

AN ACT

To amend sections 9.314, 2151.011, 2151.421, 2151.86, 2152.18, 3301.0711, 3302.01, 3302.03, 3313.53, 3313.533, 3313.61, 3313.611, 3313.612, 3313.662, 3313.672, 3313.85, 3317.03, 3319.29, 3319.291, 3319.303, 3319.31, 3319.51, 3381.04, and 5139.05 of the Revised Code; to amend Section 7 of Sub. H.B. 196 of the 124th General Assembly and to amend Section 7 of Sub. H.B. 196 of the 124th General Assembly for the purpose of codifying it as section 3319.304 of the Revised Code; and to amend Sections 41.37 and 98.01 of Am. Sub. H.B. 95 of the 125th General Assembly to require that upon a child's discharge or release from the custody of the Department of Youth Services certain records pertaining to that child be released to the juvenile court and to the superintendent of the school district in which the child is entitled to attend school; to specify that a school district's policy on the assignment of students to an alternative school may provide for the assignment of any child released from the custody of the Department of Youth Services to such a school; to make the Department of Youth Services eligible for certain grants and services from the Ohio SchoolNet Commission; to include public and chartered nonpublic schools as out-of-home care entities for the purposes of the Juvenile Code; to exempt limited English proficient students who have been enrolled in United States schools for less than one year from certain testing and accountability requirements; to require the county probate court, instead of the

educational service center governing board, to perform the duties of or fill vacancies on the board of education of a local school district if the board fails to perform those duties or fill vacancies; to eliminate the deadline for issuing one-year conditional teaching permits in the area of intervention specialist; to clarify the calculation of transitional aid to school districts in fiscal year 2005; to establish a per student rate to be paid by the Department of Education for a safe school help line; to permit a reverse auction to satisfy any law requiring a political subdivision to competitively bid for services or supplies; and to clarify the minimum population requirement for counties that create a regional arts and cultural district under alternative procedures.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 9.314, 109.57, 2151.011, 2151.421, 2151.86, 2152.18, 3301.0711, 3302.01, 3302.03, 3313.53, 3313.533, 3313.61, 3313.611, 3313.612, 3313.662, 3313.672, 3313.85, 3317.03, 3319.29, 3319.291, 3319.303, 3319.31, 3319.51, 3319.55, 3381.04, and 5139.05 be amended and that Section 7 of Sub. H.B. 196 of the 124th General Assembly be amended and renumbered as section 3319.304 of the Revised Code to read as follows:

Sec. 9.314. (A) As used in this section:

(1) "Contracting authority" has the same meaning as in section 307.92 of the Revised Code.

(2) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.

(3) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state and also includes a contracting authority.

(4) "Reverse auction" means a purchasing process in which offerors submit proposals in competing to sell services or supplies in an open

environment via the internet.

(5) "Services" means the furnishing of labor, time, or effort by a person, not involving the delivery of a specific end product other than a report which, if provided, is merely incidental to the required performance. "Services" does not include services furnished pursuant to employment agreements or collective bargaining agreements.

(6) "Supplies" means all property, including, but not limited to, equipment, materials, other tangible assets, and insurance, but excluding real property or interests in real property.

(B) Whenever any political subdivision ~~that is required by law to purchase services or supplies by competitive sealed bidding or competitive sealed proposals~~ determines that the use of a reverse auction is advantageous to the political subdivision, the political subdivision, in accordance with this section and rules the political subdivision shall adopt, may purchase services or supplies by reverse auction.

(C) A political subdivision shall solicit proposals through a request for proposals. The request for proposals shall state the relative importance of price and other evaluation factors. The political subdivision shall give notice of the request for proposals in accordance with the rules it adopts.

(D) As provided in the request for proposals and in the rules a political subdivision adopts, and to ensure full understanding of and responsiveness to solicitation requirements, the political subdivision may conduct discussions with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. The political subdivision shall accord offerors fair and equal treatment with respect to any opportunity for discussion regarding any clarification, correction, or revision of their proposals.

(E) A political subdivision may award a contract to the offeror whose proposal the political subdivision determines to be the most advantageous to the political subdivision, taking into consideration factors such as price and the evaluation criteria set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

(F) The rules that a political subdivision adopts under this section may require the provision of a performance bond, or another similar form of financial security, in the amount and in the form specified in the rules.

(G) If a political subdivision is required by law to purchase services or supplies by competitive sealed bidding or competitive sealed proposals, a purchase made by reverse auction satisfies that requirement.

