

# Academic Distress Commissions

## Review and Recommendations of the Superintendent of Public Instruction As Required by Ohio Revised Code Section 3302.101<sup>1</sup>

### Introduction

Ohio has a fundamental interest in ensuring each child receives a high-quality education. It has enacted laws and rules that created governance structures, provide for financial support, establish operational and academic requirements, prescribe assessments and an accountability system and set other policy and legal parameters to serve this purpose. Like other states, as part of its education policy framework, Ohio law also establishes a statutory mechanism to address those circumstances in which a school district shows evidence of persistent underperformance.

In July 2015, Am. Sub. House Bill 70 created Ohio Revised Code (ORC) section 3302.10, which requires the superintendent of public instruction to establish an academic distress commission (ADC) for a school district that meets a specific set of conditions. It also describes the manner in which the school district will be governed and managed. The statute became effective in October 2015. To date, three academic distress commissions have been created. The first was established in Youngstown City School District in February 2016, the second in Lorain City School District in July 2017, and the third in East Cleveland City School District in September 2018.

The experiences of the three academic distress commissions have yielded significant insight into the challenges presented by the implementation of the statute. While the statute may be intended to form a cohesive alternative structure to support school district improvement, its effectiveness can be quickly undermined by turbulent dynamics among stakeholders who are ultimately essential to the success of the district, including the local board of education, school leaders, educators and community partners. While an ADC approach may produce some positive results, the potential for significant opposition makes it tremendously challenging for it to function in a way that leads to successful district turnaround.

There are two critical challenges in the design of the academic distress commission statute that drive the recommendations below. The first is that the statute creates too substantial a separation between traditional governance structures and the new governance structures and fosters a local community's fears of the unknown to the point where the work of school improvement meets with tremendous resistance. The second is that the improvement work is not sufficiently supported with assistance and expertise to assure shared responsibility, effective implementation and a likelihood of success.

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<sup>1</sup> The opinions, perspectives and recommendations presented in this report are solely those of the state superintendent based on many conversations, experiences and a review of examples from other states. The State Board of Education has not formally endorsed or approved any of the contents of this document.

## Key Principles

The recommendations below reflect three key principles:

- **Successful district improvement requires a focus on effective practices that drive meaningful change.** The effective practices are grouped in six areas: leadership, governance and communication; curriculum and instruction; assessment and effective use of data; human resources and professional development; student supports; and fiscal management. Districts also must be adept at effective planning, implementation and change management.<sup>2</sup>
- **Improvement efforts should first seek to build the capabilities of the local board of education and local superintendent and leverage committed staff and community support.** Careful preference should be given to approaches designed to develop the capacity of the local school board and local superintendent to demonstrate effective practices for district improvement and change management processes that lead to improved outcomes for students. However, if this approach does not work, a stronger alternative likely is necessary.
- **There is no one-size-fits all approach.** Achieving meaningful change is hard and does not happen overnight. Every school and district will be different and require a customized combination of strategies and actions, supports, expectations and responsibilities. Change requires questioning the status quo, seeking best practices, embracing different and better ways and a commitment to shared design and implementation that fits the particular circumstances of each school district and each community.

## Purpose of this Report

This report has been prepared to fulfill the requirement of Ohio Revised Code section 3302.101, which states:

*The superintendent of public instruction shall **review all policies and procedures** regarding academic distress commissions established under section 3302.10 of the Revised Code and prepare a report of its findings. This report shall include **recommendations to improve** all of the following for each academic distress commission that exists as of the effective date of this section:*

*(A) The appointment of members of the commission;*

*(B) The duties and powers of the chief executive officer of the commission, the officer's plan to improve the performance of the district for which the commission was established, and any innovative education programs established by the officer;*

*(C) The efficiency of any high-quality school accelerator created by the commission under division (D) of section 3302.10 of the Revised Code that exists as of the effective date of this section;*

*(D) The results of the most recent report card issued under section 3302.03 of the Revised Code for the district for which the commission has been established under section 3302.10 of the Revised Code.*

*The state superintendent shall submit this report to the general assembly in accordance with section 101.68 of the Revised Code not later than May 1, 2019.*

<sup>2</sup> These elements are the same as used in Ohio's district reviews. More information can be found at <http://education.ohio.gov/Topics/District-and-School-Continuous-Improvement/District-Reviews>.

## Review of Policies and Procedures

This report is organized by the primary policy components of Ohio Revised Code section 3302.10:

- I. Criteria for Academic Distress Commission Establishment – Persistent District Underperformance {3302.10 (A)}
- II. Alternative governance structure relieving responsibility of the local board of education {3302.10 (B)}
- III. Broadly empowered chief executive officer {3302.10 (C), (G)(4) & (G)(5)}
- IV. Expanding choice options {3302.10 (D) and (G)(3)}
- V. Plan development and implementation {3302.10 (E) & (G)(1)}
- VI. Reclaiming relinquished management rights {3302.10 (C) and (F)}
- VII. Innovative education programs {3302.10 (G)(2)}
- VIII. Progressively increasing authority {3302.10 (H) through (M)}
- IX. Release from distress commission {3302.10 (N)}
- X. Miscellaneous technical issues

For each component, the report offers a brief description of the current policy, challenges with the policy, a statement of improvement objectives and recommendations for improvement.

### I. Criteria for Academic Distress Commission Establishment — Persistent School Underperformance {3302.10 (A)}

#### Current Policy

In current law, the first policy component defines the conditions that cause the establishment of an academic distress commission. The statute calls for the establishment of an academic distress commission for a school district that receives an overall grade of “F” on its state-issued report card for three consecutive years.

