



LEGAL BRIEFS

by Julia A. Bauer, staff attorney

What boards must know about public records training

During last year's lame-duck session, the Ohio General Assembly enacted House Bill (HB) 9, which amended Ohio's Public Records Act. The new law requires elected public officials or their designees to attend three hours of public records training per term of office. As the effective date of the new law approaches, boards must be aware of their new obligations under the law. Below are some commonly asked questions about the training requirements, which go into effect Sept. 29, 2007.

What are the training requirements under HB 9?

All elected officials or their appropriate designees are required to attend public records training approved by the attorney general (Ohio Revised Code Section (RC) 149.43 (E)). Elected officials include every elected or appointed board of education member.

The training must be for three hours every term of office for which the elected official was appointed or elected to the public office (RC 109.43 (B)). This means that every school board member in the state or a person designated by the entire board is required to attend the training.

Who may the board designate to attend this training?

The board may designate anyone to attend the training on its behalf. In the case of a public office with multiple elected officials, like a board of education, the law allows for the office to designate a person to attend on behalf of the entire office. Because the terms of board members are staggered, the board will need to appoint a designee every two years to meet the requirement of attending once per term for each board member. If a new board member is appointed, either the appointee or the board's designee will need to attend the training. It is recommended that boards appoint a different designee each time so that as many people as possible can be trained.

RC 109.43(C) permits the attorney general's office to allow other interested persons to attend any of its public records training seminars, so boards may be able to send additional personnel to these training sessions, as well.

Will OSBA's public records training sessions count toward this requirement?

It depends on the training. OSBA provides quality training opportunities to its members and school personnel on important

legal issues, including public records. However, RC 109.43 (B) requires the attorney general to "develop, provide and certify training programs and seminars for all elected officials or their appropriate designees." The law allows the attorney general's office to contract the training out and certify seminars of other entities. At this time, the attorney general is the only certified entity providing the training. The attorney general has indicated a willingness to certify other seminars and trainers in the future. When that option is offered, OSBA will apply to have its seminars certified.

OSBA will host the attorney general's certified training sessions at upcoming OSBA seminars — the Management Development Series (MDS) workshop on Oct. 10 and a session at the Capital Conference on Nov. 12. Both of these training sessions will be led by the attorney general's staff, and will meet the training requirements of the law.

To register for either October MDS session (a morning and afternoon session will be offered), please visit www.osba-ohio.org/training.htm. The Capital Conference session will be open to registered Capital Conference attendees only. The attorney general is providing other certified

ning opportunities. At this time, we know of no other entity that has been authorized by the attorney general to provide certified training.

My term expires in December 2007 and I am not running for reelection. Do I or my designee still need to attend the training?

Yes. Since this new training requirement is effective Sept. 29, 2007, boards should act this fall to designate a person to attend so that a designee is attending for the terms of persons who are not running for reelection, as well as for current board members who

lose their seats in November.

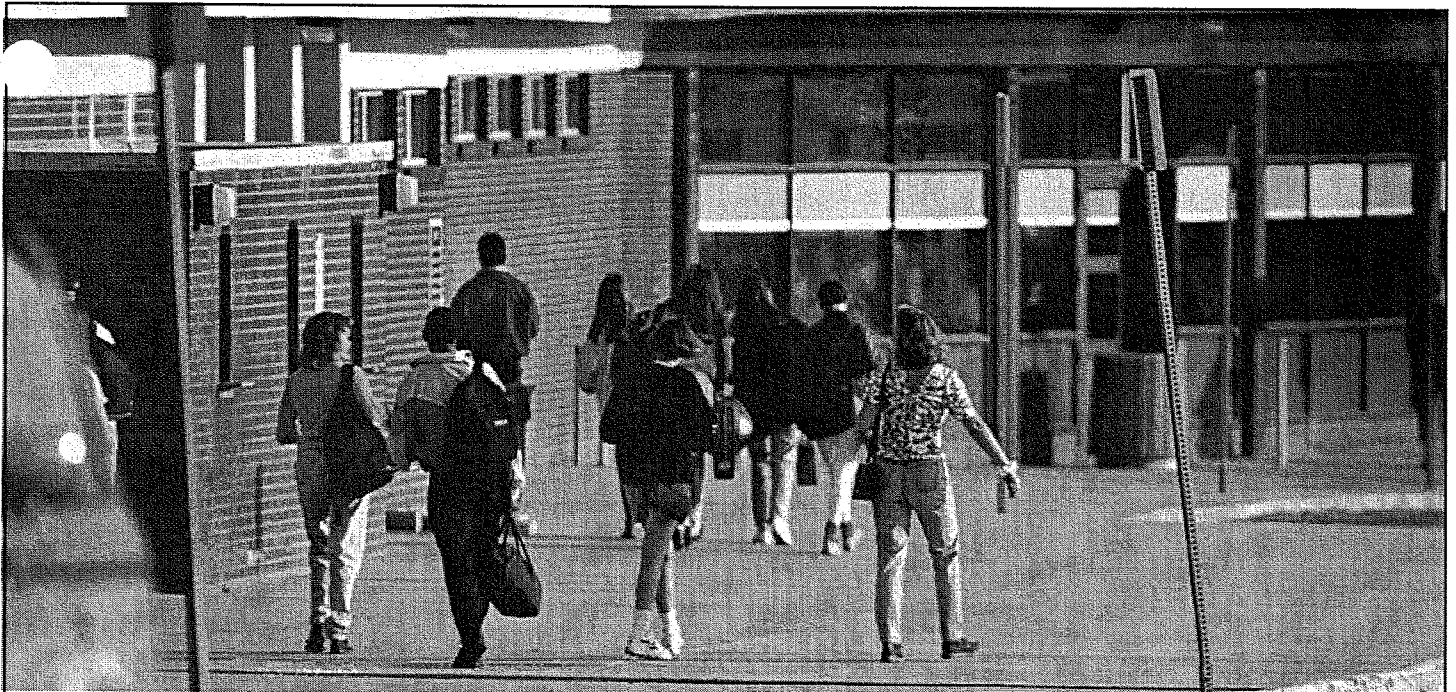
What happens if I or my designee do not attend?

The training requirements of HB 9 are enforced by the auditor of state during the annual or biennial audit of a public office (RC 109.43). The auditor most likely will require a copy of a certificate or other proof of attendance for the training for each elected official. Where boards designate a person to attend, the auditor will require the board resolution appointing the board's designee, in addition to proof of attendance.

If the elected official or designee

does not attend the required training, the penalty will be a potential finding by the auditor that the elected official or designee did not comply with the requirements of the law. This is not a criminal offense, and there are no fines or penalties imposed on the individual officeholder or the board.

Keep in mind that the consequences will likely include the publicizing of the elected official's failure to follow the requirements of the law, which will reflect badly on not only the individual, but also the school district as a whole.



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