Sec. 109.57. (A)(1) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and

file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within this state a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a) of section 109.572 of the Revised Code, of all children under eighteen years of age who have been adjudicated delinquent children for committing within this state an act that would be a felony or an offense of violence if committed by an adult or who have been convicted of or pleaded guilty to committing within this state a felony or an offense of violence, and of all well-known and habitual criminals. The person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a) of section 109.572 of the Revised Code or having custody of a child under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall furnish such material to the superintendent of the bureau. Fingerprints, photographs, or other descriptive information of a child who is under eighteen years of age, has not been arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult, has not been adjudicated a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, has not been convicted of or pleaded guilty to committing a felony or an offense of violence, and is not a child with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall not be procured by the superintendent or furnished by any person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution, except as authorized in section 2151.313 of the Revised Code.

(2) Every clerk of a court of record in this state, other than the supreme court or a court of appeals, shall send to the superintendent of the bureau a weekly report containing a summary of each case involving a felony, involving any crime constituting a misdemeanor on the first offense and a

felony on subsequent offenses, involving a misdemeanor described in division (A)(1)(a) of section 109.572 of the Revised Code, or involving an adjudication in a case in which a child under eighteen years of age was alleged to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult. The clerk of the court of common pleas shall include in the report and summary the clerk sends under this division all information described in divisions (A)(2)(a) to (f) of this section regarding a case before the court of appeals that is served by that clerk. The summary shall be written on the standard forms furnished by the superintendent pursuant to division (B) of this section and shall include the following information:

(a) The incident tracking number contained on the standard forms furnished by the superintendent pursuant to division (B) of this section;

(b) The style and number of the case;

(c) The date of arrest;

(d) The date that the person was convicted of or pleaded guilty to the offense, adjudicated a delinquent child for committing the act that would be a felony or an offense of violence if committed by an adult, found not guilty of the offense, or found not to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, the date of an entry dismissing the charge, an entry declaring a mistrial of the offense in which the person is discharged, an entry finding that the person or child is not competent to stand trial, or an entry of a nolle prosequi, or the date of any other determination that constitutes final resolution of the case;

(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;

(f) If the person or child was convicted, pleaded guilty, or was adjudicated a delinquent child, the sentence or terms of probation imposed or any other disposition of the offender or the delinquent child.

If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a) of

section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the state and its political subdivisions.

(4) The superintendent shall carry out Chapter 2950. of the Revised Code with respect to the registration of persons who are convicted of or plead guilty to either a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense and with respect to all other duties imposed on the bureau under that chapter.

(5) The bureau shall perform centralized recordkeeping functions for criminal history records and services in this state for purposes of the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code and is the criminal history record repository as defined in that section for purposes of that compact. The superintendent or the superintendent's designee is the compact officer for purposes of that compact and shall carry out the responsibilities of the compact officer specified in that compact.

(B) The superintendent shall prepare and furnish to every county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and to every clerk of a court in this state specified in division (A)(2) of this section standard forms for reporting the information required under division (A) of this section. The standard forms that the superintendent prepares pursuant to this division may be in a tangible format, in an electronic format, or in both tangible formats and electronic formats.

(C) The superintendent may operate a center for electronic, automated,

or other data processing for the storage and retrieval of information, data, and statistics pertaining to criminals and to children under eighteen years of age who are adjudicated delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, criminal activity, crime prevention, law enforcement, and criminal justice, and may establish and operate a statewide communications network to gather and disseminate information, data, and statistics for the use of law enforcement agencies. The superintendent may gather, store, retrieve, and disseminate information, data, and statistics that pertain to children who are under eighteen years of age and that are gathered pursuant to sections 109.57 to 109.61 of the Revised Code together with information, data, and statistics that pertain to adults and that are gathered pursuant to those sections. In addition to any other authorized use of information, data, and statistics of that nature, the superintendent or the superintendent's designee may provide and exchange the information, data, and statistics pursuant to the national crime prevention and privacy compact as described in division (A)(5) of this section.

(D) The information and materials furnished to the superintendent pursuant to division (A) of this section and information and materials furnished to any board or person under division (F) or (G) of this section are not public records under section 149.43 of the Revised Code.

(E) The attorney general shall adopt rules, in accordance with Chapter 119. of the Revised Code, setting forth the procedure by which a person may receive or release information gathered by the superintendent pursuant to division (A) of this section. A reasonable fee may be charged for this service. If a temporary employment service submits a request for a determination of whether a person the service plans to refer to an employment position has been convicted of or pleaded guilty to an offense listed in division (A)(1), (3), (4), (5), or (6) of section 109.572 of the Revised Code, the request shall be treated as a single request and only one fee shall be charged.

