

SCHOOL DISTRICT LEGAL STATUS

The United States Constitution leaves to the individual states responsibility for public education.

The Ohio General Assembly is under mandate by the Constitution of Ohio to provide for the organization, administration and control of a public school system supported by public funds. The Ohio State Constitution also calls for a State Board of Education and a Superintendent of Public Instruction.

The General Assembly has outlined the duties of the State Board of Education and the Chief State School Officer. It has also established a State Department of Education (through which policies and directives of the State Board and Superintendent of Public Instruction are administered) and has established specific types of school districts.

The Cleveland Municipal School District is classified as a municipal school district governed by the provisions of H.B. 269, codified at O.R.C. §§ 3311.71-3311.77, a copy of which is attached.

[Adoption Date: March 20, 2001]

LEGAL REFERENCES

U.S. Constitution, Amendment X
Ohio Constitution, Article VI, §§ 2, 3 and 4
O.R.C. §§ 3311.71-3311.77

ATTACHMENT

3311.71 Members of new municipal school district board to be appointed by mayor - candidates selected by nominating panel.

(A) As used in this section and in sections [3311.72](#) to [3311.77](#) of the Revised Code:

(1) "Municipal school district" means a school district that is or has ever been under a federal court order requiring supervision and operational, fiscal, and personnel management of the district by the state superintendent of public instruction.

(2) "Mayor" means the mayor of the municipal corporation containing the greatest portion of a municipal school district's territory.

(B) Whenever any municipal school district is released by a federal court from an order requiring supervision and operational, fiscal, and personnel management of the district by the state superintendent, the management and control of that district shall be assumed, effective immediately, by a new nine-member board of education. Members of the new board shall be appointed by the mayor, who shall also designate one member as the chairperson of the board. In addition to the rights, authority, and duties conferred upon the chairperson by sections 3311.71 to [3311.76](#) of the Revised Code, the chairperson shall have all the rights, authority, and duties conferred upon the president of a board of education by the Revised Code that are not inconsistent with sections 3311.71 to [3311.76](#) of the Revised Code.

(C) No school board member shall be appointed by the mayor pursuant to division (B) of this section until the mayor has received a slate of at least eighteen candidates nominated by a municipal school district nominating panel, at least three of whom reside in the municipal school district but not in the municipal corporation containing the greatest portion of the district's territory. The municipal school district nominating panel shall be initially convened and chaired by the state superintendent of public instruction, who shall serve as a nonvoting member for the first two years of the panel's existence, and shall consist of eleven persons selected as follows:

(1) Three parents or guardians of children attending the schools of the municipal school district appointed by the district parent-teacher association, or similar organization selected by the state superintendent;

(2) Three persons appointed by the mayor;

(3) One person appointed by the president of the legislative body of the municipal corporation containing the greatest portion of the municipal school district's territory;

(4) One teacher appointed by the collective bargaining representative of the school district's teachers;

(5) One principal appointed through a vote of the school district's principals, which vote shall be conducted by the state superintendent;

(6) One representative of the business community appointed by an organized collective business entity selected by the mayor;

(7) One president of a public or private institution of higher education located within the municipal school district appointed by the state superintendent of public instruction. The municipal school district nominating panel shall select one of its members as its chairperson commencing two years after the date of the first meeting of the panel, at which time the state superintendent of public instruction shall no longer convene or chair the panel. Thereafter, the panel shall meet as necessary to make nominations at the call of the chairperson. All members of the panel shall serve at the pleasure of the appointing authority. Vacancies on the panel shall be filled in the same manner as the initial appointments.

(D) No individual shall be appointed by the mayor pursuant to division (B) or (F) of this section unless the individual has been nominated by the nominating panel, resides in the school district, and holds no elected public office. At any given time, four of the nine members appointed by the mayor to serve on the board pursuant to either division (B) or (F) of this section shall have displayed, prior to appointment, significant expertise in either the education field, finance, or business management. At all times at least one member of the board shall be an individual who resides in the municipal school district but not in the municipal corporation containing the greatest portion of the district's territory.

(E) The terms of office of all members appointed by the mayor pursuant to division (B) of this section shall expire on the next thirtieth day of June following the referendum election required by section [3311.73](#) of the Revised Code. The mayor may, with the advice and consent of the nominating panel, remove any member appointed pursuant to that division or division (F) of this section for cause.