#### Current Policy Challenges

There are several challenges that emerge from this policy component.

- **Not enough time to improve:** The most commonly cited challenge is that three years is not enough time to enable a district to implement systemic changes and realize improvements. The criteria specifies “three consecutive years” of underperformance; however, the district is only given two years to rectify the qualifying condition. The time between the notification of the first “F” grade and the issuance of the third “F” grade is two complete academic years.<sup>3</sup>
- **No nuanced consideration of improvement:** The current statute does not recognize that an “F” letter grade may mask meaningful academic improvement. For example, a district might

<sup>3</sup> It should be noted, however, there are examples where this timeline has, in fact, been sufficient. For example, in September 2016, three districts received their first overall “F” grades. These were East Cleveland, Trotwood-Madison and Warrensville Heights. By September 2017, the same three districts had second overall “F” grades. By September 2018, however, only one district – East Cleveland – triggered the establishment of an academic distress commission.

demonstrate a meaningful gain in Performance Index, or similar improvement in another indicator, but still receive an “F” grade. If meaningful improvement is happening, the establishment of an academic distress commission could serve to interrupt progress toward a higher overall grade.

- **Districts focus on boosting grades rather than systemic reform:** The possibility that an academic distress commission might be established can be a powerful motivator for change, but it causes a district to find the easiest path to a higher overall report card grade. Long-term success requires a more holistic and systemic approach. If a district manages to get an overall grade of “D,” it may find itself comforted by having escaped academic distress but may not continue to be aggressive in making meaningful change.

### Ohio’s District Review Process and the State System of Supports

Conducted by the Department of Education, **district reviews** support local school districts in establishing or strengthening a cycle of continuous improvement. Reviews carefully consider the effectiveness of systemwide functions using six district standards:

- Leadership, Governance and Communication;
- Curriculum and Instruction;
- Assessment and Effective Use of Data;
- Human Resources and Professional Development;
- Student Supports; and
- Fiscal Management.

The Department of Education also promotes the **Ohio Improvement Process (OIP)**. This is a strategy-neutral, continuous improvement process that embraces shared problem identification and solutions design. The OIP supports high-quality plan development and effective implementation and change management.

Sixteen regional **state support teams** and the state’s **educational service centers** exist across the state to provide schools and districts with assistance in quality improvement practices and support for identifying and implementing evidence-based practices. They also are able to provide advice and professional development around a wide range of district and school needs.

## Recommendations

**Improvement Objective:** *When a district first receives an overall grade of “F,” a district review should be conducted. The review also should include a review of current improvement plans, processes, actions and impacts. The review process should identify evidence of improvement, causes of underperformance and needs for support. A district showing improvement should be given assistance and support without state intervention in district operations or management. The state should negotiate an Expectations and Supports Agreement to formalize the state-district relationship and define roles and responsibilities. Supports should be customized based on the specific needs of the district in the areas of leadership capacity development, quality planning and various aspects of implementation or change management, as needed.*

**Recommendation 1: The state should engage with underperforming districts earlier and assess current district capacity and performance – including implementation and change management processes and improvement in student performance.**

When a school district receives its first overall “F” grade, it should be identified as in “Substantial and Intensive Support” status. The state should undertake a review and evaluation of the district to ascertain the extent to which leadership capacity exists, along with a quality plan and effective implementation mechanisms. The purpose of the review shall be to determine whether meaningful improvement is occurring.

- **Meaningful improvement:** The school district demonstrates it has an effective superintendent and local board and a high-quality improvement plan (see the discussion in Section V of this report) and can show evidence of changes in practice that have resulted in improved student achievement.
- **Meaningful efforts toward improvement:** The district has taken action to ensure an effective superintendent and local board and has completed, or is in the process of completing, a high-quality improvement plan. The capacity of the board and superintendent is shown to be sufficient to implement the plan with fidelity.

If the review shows the district is making meaningful improvement or meaningful efforts toward improvement, then a district should have the opportunity to continue to implement current strategies and actions without state intervention. State support could be provided as needed. If a district is not showing meaningful improvement or making meaningful efforts toward improvement, the state and district shall agree to assistance and supports commensurate with district needs.

**Recommendation 2: When a district receives its first overall grade of “F,” the district should be designated as being in Substantial and Intensive Support status. The state and district should negotiate a customized Expectations and Supports Agreement to specify actions to be taken by the district and supports to be provided by the state.**

The state superintendent shall negotiate with the district’s board president and superintendent the terms and conditions of an Expectations and Supports Agreement. This allows both parties to specify actions to be taken and areas for support. For a district showing improvement or meaningful efforts toward improvement, the agreement can affirm the district can continue implementing current actions and strategies without state intervention. Additional state supports could be authorized.

If a district is not showing meaningful efforts toward improvement, the agreement would indicate expected actions by the district and supports from the state that are consistent with the review conducted by the Department of Education. Districts may need support with planning, implementation, budgeting, labor management relations, etc. (Recommendations 3 and 4 below identify supports and monitoring or oversight mechanisms that could be included in the agreement.) The Department of Education should strengthen its capacity to provide such supports. Additionally, the Department should maintain a list of approved, high-quality “school improvement partners” (organizations that specialize in supporting school and district turnaround with proven success) that districts can use to support quality planning, implementation and other improvement activities.