(F)(1) As used in division (F)(2) of this section, "head start agency" means an entity in this state that has been approved to be an agency for purposes of subchapter II of the "Community Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, as amended.

(2)(a) In addition to or in conjunction with any request that is required to be made under section 109.572, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 5104.012, 5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code, the board of education of any school district; the director of mental retardation and developmental disabilities; any county

board of mental retardation and developmental disabilities; any entity under contract with a county board of mental retardation and developmental disabilities; the chief administrator of any chartered nonpublic school; the chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed or certified under Chapter 5104. of the Revised Code; the administrator of any type C family day-care home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general assembly; the chief administrator of any head start agency; or the executive director of a public children services agency may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date that the superintendent receives a request, the superintendent shall send to the board, entity, or person a report of any information that the superintendent determines exists, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the board, entity, or person a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(b) When a board of education is required to receive information under this section as a prerequisite to employment of an individual pursuant to section 3319.39 of the Revised Code, it may accept a certified copy of records that were issued by the bureau of criminal identification and investigation and that are presented by an individual applying for employment with the district in lieu of requesting that information itself. In such a case, the board shall accept the certified copy issued by the bureau in order to make a photocopy of it for that individual's employment application documents and shall return the certified copy to the individual. In a case of

that nature, a district only shall accept a certified copy of records of that nature within one year after the date of their issuance by the bureau.

(3) The state board of education may request, with respect to any individual who has applied for employment after October 2, 1989, in any position with the state board or the department of education, any information that a school district board of education is authorized to request under division (F)(2) of this section, and the superintendent of the bureau shall proceed as if the request has been received from a school district board of education under division (F)(2) of this section.

(4) When the superintendent of the bureau receives a request for information ~~that is authorized~~ under section 3319.291 of the Revised Code, the superintendent shall proceed as if the request has been received from a school district board of education under division (F)(2) of this section.

(5) When a recipient of an OhioReads classroom or community reading grant paid under section 3301.86 or 3301.87 of the Revised Code or an entity approved by the OhioReads council requests, with respect to any individual who applies to participate in providing any program or service through an entity approved by the OhioReads council or funded in whole or in part by the grant, the information that a school district board of education is authorized to request under division (F)(2)(a) of this section, the superintendent of the bureau shall proceed as if the request has been received from a school district board of education under division (F)(2)(a) of this section.

(G) In addition to or in conjunction with any request that is required to be made under section 173.41, 3701.881, 3712.09, 3721.121, or 3722.151 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an older adult, the chief administrator of a PASSPORT agency that provides services through the PASSPORT program created under section 173.40 of the Revised Code, home health agency, hospice care program, home licensed under Chapter 3721. of the Revised Code, adult day-care program operated pursuant to rules adopted under section 3721.04 of the Revised Code, or adult care facility may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied after January 27, 1997, for employment in a position that does not involve providing direct care to an older adult, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, on request of the administrator requesting information, shall also request from the federal bureau of

investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date a request is received, the superintendent shall send to the administrator a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the administrator a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(H) Information obtained by a board, administrator, or other person under this section is confidential and shall not be released or disseminated.

(I) The superintendent may charge a reasonable fee for providing information or criminal records under division (F)(2) or (G) of this section.

Sec. 2151.011. (A) As used in the Revised Code:

(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:

(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;

(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;

(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.

(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.

(3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.

(4) "Private noncustodial agency" means any person, organization, association, or society certified by the department of job and family services that does not accept temporary or permanent legal custody of children, that is privately operated in this state, and that does one or more of the following:

(a) Receives and cares for children for two or more consecutive weeks;

(b) Participates in the placement of children in certified foster homes;

(c) Provides adoption services in conjunction with a public children services agency or private child placing agency.

(B) As used in this chapter:

(1) "Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs.

(2) "Adult" means an individual who is eighteen years of age or older.

(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.

(4) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.

(5) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a "child" until the person attains twenty-one years of age.

(6) "Child day camp," "child day-care," "child day-care center," "part-time child day-care center," "type A family day-care home," "certified type B family day-care home," "type B home," "administrator of a child day-care center," "administrator of a type A family day-care home," "in-home aide," and "authorized provider" have the same meanings as in section 5104.01 of the Revised Code.

(7) "Child day-care provider" means an individual who is a child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of mental retardation and developmental disabilities, or the early childhood programs of the department of education.

(8) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code.

(9) "Commit" means to vest custody as ordered by the court.

(10) "Counseling" includes both of the following:

(a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child.