(F) If the voters of the district approve the continuation of an appointed board at the referendum election required by section [3311.73](#) of the Revised Code, the mayor shall appoint the members of a new board from a slate prepared by the nominating panel in the same manner as the initial board was appointed pursuant to divisions (B), (C), and (D) of this section. Five of the members of the new board shall be appointed to four-year terms and the other four shall be appointed to two-year terms, each term beginning on the first day of July. Thereafter, the mayor shall appoint members to four-year terms in the same manner as described in divisions (B), (C), and (D) of this section. The minimum number of individuals who shall be on the slate prepared by the nominating panel for this purpose shall be at least twice the number of members to be appointed, including at least two who reside in the municipal school district but not in the municipal corporation containing the greatest portion of the district's territory.

(G) In addition to the nine members appointed by the mayor, the boards appointed pursuant to divisions (B) and (F) of this section shall include the following nonvoting ex officio members:

(1) If the main campus of a state university specified in section [3345.011](#) of the Revised Code is located within the municipal school district, the president of the university or the president's designee;

(2) If any community college has its main branch located within the district, the president of the community college that has the largest main branch within the district, or the president's designee.

Effective Date: 11-12-1997

3311.72 Submission of resignations by current administrators.

This section does not apply to any principal, assistant principal, or other administrator who is employed to perform administrative functions primarily within one school building.

(A) On the effective date of the assumption of control of a municipal school district by the new board of education pursuant to division (B) of section [3311.71](#) of the Revised Code, the treasurer, business manager, superintendent, assistant superintendents, and other administrators of the school district shall submit their resignations to the board. As used in this section, "other administrator" has the same meaning as in section [3319.02](#) of the Revised Code.

(B) Notwithstanding Chapter 3319. of the Revised Code:

(1) Until thirty months after the date of the assumption of control of a municipal school district by a board pursuant to division (B) of section [3311.71](#) of the Revised Code, the mayor shall appoint the chief executive officer and fill any vacancies occurring in that position.

(2) After the board appointed pursuant to division (B) of section [3311.71](#) of the Revised Code has been in control of a municipal school district for thirty months, the mayor shall appoint the chief executive officer and fill any vacancies occurring in that position, with the concurrence of the board.

(3) After the first date of the assumption of control of a municipal school district by a board pursuant to division (F) of section [3311.71](#) of the Revised Code, the board shall appoint the chief executive officer and fill any vacancies occurring in that position, with the concurrence of the mayor.

(4) An individual appointed to the position of chief executive officer under division (B)(1), (2), or (3) of this section shall have a contract with the school district that includes such terms and conditions of employment as are agreeable to the board and the appointee, except that each such contract shall contain a provision stating that, unless the individual chooses to terminate the contract at a prior time:

(a) During the first thirty months after the date of the assumption of control of the municipal school district by the board pursuant to division (B) of section [3311.71](#) of the Revised Code, the individual will serve at the pleasure of the mayor;

(b) Beginning thirty months after the date of assumption of control, the individual will serve at the pleasure of the board, with the mayor's concurrence required for removal.

(C) The chief executive officer shall appoint a chief financial officer, a chief academic officer, a chief operating officer, and a chief communications officer and any other administrators for the district as the chief executive officer shall determine to be necessary. The chief executive officer shall also appoint ombudspersons who shall answer questions and seek to resolve problems and concerns raised by parents and guardians of children attending district schools. The chief executive officer shall appoint a sufficient number of ombudspersons to serve the needs of the parents and guardians. A municipal

school district is not required to have a superintendent appointed pursuant to section [3319.01](#) of the Revised Code or a treasurer elected pursuant to section [3313.22](#) of the Revised Code. In addition to the rights, authority, and duties conferred upon the chief executive officer and chief financial officer in sections [3311.71](#) to [3311.76](#) of the Revised Code, the chief executive officer and the chief financial officer shall have all of the rights, authority, and duties conferred upon the superintendent of a school district and the treasurer of a board of education, respectively, by the Revised Code that are not inconsistent with sections [3311.71](#) to [3311.76](#) of the Revised Code.

(D) Notwithstanding Chapters 124. and 3319. of the Revised Code, an individual appointed to an administrative position in a municipal school district by its chief executive officer shall have a contract with the school district that includes such terms and conditions of employment as are agreeable to the chief executive officer and the appointee, except that each such contract shall contain a provision stating that, unless the appointee chooses to terminate the contract at a prior time, the appointee will serve at the pleasure of the chief executive officer.

