



Ohio Revised Code

Section 3302.10 Academic distress commissions.

Effective: September 30, 2021

Legislation: House Bill 82

(A) The superintendent of public instruction shall establish an academic distress commission for any school district that meets one of the following conditions:

(1) The district has for three consecutive years received either of the following:

(a) An overall grade of "F" under division (C)(3) of section 3302.03 of the Revised Code;

(b) An overall performance rating of less than two stars under division (D)(3) of section 3302.03 of the Revised Code.

(2) An academic distress commission established for the district under former section 3302.10 of the Revised Code was still in existence on October 15, 2015, and has been in existence for at least four years.

(B)(1) The academic distress commission shall consist of five members as follows:

(a) Three members appointed by the state superintendent, one of whom is a resident in the county in which a majority of the district's territory is located;

(b) One member appointed by the president of the district board of education, who shall be a teacher employed by the district;

(c) One member appointed by the mayor of the municipality in which a majority of the district's territory is located or, if no such municipality exists, by the mayor of a municipality selected by the state superintendent in which the district has territory.

Appointments to the commission shall be made within thirty days after the district is notified that it is subject to this section. Members of the commission shall serve at the pleasure of their appointing



authority. The state superintendent shall designate a chairperson for the commission from among the members appointed by the state superintendent. The chairperson shall call and conduct meetings, set meeting agendas, and serve as a liaison between the commission and the chief executive officer appointed under division (C)(1) of this section.

(2) In the case of a school district that meets the condition in division (A)(2) of this section, the academic distress commission established for the district under former section 3302.10 of the Revised Code shall be abolished and a new academic distress commission shall be appointed for the district pursuant to division (B)(1) of this section.

(C)(1) Within sixty days after the state superintendent has designated a chairperson for the academic distress commission, the commission shall appoint a chief executive officer for the district, who shall be paid by the department of education and shall serve at the pleasure of the commission. The individual appointed as chief executive officer shall have high-level management experience in the public or private sector. The chief executive officer shall exercise complete operational, managerial, and instructional control of the district, which shall include, but shall not be limited to, the following powers and duties, but the chief executive officer may delegate, in writing, specific powers or duties to the district board or district superintendent:

- (a) Replacing school administrators and central office staff;
- (b) Assigning employees to schools and approving transfers;
- (c) Hiring new employees;
- (d) Defining employee responsibilities and job descriptions;
- (e) Establishing employee compensation;
- (f) Allocating teacher class loads;
- (g) Conducting employee evaluations;



- (h) Making reductions in staff under section 3319.17, 3319.171, or 3319.172 of the Revised Code;
 - (i) Setting the school calendar;
 - (j) Creating a budget for the district;
 - (k) Contracting for services for the district;
 - (l) Modifying policies and procedures established by the district board;
 - (m) Establishing grade configurations of schools;
 - (n) Determining the school curriculum;
 - (o) Selecting instructional materials and assessments;
 - (p) Setting class sizes;
 - (q) Providing for staff professional development.
- (2) If an improvement coordinator was previously appointed for the district pursuant to division (A) of section 3302.04 of the Revised Code, that position shall be terminated. However, nothing in this section shall prohibit the chief executive officer from employing the same individual or other staff to perform duties or functions previously performed by the improvement coordinator.
- (D) The academic distress commission, in consultation with the state superintendent and the chief executive officer, shall be responsible for expanding high-quality school choice options in the district. The commission, in consultation with the state superintendent, may create an entity to act as a high-quality school accelerator for schools not operated by the district. The accelerator shall promote high-quality schools in the district, lead improvement efforts for underperforming schools, recruit high-quality sponsors for community schools, attract new high-quality schools to the district, and increase the overall capacity of schools to deliver a high-quality education for students. Any accelerator shall be an independent entity and the chief executive officer shall have no authority over



the accelerator.

(E)(1) Within thirty days after the chief executive officer is appointed, the chief executive officer shall convene a group of community stakeholders. The purpose of the group shall be to develop expectations for academic improvement in the district and to assist the district in building relationships with organizations in the community that can provide needed services to students. Members of the group shall include, but shall not be limited to, educators, civic and business leaders, and representatives of institutions of higher education and government service agencies. Within ninety days after the chief executive officer is appointed, the chief executive officer also shall convene a smaller group of community stakeholders for each school operated by the district to develop expectations for academic improvement in that school. The group convened for each school shall have teachers employed in the school and parents of students enrolled in the school among its members.