(b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling.

(11) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child.

(12) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(13) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children.

(14) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.

(15) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.

(16) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code to exercise parental rights over a child to the extent provided in the court's order and subject to the residual parental rights of the child's parents.

(17) "Habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for five or more consecutive school days, seven or more school days in one school month, or twelve or more school days in a school year.

(18) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.

(19) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights,

privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

(20) A "legitimate excuse for absence from the public school the child is supposed to attend" includes, but is not limited to, any of the following:

(a) The fact that the child in question has enrolled in and is attending another public or nonpublic school in this or another state;

(b) The fact that the child in question is excused from attendance at school for any of the reasons specified in section 3321.04 of the Revised Code;

(c) The fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

(21) "Mental illness" and "mentally ill person subject to hospitalization by court order" have the same meanings as in section 5122.01 of the Revised Code.

(22) "Mental injury" means any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in section 2919.22 of the Revised Code and is committed by the parent or other person responsible for the child's care.

(23) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code.

(24) "Nonsecure care, supervision, or training" means care, supervision, or training of a child in a facility that does not confine or prevent movement of the child within the facility or from the facility.

(25) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.

(26) "Organization" means any institution, public, semipublic, or private, and any private association, society, or agency located or operating in the state, incorporated or unincorporated, having among its functions the furnishing of protective services or care for children, or the placement of children in certified foster homes or elsewhere.

(27) "Out-of-home care" means detention facilities, shelter facilities, certified foster homes, placement in a prospective adoptive home prior to the issuance of a final decree of adoption, organizations, certified organizations, child day-care centers, type A family day-care homes, child day-care provided by type B family day-care home providers and by in-home aides, group home providers, group homes, institutions, state institutions, residential facilities, residential care facilities, residential camps, day camps, public schools, chartered nonpublic schools, educational service centers, hospitals, and medical clinics that are responsible for the

care, physical custody, or control of children.

(28) "Out-of-home care child abuse" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

- (a) Engaging in sexual activity with a child in the person's care;
- (b) Denial to a child, as a means of punishment, of proper or necessary subsistence, education, medical care, or other care necessary for a child's health;
- (c) Use of restraint procedures on a child that cause injury or pain;
- (d) Administration of prescription drugs or psychotropic medication to the child without the written approval and ongoing supervision of a licensed physician;
- (e) Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.

(29) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

- (a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;
- (b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;
- (c) Failure to develop a process for all of the following:
 - (i) Administration of prescription drugs or psychotropic drugs for the child;
 - (ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;
 - (iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.
- (d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;
- (e) Confinement of the child to a locked room without monitoring by staff;
- (f) Failure to provide ongoing security for all prescription and

nonprescription medication;

(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.

(30) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.

(31) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency.

(32) "Person responsible for a child's care in out-of-home care" means any of the following:

(a) Any foster caregiver, in-home aide, or provider;

(b) Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter facility; organization; certified organization; child day-care center; type A family day-care home; certified type B family day-care home; group home; institution; state institution; residential facility; residential care facility; residential camp; day camp; school district; community school; chartered nonpublic school; educational service center; hospital; or medical clinic;

(c) Any person who supervises or coaches children as part of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school;

(d) Any other person who performs a similar function with respect to, or has a similar relationship to, children.

(33) "Physically impaired" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction:

(a) A substantial impairment of vision, speech, or hearing;

(b) A congenital orthopedic impairment;

(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.

(34) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for

the care and adoption by that person of a child of whom the agency has permanent custody.

(35) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody.

(36) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:

(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.

(b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.

(37) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code.

(38) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the Revised Code.

(39) "Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child.

(40) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code.

(41) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.

(42) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes.

(43) "Residential care facility" means an institution, residence, or facility that is licensed by the department of mental health under section 5119.22 of the Revised Code and that provides care for a child.

(44) "Residential facility" means a home or facility that is licensed by the department of mental retardation and developmental disabilities under section 5123.19 of the Revised Code and in which a child with a

developmental disability resides.

(45) "Residual parental rights, privileges, and responsibilities" means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including, but not necessarily limited to, the privilege of reasonable visitation, consent to adoption, the privilege to determine the child's religious affiliation, and the responsibility for support.

(46) "School day" means the school day established by the state board of education pursuant to section 3313.48 of the Revised Code.

(47) "School month" and "school year" have the same meanings as in section 3313.62 of the Revised Code.

(48) "Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and disposition.

(49) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

(50) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.

(51) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.

(52) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement.