(E) The chief executive officer shall also contract for or employ such consultants, counsel, or other outside parties as in the chief executive officer's reasonable judgment shall be necessary to design, implement, or evaluate the plan required by section [3311.74](#) of the Revised Code and to properly operate the school district, subject to appropriations by the board.

(F) Notwithstanding section [3301.074](#) and Chapter 3319. of the Revised Code, no person appointed under this section shall be required to hold any license, certificate, or permit.

Effective Date: 11-12-1997

[3311.73 Election on whether mayor shall continue to appoint board members - election of new board.](#)

(A) No later than seventy-five days before the general election held in the first even-numbered year occurring at least four years after the date it assumed control of the municipal school district pursuant to division (B) of section [3311.71](#) of the Revised Code, the board of education appointed under that division shall notify the board of elections of each county containing territory of the municipal school district of the referendum election required by division (B) of this section.

(B) At the general election held in the first even-numbered year occurring at least four years after the date the new board assumed control of a municipal school district pursuant to division (B) of section [3311.71](#) of the Revised Code, the following question shall be submitted to the electors residing in the school district:

"Shall the mayor of (here insert the name of the applicable municipal corporation) continue to appoint the members of the board of education of the (here insert the name of the municipal school district)?"

The board of elections of the county in which the majority of the school district's territory is located shall make all necessary arrangements for the submission of the question to the electors, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers, provided that in any such election in which only part of the electors of a precinct are qualified to vote, the board of elections may assign voters in such part to an adjoining precinct. Such

an assignment may be made to an adjoining precinct in another county with the consent and approval of the board of elections of such other county. Notice of the election shall be published in a newspaper of general circulation in the school district once a week for two consecutive weeks prior to the election , and, if the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall state the question on which the election is being held. The ballot shall be in the form prescribed by the secretary of state. Costs of submitting the question to the electors shall be charged to the municipal school district in accordance with section [3501.17](#) of the Revised Code.

(C) If a majority of electors voting on the issue proposed in division (B) of this section approve the question, the mayor shall appoint a new board on the immediately following first day of July pursuant to division (F) of section [3311.71](#) of the Revised Code.

(D) If a majority of electors voting on the issue proposed in division (B) of this section disapprove the question, a new seven-member board of education shall be elected at the next regular election occurring in November of an odd-numbered year. At such election, four members shall be elected for terms of four years and three members shall be elected for terms of two years. Thereafter, their successors shall be elected in the same manner and for the same terms as members of boards of education of a city school district. All members of the board of education of a municipal school district appointed pursuant to division (B) of section [3311.71](#) of the Revised Code shall continue to serve after the end of the terms to which they were appointed until their successors are qualified and assume office in accordance with section [3313.09](#) of the Revised Code.

Effective Date: 11-12-1997

[3311.74 Goals and accountability standards - plan to measure student academic performance - report - public awareness campaign.](#)

(A) The board of education of a municipal school district, in consultation with the department of education, shall set goals for the district's educational, financial, and management progress and establish accountability standards with which to measure the district's progress.

(B) The chief executive officer of a municipal school district shall develop, implement, and regularly update a plan to measure student academic performance at each school within the district. Where measurements demonstrate that students in particular schools are not achieving, or are not improving their achievement levels at an acceptable rate, the plan shall contain provisions requiring the chief executive officer, with the concurrence of the board, to take corrective action within those schools, including reallocation of academic and financial resources, reassignment of staff, redesign of academic program, and deploying additional assistance to students.

(C) Annually the chief executive officer shall issue a report to residents of the district that includes results of achievement measurements made under division (B) of this section and delineates the nature of any reforms and corrective actions being taken in response to any failure to achieve at an acceptable level or rate. The report shall also contain descriptions of efforts undertaken to improve the overall quality or efficiency of operation of the district, shall list the source of all district revenues, and shall contain a description of all district expenditures during the preceding fiscal year.

(D) The chief executive officer shall implement a public awareness campaign to keep the parents and guardians of the district's students informed of the changes being implemented within the district. The campaign may include such methods as community forums, letters, and brochures. It shall include annual distribution to all parents and guardians of an information card specifying the names and business addresses and telephone numbers of the ombudspersons appointed under section [3311.72](#) of the Revised Code and other employees of the district board of education who may serve as information resources for parents and guardians.