**II) Alternative Governance Structure Relieving Responsibility of the Local Board of Education {3302.10 (B)}**

## Current Policy

In current law, once underperformance is identified and the district receives an overall “F” grade on its report card for the third time, a new, and fundamentally different, governance structure is established for the school district. The local board of education is essentially removed from the academic, managerial and operational decision-making for the school district. Instead an academic distress commission is created, with very specific functions as part of a new governance structure.

The policy statement made by this section of law is that the existing governance structure is ineffective, and therefore it cannot continue to operate and must be replaced by something completely different.

This policy idea is not unprecedented in Ohio law or in other state laws. In Ohio, ORC section 118.05 allows for the appointment of a financial planning and supervision commission for any municipal corporation, county or township in which a fiscal emergency condition exists (as defined by ORC section 118.04). Currently, there are five cities, three villages and one township in fiscal distress. The commission appoints a financial supervisor who supports the local jurisdiction’s development of a financial plan. The financial plan is subject to the approval of the commission. This approach places tight controls around the action of the local government authority.

ORC section 3316.05 calls for the creation of a fiscal planning and supervision commission to be appointed for a school district when the school district is in fiscal distress or projects an inability to stay solvent. The statute defines the role of a financial supervisor. The commission is charged with preparing and approving a financial recovery plan after seeking appropriate input from the school board and community. The commission also may take control of operational and other aspects of the school district as it determines necessary. Since 1996, 43 districts have been placed in fiscal emergency. Only two districts currently are in fiscal emergency.

Finally, ORC section 3311.71, enacted in 1997 and limited to the Cleveland Metropolitan School District, creates an alternative mayoral control governance structure. Under this statute, the mayor of the City of Cleveland appoints the members of the school board thereby giving the mayor control over the activities of the school district.

In other states, similar alternatives exist. Some of these are more extreme. For example, in Tennessee,<sup>4</sup> there is the Achievement School District, which takes responsibility for the state’s 5 percent lowest-performing schools. Louisiana has the Recovery School District.<sup>5</sup> Massachusetts<sup>6</sup> and Colorado<sup>7</sup> have state laws that allow for a receiver to be appointed in the case where a school district experiences persistent underperformance. New York also has a receivership law<sup>8</sup> that provides various levels of state oversight and monitoring.

## Current Policy Challenges

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<sup>4</sup> [achievementschooldistrict.org/](http://achievementschooldistrict.org/)

<sup>5</sup> [louisianabelieves.com/schools/recovery-school-district](http://louisianabelieves.com/schools/recovery-school-district)

<sup>6</sup> [doe.mass.edu/turnaround/howitworks/reports.html](http://doe.mass.edu/turnaround/howitworks/reports.html)

<sup>7</sup> [cde.state.co.us/accountability/priority\\_improvement\\_turnaround\\_supplement\\_2018](http://cde.state.co.us/accountability/priority_improvement_turnaround_supplement_2018)

<sup>8</sup> [p12.nysed.gov/part100/pages/100\\_19.html](http://p12.nysed.gov/part100/pages/100_19.html); [p12.nysed.gov/accountability/de/SchoolReceivership.html](http://p12.nysed.gov/accountability/de/SchoolReceivership.html)

The following challenges emerge from this policy component:

- **Assumes local leadership capacity cannot be improved.** The statute does not provide an opportunity for the local leadership to prove it has the ability to manage effectively and successfully. It assumes the current governance structure must be completely severed from the operation of the district to achieve results. It does not consider that a school board eventually will need to retake control of the district.
- **Offers one-size-fits-all solution.** The statute lays out a one-size-fits-all approach to alternative governance. This eliminates any opportunity to pursue alternative configurations that may better align with local circumstances and be more respectful of the strengths and weaknesses of local leadership, planning, action and results.
- **Creates the potential for significant friction with local community interests.** Despite the community engagement requirements in the improvement plan development process called for in law (ORC 3302.10 (E)), communities can view the creation of a new entity as an intrusion and a violation of local control. Displaced local boards and leaders champion the status quo and criticize any change. This creates an unstable environment that makes it nearly impossible to build trust among those trying to bring about change and impede the productive collaboration necessary to drive district improvement.
- **Commission effectiveness limited by structure and responsibilities.** The composition of the academic distress commission, as well as its specific powers and duties complicate its functioning. While the membership requirements attempt to bring various stakeholders (including the mayor and school board president) to the table, the work of the commission becomes difficult if interests do not align. For example, if any of the members appointed to the commission do not believe in the validity of the underlying statute, then they could undermine its success. Additionally, the presence of a teacher on the commission creates possible conflicts of interest when the commission is updated on the progress of collective bargaining.
- **Misalignment of levy authority.** While the CEO is granted most of the authority of the local board of education, one of the powers retained by the board is the levying of local taxes. This creates significant leverage for the local board of education to potentially destabilize improvement efforts.