(C) For the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety days, regardless of whether the parents resume contact with the child after that period of ninety days.

Sec. 2151.421. (A)(1)(a) No person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows or suspects that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, shall fail to immediately report that knowledge or suspicion to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a

municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; speech pathologist or audiologist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp or child day camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; person engaged in social work or the practice of professional counseling; agent of a county humane society; person rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion; superintendent, board member, or employee of a county board of mental retardation; investigative agent contracted with by a county board of mental retardation; or employee of the department of mental retardation and developmental disabilities.

(2) An attorney or a physician is not required to make a report pursuant to division (A)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding, except that the client or patient is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to that communication and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(b) The attorney or physician knows or suspects, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably

indicates abuse or neglect of the client or patient.

(c) The attorney-client or physician-patient relationship does not arise out of the client's or patient's attempt to have an abortion without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(B) Anyone, who knows or suspects that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or other condition of a nature that reasonably indicates abuse or neglect of the child may report or cause reports to be made of that knowledge or suspicion to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the public children services agency or to a municipal or county peace officer. In the circumstances described in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the entity specified in that section.

(C) Any report made pursuant to division (A) or (B) of this section shall be made forthwith either by telephone or in person and shall be followed by a written report, if requested by the receiving agency or officer. The written report shall contain:

(1) The names and addresses of the child and the child's parents or the person or persons having custody of the child, if known;

(2) The child's age and the nature and extent of the child's known or suspected injuries, abuse, or neglect or of the known or suspected threat of injury, abuse, or neglect, including any evidence of previous injuries, abuse, or neglect;

(3) Any other information that might be helpful in establishing the cause of the known or suspected injury, abuse, or neglect or of the known or suspected threat of injury, abuse, or neglect.

Any person, who is required by division (A) of this section to report known or suspected child abuse or child neglect, may take or cause to be taken color photographs of areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child.

(D)(1) When a municipal or county peace officer receives a report concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child, upon receipt of the report, the municipal or county peace officer who receives the report shall refer the report to the

appropriate public children services agency.

(2) When a public children services agency receives a report pursuant to this division or division (A) or (B) of this section, upon receipt of the report, the public children services agency shall comply with section 2151.422 of the Revised Code.

(E) No township, municipal, or county peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code.

(F)(1) Except as provided in section 2151.422 of the Revised Code, the public children services agency shall investigate, within twenty-four hours, each report of known or suspected child abuse or child neglect and of a known or suspected threat of child abuse or child neglect that is referred to it under this section to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons responsible. The investigation shall be made in cooperation with the law enforcement agency and in accordance with the memorandum of understanding prepared under division (J) of this section. A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. The public children services agency shall report each case to a central registry which the department of job and family services shall maintain in order to determine whether prior reports have been made in other counties concerning the child or other principals in the case. The public children services agency shall submit a report of its investigation, in writing, to the law enforcement agency.

(2) The public children services agency shall make any recommendations to the county prosecuting attorney or city director of law that it considers necessary to protect any children that are brought to its attention.

(G)(1)(a) Except as provided in division (H)(3) of this section, anyone or any hospital, institution, school, health department, or agency

participating in the making of reports under division (A) of this section, anyone or any hospital, institution, school, health department, or agency participating in good faith in the making of reports under division (B) of this section, and anyone participating in good faith in a judicial proceeding resulting from the reports, shall be immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of the making of the reports or the participation in the judicial proceeding.

(b) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding a child's injuries, abuse, or neglect, or the cause of the injuries, abuse, or neglect in any judicial proceeding resulting from a report submitted pursuant to this section.

(2) In any civil or criminal action or proceeding in which it is alleged and proved that participation in the making of a report under this section was not in good faith or participation in a judicial proceeding resulting from a report made under this section was not in good faith, the court shall award the prevailing party reasonable attorney's fees and costs and, if a civil action or proceeding is voluntarily dismissed, may award reasonable attorney's fees and costs to the party against whom the civil action or proceeding is brought.

(H)(1) Except as provided in divisions (H)(4), ~~and (M), and (N)~~ of this section, a report made under this section is confidential. The information provided in a report made pursuant to this section and the name of the person who made the report shall not be released for use, and shall not be used, as evidence in any civil action or proceeding brought against the person who made the report. In a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure.

(2) No person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section.

(3) A person who knowingly makes or causes another person to make a false report under division (B) of this section that alleges that any person has committed an act or omission that resulted in a child being an abused child or a neglected child is guilty of a violation of section 2921.14 of the Revised Code.