(2) The chief executive officer shall create a plan to improve the district's academic performance. In creating the plan, the chief executive officer shall consult with the groups convened under division (E)(1) of this section. The chief executive officer also shall consider the availability of funding to ensure sustainability of the plan. The plan shall establish clear, measurable performance goals for the district and for each school operated by the district. The performance goals shall include, but not be limited to, the performance measures prescribed for report cards issued under section 3302.03 of the Revised Code. Within ninety days after the chief executive officer is appointed, the chief executive officer shall submit the plan to the academic distress commission for approval. Within thirty days after the submission of the plan, the commission shall approve the plan or suggest modifications to the plan that will render it acceptable. If the commission suggests modifications, the chief executive officer may revise the plan before resubmitting it to the commission. The chief executive officer shall resubmit the plan, whether revised or not, within fifteen days after the commission suggests modifications. The commission shall approve the plan within thirty days after the plan is resubmitted. Upon approval of the plan by the commission, the chief executive officer shall implement the plan.

(F) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, if the district board has entered into, modified, renewed, or extended a collective bargaining agreement on or after October 15, 2015, that contains provisions relinquishing one or more of the rights or



responsibilities listed in division (C) of section 4117.08 of the Revised Code, those provisions are not enforceable and the chief executive officer and the district board shall resume holding those rights or responsibilities as if the district board had not relinquished them in that agreement until such time as both the academic distress commission ceases to exist and the district board agrees to relinquish those rights or responsibilities in a new collective bargaining agreement. For purposes of this section, "collective bargaining agreement" shall include any labor contract or agreement in effect with any applicable bargaining representative. The chief executive officer and the district board are not required to bargain on subjects reserved to the management and direction of the school district, including, but not limited to, the rights or responsibilities listed in division (C) of section 4117.08 of the Revised Code. The way in which these subjects and these rights or responsibilities may affect the wages, hours, terms and conditions of employment, or the continuation, modification, or deletion of an existing provision of a collective bargaining agreement is not subject to collective bargaining or effects bargaining under Chapter 4117. of the Revised Code. The provisions of this paragraph apply to a collective bargaining agreement entered into, modified, renewed, or extended on or after October 15, 2015, and those provisions are deemed to be part of that agreement regardless of whether the district satisfied the conditions prescribed in division (A) of this section at the time the district entered into that agreement. If the district board relinquished one or more of the rights or responsibilities listed in division (C) of section 4117.08 of the Revised Code in a collective bargaining agreement entered into prior to October 15, 2015, and had resumed holding those rights or responsibilities pursuant to division (K) of former section 3302.10 of the Revised Code, as it existed prior to that date, the district board shall continue to hold those rights or responsibilities until such time as both the new academic distress commission appointed under this section ceases to exist upon completion of the transition period specified in division (N)(1) of this section and the district board agrees to relinquish those rights or responsibilities in a new collective bargaining agreement.

(G) In each school year that the district is subject to this section, the following shall apply:

(1) The chief executive officer shall implement the improvement plan approved under division (E)(2) of this section and shall review the plan annually to determine if changes are needed. The chief executive officer may modify the plan upon the approval of the modifications by the academic distress commission.

(2) The chief executive officer may implement innovative education programs to do any of the



following:

- (a) Address the physical and mental well-being of students and their families;
- (b) Provide mentoring;
- (c) Provide job resources;
- (d) Disseminate higher education information;
- (e) Offer recreational or cultural activities;
- (f) Provide any other services that will contribute to a successful learning environment.

The chief executive officer shall establish a separate fund to support innovative education programs and shall deposit any moneys appropriated by the general assembly for the purposes of division (G)(2) of this section in the fund. The chief executive officer shall have sole authority to disburse moneys from the fund until the district is no longer subject to this section. All disbursements shall support the improvement plan approved under division (E)(2) of this section.