## Recommendations

***Improvement Objective: Give preference to the local school board and district superintendent, as long as they demonstrate effective planning and implementation capacity and take actions consistent with a quality plan. To support their capacity, peer-to-peer advisory structures should be established as needed. The state's initial role should be as a monitor and counselor. In the case of continued underperformance, the state should progressively exert increasing authority beginning with approving or rescinding local board and leadership actions and, as a last resort, pursuing a more significant change in governance.***

**Recommendation 3: Establish support structures to provide guidance and advice to the district superintendent, as well as the local board of education.**

District leaders and board members can learn from others who serve in similar capacities and gain insight into the important work of school improvement. The following groups should be convened, as appropriate, to provide counsel and advice:

- **Quality education advisory group:** The district superintendent would be supported by a quality education advisory group consisting of current and former district superintendents and principals recommended by the Buckeye Association of School Administrators (BASA), the Ohio Association of Elementary School Administrators and the Ohio Association of Secondary School Administrators. It also would include the superintendent of the educational service center that supports the district and the director of the regional state support team. This group would serve as a sounding board and source of feedback to the superintendent relative to various aspects of the management, operations and educational experiences of the district. This would include issues related to curriculum, professional development, discipline, school climate and culture.
- **School board support advisory group:** This group would provide support to the local board of education to build the capacity of the board to provide the appropriate leadership relevant to changing academic and operational practices that lead to enhanced education experiences and improved outcomes for students. It would be comprised of current and former school board members from other districts, as recommended by the Ohio School Boards Association.
- **Community support coordinating group:** This group would organize and coordinate community support and provide community organization perspective on the improvement plan and implementation. It would be led by one or more leaders of community organizations that historically have provided assistance and support to the district's schools.
- **Resource utilization advisory group:** This group would consist of current district treasurers recommended by the Ohio Association of School Business Officials who could support efforts to ensure resources are being used effectively to promote improvement. It also would ensure use of good financial and budget planning practices.

#### **Recommendation 4: Authorize multiple options for progressive monitoring, oversight and decision-making.**

Instead of authorizing a single option in law, the state superintendent, or other credible entity, should be given the authority to choose from a menu of intensive support options to best meet the needs of the district in Substantial and Intensive Support status. The specific choices for a particular district would be included as part of the Expectations and Supports Agreement. Three categories of options would be available — assistive options, supervisory options and directive options. Any of the options could be altered or revoked if monitoring showed there was no evidence of meaningful improvement after a specified time.

The following are options to be considered:

**Assistive options:** These options are intended to provide assistance, support and coaching that builds capacity among involved stakeholders in support of district improvement.

- **Facilitator:** A facilitator would be an individual with sufficient expertise and experience to support a specific activity or process. For example, a *Planning Facilitator* would support a local board or superintendent in conducting and developing a high-quality plan. A *Collaboration Facilitator* would work to support continuous improvement and collaborative implementation activities that facilitate teachers and administrators co-designing improvement strategies. A

*Change Management Facilitator* would help support effective implementation and attention to challenges that arise in implementing change.

- **Monitor:** A monitor would have unrestricted access to information and personnel to monitor the alignment of actions to the district improvement plan, as well as the success of implementation, collaboration and changes in behavior. The monitor would report to, and serve at the pleasure of, the state, but he or she also would provide reports to the local board.
- **School-level coach:** A decision could be made to provide intensive coaching at the school level to support improvement at a particular building. The district would have the option to identify a school coach (or an improvement partner/organization that relies on significant coaching) with the approval of the state.

**Supervisory options:** These options are intended to provide stronger input into decisions and actions when assistive options are determined to be insufficient.

- **Improvement supervisor.** Under this option, the state superintendent, in consultation with the local board of education, would select an improvement supervisor. The supervisor would serve at the pleasure of the state superintendent and would be empowered to attend any meetings, review any information and participate in any processes for the sake of monitoring activities. The supervisor also may make recommendations for action to the local board or superintendent. The supervisor also may suspend actions of the board or superintendent in the case where the supervisor determines such actions are not consistent with the improvement plan or the Expectations and Supports Agreement. Decisions could be appealed to the state superintendent.
- **Local superintendent supervisor:** The state superintendent may confer upon the district superintendent the authority of an improvement supervisor. In this case, the district superintendent could suspend actions of the board that are contrary to the improvement plan or the Expectations and Supports Agreement. The district superintendent could be protected from termination by the board if designated as an improvement supervisor. (This option could be exercised in those cases where the superintendent shows evidence of effective practice but the local board does not.)

**Directive options:** These options could be used to direct academic, operational and management decisions in the district and circumvent the authority of the local board and/or superintendent.

- **Mayoral control:** The state superintendent would have the authority to offer the option of mayoral control to the mayor of the city in which the district is located. Similar to Cleveland, the mayor would appoint a local board of education, which would select the CEO.
- **School(s) director:** This option would allow the state to identify and manage individual or groups of school buildings — those needing the most intensive supports. The state would then oversee the school(s) through the appointment of a director of schools, in consultation with the district superintendent. The director of schools would serve with a high-level of independence regarding the operations of the selected schools. The authority of the director of schools would be identified through the terms of a contract.
- **Contracted school management:** One or more schools may be considered for independent management by a nonprofit management company. Specifications for the operation of the school would be developed and a bidding process developed. Public input on proposals received would be allowed, and a decision would be made by the state. The school would remain part of the district. (This would not be a community school.)

- **Education improvement supervision commission:** This represents a reshaped version of the current academic distress commission (see the discussion under Recommendation 5 below). The commission would be structured similar to the current financial planning and supervision commission, where the commission has a great deal of authority but continues to offer the local school board and superintendent the opportunity to exercise leadership. In the extreme, however, the commission, with the approval of the state superintendent, may exercise stronger authority (see Recommendation 5 below), including the appointment of a CEO.
- **Direct appointed CEO:** The state superintendent would be authorized to accept full responsibility for the management of the district by appointing a CEO who serves at the pleasure of the state superintendent. This model would do away with the commission and place all responsibility of the district with the state superintendent and the superintendent's appointed leader.