(4) If a report is made pursuant to division (A) or (B) of this section and the child who is the subject of the report dies for any reason at any time after the report is made, but before the child attains eighteen years of age, the public children services agency or municipal or county peace officer to

which the report was made or referred, on the request of the child fatality review board, shall submit a summary sheet of information providing a summary of the report to the review board of the county in which the deceased child resided at the time of death. On the request of the review board, the agency or peace officer may, at its discretion, make the report available to the review board.

(5) A public children services agency shall advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made pursuant to this section in writing of the disposition of the investigation. The agency shall not provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports.

(I) Any report that is required by this section, other than a report that is made to the state highway patrol as described in section 5120.173 of the Revised Code, shall result in protective services and emergency supportive services being made available by the public children services agency on behalf of the children about whom the report is made, in an effort to prevent further neglect or abuse, to enhance their welfare, and, whenever possible, to preserve the family unit intact. The agency required to provide the services shall be the agency conducting the investigation of the report pursuant to section 2151.422 of the Revised Code.

(J)(1) Each public children services agency shall prepare a memorandum of understanding that is signed by all of the following:

(a) If there is only one juvenile judge in the county, the juvenile judge of the county or the juvenile judge's representative;

(b) If there is more than one juvenile judge in the county, a juvenile judge or the juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative;

(c) The county peace officer;

(d) All chief municipal peace officers within the county;

(e) Other law enforcement officers handling child abuse and neglect cases in the county;

(f) The prosecuting attorney of the county;

(g) If the public children services agency is not the county department of job and family services, the county department of job and family services;

(h) The county humane society.

(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division

(C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person.

(3) A memorandum of understanding shall include all of the following:

(a) The roles and responsibilities for handling emergency and nonemergency cases of abuse and neglect;

(b) Standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child who is the subject of the report and who allegedly was abused or neglected.

(K)(1) Except as provided in division (K)(4) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report to be provided with the following information:

(a) Whether the agency has initiated an investigation of the report;

(b) Whether the agency is continuing to investigate the report;

(c) Whether the agency is otherwise involved with the child who is the subject of the report;

(d) The general status of the health and safety of the child who is the subject of the report;

(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

(2) A person may request the information specified in division (K)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.

When a municipal or county peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (K)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.

Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (K)(1) of this section a reasonable number of times, except that the agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions.

(3) A request made pursuant to division (K)(1) of this section is not a substitute for any report required to be made pursuant to division (A) of this section.

(4) If an agency other than the agency that received or was referred the report is conducting the investigation of the report pursuant to section 2151.422 of the Revised Code, the agency conducting the investigation shall comply with the requirements of division (K) of this section.

(L) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The department of job and family services may enter into a plan of cooperation with any other governmental entity to aid in ensuring that children are protected from abuse and neglect. The department shall make recommendations to the attorney general that the department determines are necessary to protect children from child abuse and child neglect.

(M)(1) As used in this division:

(a) "Out-of-home care" includes a nonchartered nonpublic school if the alleged child abuse or child neglect, or alleged threat of child abuse or child neglect, described in a report received by a public children services agency allegedly occurred in or involved the nonchartered nonpublic school and the alleged perpetrator named in the report holds a certificate, permit, or license issued by the state board of education under section 3301.071 or Chapter 3319. of the Revised Code.

(b) "Administrator, director, or other chief administrative officer" means the superintendent of the school district if the out-of-home care entity subject to a report made pursuant to this section is a school operated by the district.

(2) No later than the end of the day following the day on which a public children services agency receives a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved the out-of-home care entity, the agency shall provide the written notice to the owner or governing board of the out-of-home care entity that is the subject of the report. The agency shall not provide witness statements or police or other investigative reports.

~~(N)~~(3) No later than three days after the day on which a public children services agency that conducted the investigation as determined pursuant to section 2151.422 of the Revised Code makes a disposition of an investigation involving a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall send written notice of the disposition of the investigation to the administrator, director, or other chief administrative officer and the owner or governing board of the out-of-home care entity. The agency shall not provide witness statements or police or other investigative reports.

Sec. 2151.86. (A)(1) The appointing or hiring officer of any entity that appoints or employs any person responsible for a child's care in out-of-home care shall request the superintendent of BCII to conduct a criminal records check with respect to any person who is under final consideration for appointment or employment as a person responsible for a child's care in out-of-home care, except that section 3319.39 of the Revised Code shall apply instead of this section if the out-of-home care entity is a public school, educational service center, or chartered nonpublic school.