(3) If the district is not a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code, each student who is entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code and is enrolled in a school operated by the district or in a community school, or will be both enrolling in any of grades kindergarten through twelve in this state for the first time and at least five years of age by the first day of January of the following school year, shall be eligible to participate in the educational choice scholarship pilot program established under sections 3310.01 to 3310.17 of the Revised Code and an application for the student may be submitted during the next application period.

(4) Notwithstanding anything to the contrary in the Revised Code, the chief executive officer may limit, suspend, or alter any contract with an administrator that is entered into, modified, renewed, or extended by the district board on or after October 15, 2015, provided that the chief executive officer shall not reduce any salary or base hourly rate of pay unless such salary or base hourly rate



reductions are part of a uniform plan affecting all district employees and shall not reduce any insurance benefits unless such insurance benefit reductions are also applicable generally to other employees of the district.

(5) The chief executive officer shall represent the district board during any negotiations to modify, renew, or extend a collective bargaining agreement entered into by the board under Chapter 4117. of the Revised Code.

(H) If the report card for the district has been issued under section 3302.03 of the Revised Code for the first school year that the district is subject to this section and the district does not meet the qualification in division (N)(1) of this section, the following shall apply:

(1) The chief executive officer may reconstitute any school operated by the district. The chief executive officer shall present to the academic distress commission a plan that lists each school designated for reconstitution and explains how the chief executive officer plans to reconstitute the school. The chief executive officer may take any of the following actions to reconstitute a school:

- (a) Change the mission of the school or the focus of its curriculum;
- (b) Replace the school's principal and/or administrative staff;
- (c) Replace a majority of the school's staff, including teaching and nonteaching employees;
- (d) Contract with a nonprofit or for-profit entity to manage the operations of the school. The contract may provide for the entity to supply all or some of the staff for the school.
- (e) Reopen the school as a community school under Chapter 3314. of the Revised Code or a science, technology, engineering, and mathematics school under Chapter 3326. of the Revised Code;
- (f) Permanently close the school.

If the chief executive officer plans to reconstitute a school under division (H)(1)(e) or (f) of this section, the commission shall review the plan for that school and either approve or reject it by the



thirtieth day of June of the school year. Upon approval of the plan by the commission, the chief executive officer shall reconstitute the school as outlined in the plan.

(2) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the chief executive officer, in consultation with the chairperson of the academic distress commission, may reopen any collective bargaining agreement entered into, modified, renewed, or extended on or after October 15, 2015, for the purpose of renegotiating its terms. The chief executive officer shall have the sole discretion to designate any provisions of a collective bargaining agreement as subject to reopening by providing written notice to the bargaining representative. Any provisions designated for reopening by the chief executive officer shall be subject to collective bargaining as set forth in Chapter 4117. of the Revised Code. Any changes to the provisions subject to reopening shall take effect on the following first day of July or another date agreed to by the parties. The chief executive officer may reopen a collective bargaining agreement under division (H)(2) of this section as necessary to reconstitute a school under division (H)(1) of this section.

(I) If the report card for the district has been issued under section 3302.03 of the Revised Code for the second school year that the district is subject to this section and the district does not meet the qualification in division (N)(1) of this section, the following shall apply:

(1) The chief executive officer may exercise any of the powers authorized under division (H) of this section.

(2) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the chief executive officer may limit, suspend, or alter any provision of a collective bargaining agreement entered into, modified, renewed, or extended on or after October 15, 2015, provided that the chief executive officer shall not reduce any base hourly rate of pay and shall not reduce any insurance benefits. The decision to limit, suspend, or alter any provision of a collective bargaining agreement under this division is not subject to bargaining under Chapter 4117. of the Revised Code; however, the chief executive officer shall have the discretion to engage in effects bargaining on the way any such decision may affect wages, hours, or terms and conditions of employment. The chief executive officer may limit, suspend, or alter a provision of a collective bargaining agreement under division (I)(2) of this section as necessary to reconstitute a school under division (H)(1) of this section.



(J) If the report card for the district has been issued under section 3302.03 of the Revised Code for the third school year that the district is subject to this section and the district does not meet the qualification in division (N)(1) of this section, the following shall apply:

(1) The chief executive officer may exercise any of the powers authorized under division (H) or (I) of this section.

