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State Board of Education Approves the Transfer of a Home from Columbus City Schools to Westerville City Schools

Recently, the State Board of Education of Ohio unanimously voted to transfer a house from the Columbus City School District to the Westerville City School District, pursuant to Revised Code section 3311.24. Ohio law requires the district in which the territory is located to pass a resolution within thirty days of the State Board approving the transfer, and the Columbus Board of Education recently adopted a resolution transferring the property to the Westerville School District despite its dissatisfaction with the State Board's decision.

Background

The Kinlins originally submitted a petition to the Columbus City School District, requesting the transfer because they felt Westerville schools could provide a higher quality education to their son and the son's friends.

Ohio law requires petitions to include signatures from 75% of the qualified electors residing within the territory proposed for transfer, which in this case was only the Kinlins. The Columbus City School District was subsequently required to file a proposal for the transfer of territory with the State Board of Education, regardless of its position on the transfer, and submit required documentation. Westerville City School District refused to participate in the territory transfer process, choosing not to submit responses to the Department of Education's inquiries and prompting the State Board to pass a resolution declaring its intention to consider the request for transfer of territory and provide an opportunity for hearing.

The factors considered by the State Board

In making its determination, the State Board reviewed the hearing officer's report and considered the factors outlined in Ohio Administrative Code section 3301-89-02 and 3301-89-03. Among the factors it considered, the Board specifically noted that:

- No evidence was submitted tending to establish that the transfer would have any effect on racial isolation in accordance with 3301-89-03(B)(5).
- The evidence established that the school district territories would remain contiguous after the transfer as required by 3301-89-03(B)(6).
- No evidence was submitted establishing that the change in the boundary lines would result in substantial upheaval because of long-held loyalties of the parties involved in accordance with 3301-89-03(B)(7).
- The Columbus City School district admitted that the transfer of this one property would not severely impair its educational programming or affects its financial resources or the utilization of its educational facilities, in accordance with 3301-89-03(B)(8) through (10); although Columbus did express a concern about the precedential effect of the transfer if it results in similar transfers, which would affect the district's resources.
- The petitioner submitted evidence of his family's preference that his child be able to attend the Westerville schools, as do other residents of the neighborhood, in accordance with 3301-89-03-(B)(11).

Philosophical shift in policy?

After considering all of the statutory factors and the well-being of the student involved, the State Board rejected the hearing officer's recommendation to deny a transfer, finding instead that the evidence supported a transfer of territory. The State Board also rejected the Columbus School Board's original argument that the Win-Win agreement, which allows families living in areas that are annexed by Columbus to remain in their home school district, did not contemplate these types of transfers. The State Board

concluded that the Win-Win agreement was inapplicable to petitions filed under Section 3311.24 of the Revised Code.

In the aftermath of this vote, state board members expressed differences of opinion regarding the significance of the transfer. One board member stated the vote represented a “philosophical shift” of the board towards allowing residents to switch districts, while the president of the board disagreed, stating that approving a transfer of territory from one district to another is still determined on a case-by-case basis, permitted only when appropriate.

Although the Board approved the transfer and the Columbus School Board passed the resolution, Ohio law still permits the receiving district to reject the request and prevent the transfer according to Ohio law, which Westerville did through a board resolution passed in February 2016.

What you need to know

- If the state board of education is in fact moving towards a shift in policy, school districts will have less control over losing territory within their district.
- If a petition receives enough signatures, city, exempted village, and local school districts may be forced to propose a transfer of their territory to the Ohio board of education, even if they do not deem the transfer advisable.
- The board of education of a receiving school district may reject the transfer of territory even after a proposal to transfer the territory has been approved by the State Board.

For more information, please contact [Phil Hartmann](#), [Yaz Ashrawi](#) or any other attorney in Frost Brown Todd’s [Government Services Practice Group](#).

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