(2) The administrative director of an agency, or attorney, who arranges an adoption for a prospective adoptive parent shall request the superintendent of BCII to conduct a criminal records check with respect to that prospective adoptive parent.

(3) Before a recommending agency submits a recommendation to the

department of job and family services on whether the department should issue a certificate to a foster home under section 5103.03 of the Revised Code, the administrative director of the agency shall request that the superintendent of BCII conduct a criminal records check with respect to the prospective foster caregiver and all other persons eighteen years of age or older who reside with the foster caregiver.

(B) If a person subject to a criminal records check does not present proof that the person has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent of BCII has requested information about the person from the federal bureau of investigation in a criminal records check, the appointing or hiring officer, administrative director, or attorney shall request that the superintendent of BCII obtain information from the federal bureau of investigation as a part of the criminal records check. If the person subject to the criminal records check presents proof that the person has been a resident of this state for that five-year period, the officer, director, or attorney may request that the superintendent of BCII include information from the federal bureau of investigation in the criminal records check.

An appointing or hiring officer, administrative director, or attorney required by division (A) of this section to request a criminal records check shall provide to each person subject to a criminal records check a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from the person, and forward the completed form and impression sheet to the superintendent of BCII at the time the criminal records check is requested.

Any person subject to a criminal records check who receives pursuant to this division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If a person subject to a criminal records check, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the appointing or hiring officer shall not appoint or employ the person as a person responsible for a child's care in out-of-home care, a probate court may not issue a final

decree of adoption or an interlocutory order of adoption making the person an adoptive parent, and the department of job and family services shall not issue a certificate authorizing the prospective foster caregiver to operate a foster home.

(C)(1) No appointing or hiring officer shall appoint or employ a person as a person responsible for a child's care in out-of-home care and no probate court shall issue a final decree of adoption or an interlocutory order of adoption making a person an adoptive parent if the person previously has been convicted of or pleaded guilty to any of the following, unless the person meets rehabilitation standards established in rules adopted under division (F) of this section:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses described in division (C)(1)(a) of this section.

(2) The department of job and family services shall not issue a certificate under section 5103.03 of the Revised Code authorizing a prospective foster caregiver to operate a foster home if the department has been notified that the foster caregiver or any person eighteen years of age or older who resides with the foster caregiver has been convicted of or pleaded guilty to a violation of one of the following offenses, unless the foster caregiver or other person meets rehabilitation standards established in rules adopted under division (F) of this section:

(a) Any offense listed in division (C)(1)(a) of this section or section 2909.02 or 2909.03 of the Revised Code;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any offense listed in division

(C)(1)(a) of this section or section 2909.02 or 2909.03 of the Revised Code.

(3) The appointing or hiring officer may appoint or employ a person as a person responsible for a child's care in out-of-home care conditionally until the criminal records check required by this section is completed and the officer receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (C)(1) of this section, the person subject to the criminal records check does not qualify for appointment or employment, the officer shall release the person from appointment or employment.

(D) The appointing or hiring officer, administrative director, or attorney shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request pursuant to division (A) of this section. The officer, director, or attorney may charge the person subject to the criminal records check a fee for the costs the officer, director, or attorney incurs in obtaining the criminal records check. A fee charged under this division shall not exceed the amount of fees the officer, director, or attorney pays for the criminal records check. If a fee is charged under this division, the officer, director, or attorney shall notify the person who is the applicant at the time of the person's initial application for appointment or employment, an adoption to be arranged, or a certificate to operate a foster home of the amount of the fee and that, unless the fee is paid, the person who is the applicant will not be considered for appointment or employment or as an adoptive parent or foster caregiver.

(E) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the person who is the subject of the criminal records check or the person's representative; the appointing or hiring officer, administrative director, or attorney requesting the criminal records check or the officer's, director's, or attorney's representative; the department of job and family services or a county department of job and family services; and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment, a final decree of adoption or interlocutory order of adoption, or a foster home certificate.

(F) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this

section. The rules shall include rehabilitation standards a person who has been convicted of or pleaded guilty to an offense listed in division (C)(1) or (2) of this section must meet for an appointing or hiring officer to appoint or employ the person as a person responsible for a child's care in out-of-home care, a probate court to issue a final decree of adoption or interlocutory order of adoption making the person an adoptive parent, or the department to issue a certificate authorizing the prospective foster caregiver to operate a foster home.

(G) An appointing or hiring officer, administrative director, or attorney required by division (A) of this section to request a criminal records check shall inform each person who is the applicant, at the time of the person's initial application for appointment or employment, an adoption to be arranged, or a foster home certificate, that the person subject to the criminal records check is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code.