**Recommendation 5: Recast the academic distress commission as an education improvement supervision commission with a revised structure, responsibilities and authorities.**

To be an effective and workable choice, various modifications should be made to the current academic distress commission structure to improve its effectiveness. The name of the entity should be changed to “education improvement supervision commission” and structured in a manner that is similar to the financial planning and supervision commissions authorized by state law. There are a variety of components of the commission, as currently constituted, that should be modified as follows:

- **Commission membership:** Commission members should be peer professionals, and there should be more time to appoint them. The membership should include one currently practicing school superintendent (from a list nominated by BASA), one member of a local board of education that is not the local board of the district (from a list nominated by OSBA), a current district treasurer (from a list nominated by OASBO), a representative of the state superintendent employed by the Department of Education, and a principal (from lists nominated by OASSA and OAESA). More time should be given to appoint the members of the commission.
- **Commission powers and responsibilities:** The commission should have the following powers:
  - Approve (or require changes in) educational improvement plans developed by the board.
  - Approve (or require changes in) budget and financial plans developed by the board.
  - Invalidate board or administrative actions inconsistent with the approved educational improvement plan.
  - Recommend supports to promote plan implementation.
  - Accept additional managerial, operational and educational authority, as prescribed by the state superintendent, including the authority to appoint a CEO.
  - Consult with the local superintendent or CEO on high-profile changes and the manner in which such changes have been developed and will be implemented.

- **Levy Authority:** Consideration should be given to granting levy authority to the commission. The model for this would be ORC section 3316.08, which gives such authority to a school district financial planning and supervision commission.

### III) Broadly empowered chief executive officer {3302.10 (C), (G)(4) and (G)(5)}

#### Current Policy

In current policy and statute, a strong leader with significant authority and autonomy is an important component to successful school district improvement. In ORC section 3302.10 (C), the CEO is vested with complete managerial, operational and academic control. The remainder of the statute contains very few limitations on the CEO's power. The only limitation is the requirement that the CEO serve at the pleasure of the commission.

Effective leadership is shown to be one of the most important factors in the success of education organizations. Successful leadership, however, rarely operates in a top-down manner. Meaningful improvement relies on a collective commitment to change by leadership, management, staff and community and the active participation in the design and implementation of change by key stakeholders — especially teachers and school staff.

#### Current Policy Challenges

The following challenges relate to this policy component.

- **Compressed timeframe to identify executive leadership:** The 60 days allotted to find a high-quality executive is a very short period to accomplish all the various steps of an effective search process.
- **Little support provided to the CEO:** CEOs come into a position on a tremendous learning curve. While they have extensive power, they are not provided with meaningful supports and may find themselves making decisions without having a deep understanding of contexts and potential consequences. (See Recommendation 3 above.)
- **Mechanism to affirm high-profile decisions:** Some decisions have high stakes and the potential to create high levels of anxiety. Vesting significant authority and autonomy in one individual can have positive results, but only if consideration is given to reactions, responses and unintended consequences. The impact of high-profile decisions must be considered carefully, and the need for buy-in by those impacted must be understood.
- **Mechanisms to ensure prudent fiscal decisions:** The current statute does not clearly establish mechanisms for budget and expenditure review. While it is appropriate for there to be better integration between fiscal decisions and educational/managerial ones, there should still be a budget approval process and some degree of independent fiscal review.

#### Recommendations

***Improvement Objective: A local board should be involved in the selection of district leadership. In some cases, the board's decision should be approved by the state. In some cases, taking this responsibility from the board also may be necessary. Advising and coaching should be a fundamental support for the district leader. There also must be review***

*mechanisms that ensure prudence in high-profile decisions and budget matters (see Recommendation 5).*

**Recommendation 6: For a district in Substantial and Intensive Support status, allow a local superintendent to continue to serve with supports. If the position becomes vacant, allow the district board of education to hire a new superintendent with the approval of the state. When a board is unable to effectively select a leader, appointment of district leadership should be made by a separate authority.**

The starting assumption should be that the sitting superintendent should have the opportunity to exercise the capacity to lead the change that is necessary for the district. However, the superintendent should be provided with support through an advisory group (see Recommendation 3 above), as well as other assistive and directive supports as necessary. The contract of the superintendent should not be renewed without the approval of the state superintendent. If a vacancy occurs, a new superintendent would be hired by the local board, with the approval of the state superintendent, unless the state superintendent has put in place mayoral control, an education improvement supervision commission or chosen to directly appoint a CEO.

**Recommendation 7: Ensure the district treasurer has a reporting obligation to any new governing authority that may be established and an obligation to provide updates to the state.**

It is important to ensure a credible, independent authority is providing information and oversight relative to budgeting, forecasting and other financial matters. In Ohio, treasurers normally are accountable to local boards of education. This should continue to be the case. If mayoral control or an education improvement supervision commission is put in place, the treasurer should be accountable to the new authority.

#### **IV) Expanding choice options {3302.10 (D) and (G)(3)}**

##### **Current Policy**

The statute reflects a policy position that additional school choice options could contribute to ensuring quality educational opportunities are available to all district students. The statute gives permissive authority to the commission, in consultation with the state superintendent and the chief executive officer, to create a high-quality school accelerator and describes the role the accelerator would play. The statute also requires all schools in the underperforming district be designated as traditional EdChoice Scholarship schools.

