- if the student was home-schooled in the previous grading period, he or she must meet any academic requirements established by the State Board of Education in order to continue being home-schooled;
- if the student was not home-schooled in the previous grading period, his or her academic performance from the previous grading period must have met any academic requirements established by the district in order to participate.

Any student who leaves a district midyear to become home-schooled must have his or her eligibility to participate determined by an interim academic assessment issued by the district in which he or she was enrolled “based on the student’s work while enrolled in that district” (RC 3313.5312).

Additionally, a student that begins home-school instruction after the school year begins and is ineligible at that time to participate in any extracurricular activity because of his or her failure to meet academic standards or any other district requirements may not participate in an extracurricular activity until he or she has met the academic requirements established by the State Board of Education in order to continue home-schooling. A student also may not be

eligible to participate in the same semester that he or she was deemed ineligible.

The new law prohibits school districts from imposing additional rules, including additional eligibility requirements, on a home-schooled student in order to participate in an extracurricular activity that are not applied to other students participating in the same activity. In addition, a district may not impose participation fees on a home-schooled student that exceed the amount charged other students participating in the same extracurricular activity.

STEM and community school students

The new law made a slight amendment to the provision on extracurricular activities for students enrolled in a STEM school. Now, STEM school students may not be prohibited from participating in any extracurricular activity that is offered at the traditional public school that the student is entitled to attend. Previously, the language stated that a STEM school student “should be afforded the opportunity to participate” in any extracurricular activities offered at the traditional public school that the student was entitled to attend. This change can be found in RC 3313.537.

STEM school students still are required to fulfill the same academic, nonacademic and financial requirements that other participants are required to fulfill. This includes any rules and policies that a school district has adopted.

Additionally, a STEM school student still may not be charged participation fees that exceed fees imposed on any other student participating in the same extracurricular activity. STEM school students cannot be required to meet any eligibility requirements that contradict RC 3313.537.

HB 59 did not alter any provisions on community school students participating in extracurricular activities at a traditional public school under RC 3313.537. The same requirements still apply.

Community school students in grades seven to 12 must be afforded the opportunity to participate in extracurricular activities offered at the traditional public school they are entitled to attend. In addition, community school students must fulfill the same academic, nonacademic, and financial requirements that other participants are required to fulfill.

The district board of education may require, as a condition of participation, a community school student to enroll and participate in no more than one academic course at the school that is offering the extracurricular activity. If that occurs, the district must admit students “seeking to enroll in an academic course to fulfill the requirement as space allows after first enrolling students assigned to that school.”

A community school student still may not be charged participation fees that exceed fees imposed on any other student participating in the same extracurricular activity. Community school students cannot be required to meet any eligibility requirements that contradict RC 3313.537.

Moving forward

Take a look at your board policy and make sure it has been updated to include these changes. Review your district’s participation fee structure and ensure that other eligibility requirements are still being met.

The Ohio High School Athletic Association has issued a guidance document and FAQ related to the changes in law, which is available at: <http://links.ohioschoolboards.org/69642> and <http://links.ohioschoolboards.org/29423>. If you have general questions on this topic, contact OSBA’s legal division. ■

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