

COASN Legislative Report: Carol Lynne O'Neil

Provisions of Sub SB210 – Healthy Choices for Healthy Children Act (student nutrition) - October, 2010

This is a glimpse of a sweeping and complex 30 page bill. This summary does not constitute legal advice ☺. It is advisable to review the language of the law which is on ODE's website www.ode.state.oh.us. Type Healthy Choices into the search box.

Context:

- Passed June, 2010 effective in 90 days
- Is an unfunded mandate with definite costs involved
 - Would not be surprising for bill amending some provisions of the law to be introduced in the next general assembly
- No specific penalties in the bill for failure to comply
 - reporting to ODE and ODE's mandated reports will be accessible to the public
- ODE is concerned about all the responsibilities mandated by the bill
 - currently has only provided forms for waivers and a copy of the bill on its website
 - expect additional guidance and detail as implementation proceeds

Provisions affecting schools:

- Schools required to adopt and enforce nutrition standards governing the types of food and beverages that may be sold on school premises. Must: 1) consider the nutritional values of each food and beverage, 2) consult with licensed dietitian or registered dietetic technician or a certified school nutrition specialist. Person may be school employee, contractor, or volunteer if properly credentialed. Also must consult the USDA dietary guidelines for Americans and incorporate them into the standards.
 - May not have vending machines in classrooms unless also used to serve student meals.
 - Must designate staff responsible to insure meeting of standards adopted. Staff to prepare annual report regarding compliance and submit to ODE.
 - Governing body must schedule a presentation on the report at one of its regular meetings and *copies of the report must be available to the public upon request*
 - *Bill prescribes limitations on beverages* which can be sold.. This includes individually priced items available through food service programs, vending machines and school stores. It does not include school sponsored fundraisers held outside the school day, other school sponsored events outside the school day or interscholastic athletic events.
 - See Appendix A
- Schools required to screen all students for body mass index in K, 3, 5, and 9 prior to May 1 of the school year (Note: provisions for waivers are written into the bill)
 - Three ways to accomplish BMI screening – school does it, school contracts out, request parent get the screening and submit results to the school
 - School must protect student privacy and confidentiality - screen student not in the presence of other students or staff - report individual results only to parent or guardian.

- School must provide information on the screening program to parents before Feb 1st
 - In reporting individual BMI results to parents, the school must notify the parent of the student of any health risks associated with the student's results.
 - School must report aggregated data to state director of health and ODH may publish it.
 - Parent may submit a written request to the governing body not to have the student screened in which case the governing body shall not require the screening
 - A governing authority may obtain a waiver of the requirement by submitting an affidavit to the State Superintendent attested to by the presiding officer of the board or governing authority stating that it is unable to comply and the State Superintendent shall grant the waiver. (See form on ODE website)
- ODE required to administer a pilot program requiring 30 minute of vigorous daily physical activity for each student starting in 2011-2012
 - Schools annually elect to participate by notifying ODE; this is an opt-in program
 - *If school participates*, all students K-12 must do 30 minutes daily through: a physical education course or a program before or after the regular school day so long as school officials can monitor student participation. (Act lists some exceptions)
 - Participating school reports annually to ODE (in ODE prescribed format) on how the activity was implemented and what the ensuing costs were; ODE required to issue an annual report on the pilot program
 - Inclusion in the half unit of health required for graduation of instruction in nutrition and the benefits of healthy eating and physical activity
 - ODE is charged with obtaining software for assessing the nutritional value of foods (healthiness, calories, fat, saturated fat, trans fat, sugar, protein, fiber, calcium, iron, vitamin A and C in each food item) and making it available to schools free of charge.
 - Schools must use the software *once it is available*
 - Specific food requirements become effective once the software is distributed. (See Appendix B)
 - There is a 32 member statewide council made up of school representatives that will make periodic policy and best practices recommendations to the state board of education and ODE
 - Note: The act requires for school districts, STEM schools and community schools that physical education be taught by licensed P.E teachers starting July, 2013. Because the word school district is used and nonpublic schools are not mentioned, it may be assumed that this provision does not apply to private schools.

The bill contains extensive Appendices that detail specific food items, serving sizes and the nutritional requirements.