It is worth noting that districts meeting the criteria for the establishment of academic distress commissions already are likely to have one or more designated buildings eligible for the EdChoice Scholarship (voucher) program. Students who attend or would otherwise attend these schools may be eligible to receive scholarships. Additionally, all districts with overall “F” grades already are designated as challenged districts within which community schools can be established.

##### **Current Policy Challenges**

This policy position has the following challenges:

- **Unlikely that accelerator will be created:** To date, commissions have shown no interest in creating accelerators. This is mostly due to the focus of the commissions on the districts' leadership and improvement plans.
- **Diverts focus from school improvement:** The majority of a district's students will be educated in traditional public schools, so the primary focus of the work should be on the traditional school system. Public opposition to school choice options can create additional tension around the reform work. Other mechanisms in state law can be leveraged to expand school choice options, as appropriate.

## Recommendations

***Improvement Objective: The focus of the supports provided to a district in Substantial and Intensive Support status should be on the effective functioning of the traditional public education system. Other mechanisms in state law are sufficient to support the availability of school choice options in the same ways as in other districts.***

### **Recommendations 8: Eliminate the school choice accelerator provision and the EdChoice Scholarship provision.**

Given the reality the accelerator option will not likely be used and that it distracts from the important activity of school improvement, it is not needed. There already are sufficient opportunities for school choice options, including open enrollment, establishment of community schools and the use of scholarship program funds for students. Special provisions for districts showing persistent underperformance are not necessary.

## **V) Plan development and implementation {3302.10 (E)}**

### **Current Policy**

The statute emphasizes the importance of a high-quality improvement plan developed in consultation with community stakeholders. This reflects a best practice for driving effective school and district improvement. The current statute calls for a stakeholder group to be convened to develop expectations for academic improvement and to assist the district in building relationships with organizations in the community that can provide critical supports and services for students.

Plans are required to include clear, measurable performance goals for the district and each school operated by the district, including measures found on the district and school report cards.

### **Current Policy Challenges**

This policy component has the following challenges:

- **Too little time:** The statute provides for the plan to be developed within 90 days. This is not sufficient for the creation of a high-quality plan, especially if leaders and board members must become better informed about what a better education system looks like and the nature of changed practices that lead to improved education experiences and outcomes for students.
- **Insufficient specifications for what should be in plan:** The current law says little about the contents of the plan. It is important that plans not only focus on academic performance but on

other aspects of the student experience. Plans also need to be attentive to implementation and change management strategies.

- **Too little attention to implementation:** Attention to implementation and change management is essential to achieving success. Too often a good plan fails due to poor implementation.
- **School level plans not required:** The real work of improvement happens at the school level. School-level plans should be an important part of an overall planning process.
- **No local board involvement:** If the district board is not involved in developing and approving the plan, the board's ability to eventually resume control of the district and sustain the plan is diminished.

## Recommendations

***Improvement Objective: The district has a meaningful plan that recognizes the need for changes to improve the educational experiences and outcomes for students. The plan should be developed collaboratively in a way that motivates broad commitment and support to its implementation. A meaningful plan should include discussions of effective implementation and change management.***

### **Recommendation 9: Provide more time for the preparation of a high-quality plan and specify additional components.**

In some cases, a district already may have a good plan in place. Or it may have a plan that has some good elements but needs to be further developed. In other cases, the district will have little resembling a meaningful plan and will need to start from scratch. Districts should be given sufficient planning time, as much as one year, if necessary.

The Department of Education, with broad stakeholder input, should provide the specifications for a meaningful and actionable education improvement plan. A good plan should include the following:

- **Current state:** Clear description of system baselines, conditions and challenges based on data and evidence.
- **Causality analysis:** Discussion of causality for district underperformance.
- **Evidence-based practices:** Identification of evidence-based practices that can address the causes of underperformance. Evidence-based practices may be derived from other schools that the district uses as models.
- **Goals and data:** Baseline formative and summative data (including academic, discipline/behavior, attendance and any other available data) should be included in the plan. The plan also should set specific, measurable, attainable, relevant and timely (SMART) goals, as well as interim targets leading to the goals.
- **Strategies and actions:** Clearly articulated strategies and actions, including specific steps that will be taken to advance the goals. These should be accompanied by an implementation timeline.
- **Instructional framework:** A clear description of an academic/instructional framework that will be used by the district or each building.
- **Continuous improvement and change management approach:** Specific descriptions of the way in which the district will foster collaboration to drive continuous improvement, and the manner in which the implementation of changed practices will be managed.

- **Progress-monitoring approach:** The manner in which the district will undertake to understand the impact its actions are having on the educational experiences of students.

### **Recommendation 10: Require the development of school-level plans.**

It is insufficient to only have a district-level plan. Each building needs its own plan connected to the overall district plan. These plans should adhere to the components of good plans listed above and be created with stakeholder input and the support of a planning coach or other advisor. School plan development will need to be customized for each school building based on the capacity and current state of each school.

## **VI) Reclaiming relinquished management rights {3302.10 (C) and (F)}**

### **Current Policy**

The statute reflects the policy position that management rights relinquished as part of prior collective bargaining agreements should be restored to management. There are two parts of the current statute that focus explicitly on certain management rights to be vested in the CEO. ORC section 3302.10 (C) expressly lists various powers and duties of the CEO. Also, ORC section 3302.10 (F) allows any managerial rights listed in ORC section 4117.08 (C) that previously may have been negotiated away in the district's collective bargaining agreement be restored to management.