(2) The chief executive officer may continue in effect a limitation, suspension, or alteration of a provision of a collective bargaining agreement issued under division (I)(2) of this section. Any such continuation shall be subject to the requirements and restrictions of that division.

(K) If the report card for the district has been issued under section 3302.03 of the Revised Code for the fourth school year that the district is subject to this section and the district does not meet the qualification in division (N)(1) of this section, the following shall apply:

(1) The chief executive officer may exercise any of the powers authorized under division (H), (I), or (J) of this section.

(2) A new board of education shall be appointed for the district in accordance with section 3302.11 of the Revised Code. However, the chief executive officer shall retain complete operational, managerial, and instructional control of the district until the chief executive officer relinquishes that control to the district board under division (N)(1) of this section.

(L) If the report card for the district has been issued under section 3302.03 of the Revised Code for the fifth school year, or any subsequent school year, that the district is subject to this section and the district does not meet the qualification in division (N)(1) of this section, the chief executive officer may exercise any of the powers authorized under division (H), (I), (J), or (K)(1) of this section.

(M) If division (I), (J), (K), or (L) of this section applies to a district, community schools, STEM schools, chartered nonpublic schools, and other school districts that enroll students residing in the district and meet academic accountability standards shall be eligible to be paid an academic performance bonus in each fiscal year for which the general assembly appropriates funds for that purpose. The academic performance bonus is intended to give students residing in the district access



to a high-quality education by encouraging high-quality schools to enroll those students.

(N)(1) When a district subject to this section receives either an overall grade of "C" or higher under division (C)(3) of section 3302.03 of the Revised Code or an overall performance rating of three stars or higher under division (D)(3) of section 3302.03 of the Revised Code, the district shall begin its transition out of being subject to this section. Except as provided in division (N)(2) of this section, the transition period shall last until the district has received either an overall grade higher than "F" under division (C)(3) of section 3302.03 of the Revised Code or an overall performance rating of two stars or higher under division (D)(3) of section 3302.03 of the Revised Code for two consecutive school years after the transition period begins. The overall grade of "C" or higher or overall performance rating of three stars or higher that qualify the district to begin the transition period shall not count as one of the two consecutive school years. During the transition period, the conditions described in divisions (F) to (L) of this section for the school year prior to the school year in which the transition period begins shall continue to apply and the chief executive officer shall work closely with the district board and district superintendent to increase their ability to resume control of the district and sustain the district's academic improvement over time. Upon completion of the transition period, the chief executive officer shall relinquish all operational, managerial, and instructional control of the district to the district board and district superintendent and the academic distress commission shall cease to exist.

(2) If the district receives either an overall grade of "F" under division (C)(3) of section 3302.03 of the Revised Code or an overall performance rating of less than two stars under division (D)(3) of section 3302.03 of the Revised Code at any time during the transition period, the transition period shall end and the district shall be fully subject to this section again. The district shall resume being fully subject to this section at the point it began its transition out of being subject to this section and the division in divisions (H) to (L) of this section that would have applied to the district had the district not qualified to begin its transition under division (N)(1) of this section shall apply to the district.

(O) If at any time there are no longer any schools operated by the district due to reconstitution or other closure of the district's schools under this section, the academic distress commission shall cease to exist and the chief executive officer shall cease to exercise any powers with respect to the district.



(P) Beginning on October 15, 2015, each collective bargaining agreement entered into by a school district board of education under Chapter 4117. of the Revised Code shall incorporate the provisions of this section.

(Q) The chief executive officer, the members of the academic distress commission, the state superintendent, and any person authorized to act on behalf of or assist them shall not be personally liable or subject to any suit, judgment, or claim for damages resulting from the exercise of or failure to exercise the powers, duties, and functions granted to them in regard to their functioning under this section, but the chief executive officer, commission, state superintendent, and such other persons shall be subject to mandamus proceedings to compel performance of their duties under this section.

(R) The state superintendent shall not exempt any district from this section by approving an application for an innovative education pilot program submitted by the district under section 3302.07 of the Revised Code.