Effective Date: 11-12-1997

3311.75 Funds kept separate - purchases.

(A) A board of education appointed by the mayor pursuant to division (B) or (F) of section [3311.71](#) of the Revised Code shall have no right, title, or interest in the funds or property of any municipal corporation. The budgets of the municipal school district and the municipal corporation shall be estimated, planned, and financed separately. At no time shall any funds of the school district and the municipal corporation be commingled in any manner and all school district funds and accounts shall be maintained and accounted for totally independently of any funds and accounts of the municipal corporation.

(B) The board of a municipal school district shall adopt and follow procedures for the award of all contracts for supplies or services involving the expenditure of fifty thousand dollars or more in any one fiscal year after a competitive bid or request for proposal process. This division is supplemental to section [3313.46](#) of the Revised Code. This division does not apply to contracts of employment or to contracts for professional services; to contracts for the security and protection of school property; in cases of urgent necessity as determined by two-thirds vote of the board; or in any of the situations described in division (B) of section [3313.46](#) of the Revised Code to which the bid process of division (A) of that section does not apply.

Effective Date: 11-12-1997

3311.76 Rule exemptions.

(A) Notwithstanding Chapters 3302., 3306., and 3317. of the Revised Code, upon written request of the district chief executive officer the state superintendent of public instruction may exempt a municipal school district from any rules adopted under Title XXXIII of the Revised Code except for any rule adopted under Chapter 3307. or 3309., sections [3319.07](#) to [3319.21](#), or Chapter 3323. of the Revised Code, and may authorize a municipal school district to apply funds allocated to the district under Chapters 3306. and 3317. of the Revised Code, except those specifically allocated to purposes other than current expenses, to the payment of debt charges on the district's public obligations. The request must specify the provisions from which the district is seeking exemption or the application requested and the reasons for the request. The state superintendent shall approve the request if the superintendent finds the requested exemption or application is in the best interest of the district's students. The superintendent shall approve or disapprove the request within thirty days and shall notify the district board and the district chief executive officer of approval or reasons for disapproving the request.

(B) In addition to the rights, authority, and duties conferred upon a municipal school district and its board of education in sections [3311.71](#) to 3311.76 of the Revised Code, a municipal school district and its board shall have all of the rights, authority, and duties

conferred upon a city school district and its board by law that are not inconsistent with sections [3311.71](#) to 3311.76 of the Revised Code.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 7/17/2009.

Effective Date: 11-12-1997

3311.77 Community oversight committee.

(A) Within sixty days of the initial convening of the municipal school district nominating panel as required by division (C) of section [3311.71](#) of the Revised Code, the state superintendent of public instruction shall establish the community oversight committee to review and evaluate the mayoral appointment school governance plan for any municipal school district as required by sections [3311.71](#) to [3311.76](#) of the Revised Code. Within one year of its appointment, and each year thereafter, the committee, after consulting with the board of education appointed under section [3311.71](#) of the Revised Code, shall submit a written report to the speaker and minority leader of the house of representatives, the president and minority leader of the senate, and the chairpersons and ranking minority members of the standing committee of each house of the general assembly having primary jurisdiction over elementary and secondary education legislation. The report shall address the financial, operational, academic, community, and other issues involving the school district as a result of the implementation of the mayoral appointment school governance plan, as well as the general condition of the school district, the goals and accountability standards the board of education has established under division (A) of section [3311.74](#) of the Revised Code, and how the district measures on each of those accountability standards. Members of the board of education and the community oversight committee shall testify before the education committee of either house of the general assembly concerning the committee's report if so requested to do so by the chairperson of either education committee.

(B) Members of the community oversight committee shall be appointed by the state superintendent of public instruction, who shall also designate one member of the committee as the chairperson. The members shall be appointed to four-year terms, each term beginning on the first day of January. The chief executive officer of the municipal school district, appointed in accordance with section [3311.72](#) of the Revised Code, shall serve as a nonvoting member of the committee. No individual shall be appointed to the committee unless the individual resides in and is a parent or guardian of a child attending a public school in the municipal school district. An individual can be appointed to serve multiple terms.

(C) Members of the committee shall serve without compensation and shall be subject to removal by the state superintendent for cause.

(D) The committee shall end at such time as the mayoral appointment governance plan, as required by sections [3311.71](#) to [3311.76](#) of the Revised Code, is discontinued within the municipal school district by any means of law or court order.

Effective Date: 11-12-1997