The most significant of these management rights are those related to staffing. Fundamentally important to the effective operation of any organization is the ability to assemble a team that has a shared vision for what it wants to accomplish and a shared commitment to success. The two most relevant sections of ORC 4117.08 (C) are:

- 4117.08 (C)(2) Direct, supervise, evaluate, or hire employees;
- 4117.08 (C)(5) Transfer, assign, schedule, promote, or retain employees;

This policy component speaks to the formal balance of power between labor and management. Unfortunately, a preoccupation with the formal balance of power often impedes the ability for parties to come together to engage in shared problem-solving and solution co-design. The participation of the professional educators in the district — particularly teachers — is essential and fundamental to the identification and implementation of changes needed to improve the educational experiences of students. Ultimately, without the collaboration of teachers, success cannot be achieved. Ideally, teachers and administrators would collectively engage in a shared understanding of challenges and collaboratively identify changes and evidence-based practices to drive improvement. The final step is collaborative implementation and monitoring of the identified strategies. Examples of successful turnaround show that this approach is the most conducive to achieving meaningful change.

### **Current Policy Challenges**

- **Delayed availability of this authority:** If these management rights are important, then delaying access to them until a district is persistently underperforming seems to deny an opportunity for more proactive improvement.
- **Reclaiming management rights, per se, has no impact on improvement:** The impact of reclaiming management rights is more about how they are used than who has them and uses

them. Some will suggest districts never should have been given the opportunity to negotiate away such rights in the first place. Once negotiated, however, reclaiming them may be perceived as punitive rather than productive. Care should be taken to ensure there is a clear understanding of the problem that management rights are being used to solve, and efforts are made to attempt to solve such problems through a collaborative approach rather than a mandatory approach.

## Recommendations

***Improvement Objective: Tools that can be used to support improvement should be made available to districts as early in the process as possible. However, the preference for addressing management challenges should be to involve unions in collective problem-solving that leads to a mutually agreeable result. If this does not work, mediation should be pursued.***

**Recommendation 11: Identify, early in the process, provisions in the collective bargaining agreement that may impact successful plan implementation. Provide supports for shared problem resolution and compromise. If compromise cannot be reached, support mediation to determine what action best supports the improvement plan.**

One-sided changes to the collective bargaining agreement are likely to cause division and mistrust. So, rather than unilaterally restoring management rights, management should be required to engage with representatives of labor to discuss challenges that exist in bargaining agreement provisions and make the case for how changes would serve district improvement and the interests of students. Labor and management should engage in a process of determining whether the challenges identified can be resolved in a mutually agreeable way.

When a resolution cannot be reached, the state superintendent should be authorized to identify a facilitator to attempt to facilitate a shared solution. If a successful conclusion cannot be reached, a mediator should be identified to hear both sides and determine whether a change to the collective bargaining agreement is in the best interest of the improvement plan and successful implementation.

## VII) Innovative Education Programs {3302.10 (G)(2)}

### Current Policy

The statute reflects the policy position that district improvement could be enhanced by use of innovative programs. The statute explicitly lists such things as programs that address physical and mental well-being of students, mentoring programs, dissemination of higher education information, and offerings of recreation or cultural activities. The statute requires the CEO to establish a separate fund to support these programs, and the General Assembly shall appropriate money for such purposes.

### Current Policy Challenges

- **No funds appropriated:** To date, the General Assembly has not made any appropriations for the purpose of this section.

- **Actions can be taken even without specific authority:** The actions listed could be taken under the general operational, managerial and educational powers held by the CEO without specific authorization.

## Recommendations

***Improvement Objective: Innovations should be embedded in the overall planning process. A separate authorization of innovations is not needed.***

### **Recommendation 12: Eliminate the innovative education programs provision.**

Given the absence of appropriations and the fact that the innovative programs described in this section could be implemented anyway, separate authority is not needed.

## **VIII) Progressively increasing authority {3302.10 (H) through (M)}**

### **Current Policy**

The academic distress commission statute reflects a policy of progressively increasing authority. It contains yearly specifications of increased authority or other modifications to governance. The following list summarizes the sequence of progressive authority:

- **After Year 1:** School reconstitution; re-open collective bargaining agreement to renegotiate terms;
- **After Year 2:** Same as year 1, plus limit, suspend or alter provisions of collective bargaining agreement (cannot reduce base rate of pay or insurance benefits);
- **After Year 3:** Same as year 1 and year 2;
- **After Year 4:** Same as year 1, year 2, and year 3; plus new district board of education appointed by the mayor; no diminishment of CEO control;
- **After Year 5 and beyond:** Same as years 1 through 4; plus bonus payments to non-district schools enrolling students residing in the district (in years for which General Assembly appropriates funds for this purpose).

### **Current Policy Challenges**

- **Questionable practicality:** The practicality of the progressive authority concept is questionable. Year 1 is the year in which the academic distress commission actually is created. It is unlikely that a district will get an overall grade of “C” by the end of the first year. The assumption must then be that every academic distress commission will have a year 2. It is also very likely that a district will have at least a third year in academic distress commission status, even with the best efforts at improvement. If earlier access to some of these progressively granted powers was made available, there would be a greater likelihood that improvement could occur earlier, particularly upon the receipt of the first overall “F.”
- **Suspension of collective bargaining agreement provisions does not foster shared responsibility:** See the related discussion under Recommendation 11 above.
- **Lack of operational clarity around mayoral appointment of school board:** The new board of education appointed by the mayor does not seem to serve any particular purpose except

upon the release of the district from academic distress commission status. Even this, however, is unclear in the statute.

## Recommendations

***Improvement Objective: Change and improvement take time. A minimum of five years likely is required for a district to reach an overall grade of “C” if starting at an overall grade of “F.” This means a structure to provide additional powers with each passing year does not make sense. Any additional authority should be made available as early as possible in the process. Care should be taken that additional authority does not have a chilling effect on collaboration.***

### **Recommendation 13: Provide additional expanded powers earlier.**

If there is a willingness on the part of the General Assembly to provide certain powers determined to be important to school improvement, then those powers should be made available earlier in the process — at least when a district receives its first overall “F” and is placed in Substantial and Intensive Support status. (See the discussion for Recommendation 11 above relative to collective bargaining agreements.)

### **Recommendation 14: Eliminate certain expanded powers.**

The language related to having a school board appointed by the mayor in Year 4 should be eliminated. (The option of a meaningful mayoral control option is included as part of Recommendation 4.) The school reconstitution language after year one is unnecessary since the items listed already are within the authority of a district. Bonus payments for schools enrolling students who reside in the district push school choice beyond what already is authorized in law and create more challenges for the traditional district providing solutions.

## **IX) Release from the distress commission {3302.10 (N)}**

### **Current Policy**

The statute adopts the policy concept that the state should be able to ensure a district is able to maintain better performance before it is released from oversight. The following is the process outlined in the statute:

- **Transition period initiation:** District first receives an overall grade of “C” or higher.
- **Sustained improvement:** A district needs two more years of overall grades higher than “F” in addition to a year in which an overall “C” is achieved. The implication of this language is that the transition period has a duration of two academic years.
- **Capacity building of district board and superintendent:** During the two year transition, the CEO is instructed to work closely with the district’s board and superintendent to increase their abilities to resume control of the district and sustain the academic improvement over time.
- **Remission:** If a district receives an overall “F” during the transition period, the transition would end, and the district’s status would resume from the point it was before the transition began.

## Current Policy Challenges

- **Board and superintendent capacity is neglected:** By removing the authority of the district's board and superintendent, the challenge of developing their capacity to resume control of the district is significantly hampered. Earlier involvement in the process could support capacity building.
- **One-size-fits-all approach:** There is no flexibility for early release or release with conditions that could provide a quicker return to normal governance.

## Recommendations

***Improvement Objective: Done properly, the supports provided when a district is in Substantial and Intensive Support status should help to build the capacity and ability of local leadership to effectively manage the district. When this capacity is demonstrated through evidence of meaningful and sustained improvement, the district should be released from Substantial and Intensive Support status.***

**Recommendation 15: Release districts in Substantial and Intensive Support status based on evidence of sustainable and successful improvement and demonstrated capacity.**

The state superintendent would be able to release a district from whatever oversight exists when sufficient evidence indicates the district is showing meaningful and sustained improvement. The superintendent could negotiate conditions that would need to be met as a first step to full release as part of the Expectations and Supports Agreement.

## X) Miscellaneous technical issues

The recommendation below focuses on procedural and legal barriers to a commission's and CEO's success. Legislative clarification will ensure more consistent and accountable implementation of administrative and academic improvement efforts.

## Recommendations

**Recommendation 16: Clarify academic distress commissions as a body politic.**

Unlike other commissions, this statute does not clearly identify the commission as a body politic. This designation would require the successor to the commission to comply with sunshine, public records, and other appropriate ethics laws. It also would reinforce to the public that the commission serves an official governmental function.

## Improving Report Card Results

The statutory requirement to make recommendations for improving report card results of each of the districts for which a commission has been established is a challenging one. The reality is that all the recommendations listed above are relevant to this goal. As stated throughout this document, the key to improvement is a shared commitment to change and improve; a high-quality plan for evidence-based strategies and actions that are collaboratively developed and have the necessary buy-in to be implemented effectively; and a strong partnership among the district, state, community and other key

stakeholders. There are examples of successful school and district improvement that been achieved by stakeholders committing to continuous improvement processes that promote quality practices that leverage the shared positive intentions and desires for what is best for children.

## Conclusion

Improving schools is extremely challenging and difficult work. The track record of school or district turnaround success is highly variable across the country. Improvement involves change, and mandating change is rarely effective. Change requires collaboration, trust, respect and active participation by those who will implement the change. Each district and school will have its own particular needs based on its own circumstances, strengths and weaknesses.

Currently, Ohio's answer to persistently underperforming schools is very much a one-size-fits-all approach with many challenges that can stand in the way of success. There is no reason to believe those who designed ORC section 3301.10 had anything but positive intentions. Nevertheless, the challenges to successful implementation that have been experienced convey important lessons.

The recommendations in this report are offered as the beginning of a discussion to move toward a more meaningful approach to district improvement. No doubt, there are those who will offer other views and opinions and disagree with the recommendations presented here. More details will be necessary to flesh out many of the concepts presented. What is important is that stakeholders engage in honest and open debate toward a workable and meaningful approach that is in the best interest of students and communities.

It is notable that the mere existence of the academic distress statute has served as a wake-up call to many districts. Those who want to avoid the establishment of an academic distress commission have taken on the challenge of identifying new leadership, making better plans and focusing on change management and implementation. This shows that districts can, in fact, make the difficult choices and address the necessary changes to drive improvement and success. This reality is a source of hope and confidence that by focusing on supporting districts doing the work of educational transformation, Ohio is more likely to see better outcomes more quickly and make a difference for more students.