(H) As used in this section:

(1) "Children's hospital" means any of the following:

(a) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(b) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(c) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (H)(3)(a) of this section.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

(4) "Person responsible for a child's care in out-of-home care" has the same meaning as in section 2151.011 of the Revised Code, except that it does not include a prospective employee of the department of youth services

or a person responsible for a child's care in a hospital or medical clinic other than a children's hospital.

(5) "Person subject to a criminal records check" means the following:

(a) A person who is under final consideration for appointment or employment as a person responsible for a child's care in out-of-home care;

(b) A prospective adoptive parent;

(c) A prospective foster caregiver;

(d) A person eighteen years old or older who resides with a prospective foster caregiver.

(6) "Recommending agency" means a public children services agency, private child placing agency, or private noncustodial agency to which the department of job and family services has delegated a duty to inspect and approve foster homes.

(7) "Superintendent of BCII" means the superintendent of the bureau of criminal identification and investigation.

Sec. 2152.18. (A) When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to this chapter, the court shall not designate the specific institution in which the department is to place the child but instead shall specify that the child is to be institutionalized in a secure facility.

(B) When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to this chapter, the court shall state in the order of commitment the total number of days that the child has been held in detention in connection with the delinquent child complaint upon which the order of commitment is based. The department shall reduce the minimum period of institutionalization that was ordered by both the total number of days that the child has been so held in detention as stated by the court in the order of commitment and the total number of any additional days that the child has been held in detention subsequent to the order of commitment but prior to the transfer of physical custody of the child to the department.

(C)(1) When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to this chapter, the court shall provide the department with the child's medical records, a copy of the report of any mental examination of the child ordered by the court, the Revised Code section or sections the child violated and the degree of each violation, the warrant to convey the child to the department, a copy of the court's journal entry ordering the commitment of the child to the legal custody of the department, a copy of the arrest record pertaining to the act for which the child was adjudicated a delinquent child, a copy of any victim impact

statement pertaining to the act, and any other information concerning the child that the department reasonably requests. The court also shall complete the form for the standard predisposition investigation report that the department furnishes pursuant to section 5139.04 of the Revised Code and provide the department with the completed form.

The department may refuse to accept physical custody of a delinquent child who is committed to the legal custody of the department until the court provides to the department the documents specified in this division. No officer or employee of the department who refuses to accept physical custody of a delinquent child who is committed to the legal custody of the department shall be subject to prosecution or contempt of court for the refusal if the court fails to provide the documents specified in this division at the time the court transfers the physical custody of the child to the department.

(2) Within twenty working days after the department of youth services receives physical custody of a delinquent child from a juvenile court, the court shall provide the department with a certified copy of the child's birth certificate and the child's social security number or, if the court made all reasonable efforts to obtain the information but was unsuccessful, with documentation of the efforts it made to obtain the information.

(3) If an officer is preparing pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 a presentence investigation report pertaining to a person, the department shall make available to the officer, for use in preparing the report, any records or reports it possesses regarding that person that it received from a juvenile court pursuant to division (C)(1) of this section or that pertain to the treatment of that person after the person was committed to the custody of the department as a delinquent child.

(D)(1) Within ten days after an adjudication that a child is a delinquent child, the court shall give written notice of the adjudication to the superintendent of a city, local, exempted village, or joint vocational school district, and to the principal of the school the child attends, if the basis of the adjudication was the commission of an act that would be a criminal offense if committed by an adult, if the act was committed by the delinquent child when the child was fourteen years of age or older, and if the act is any of the following:

(a) An act that would be a felony or an offense of violence if committed by an adult, an act in the commission of which the child used or brandished a firearm, or an act that is a violation of section 2907.06, 2907.07, 2907.08, 2907.09, 2907.24, or 2907.241 of the Revised Code and that would be a misdemeanor if committed by an adult;

(b) A violation of section 2923.12 of the Revised Code or of a substantially similar municipal ordinance that would be a misdemeanor if committed by an adult and that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district;

(c) A violation of division (A) of section 2925.03 or 2925.11 of the Revised Code that would be a misdemeanor if committed by an adult, that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district, and that is not a minor drug possession offense;

(d) An act that would be a criminal offense if committed by an adult and that results in serious physical harm to persons or serious physical harm to property while the child is at school, on any other property owned or controlled by the board, or at an interscholastic competition, an extracurricular event, or any other school program or activity;

(e) Complicity in any violation described in division (D)(1)(a), (b), (c), or (d) of this section that was alleged to have been committed in the manner described in division (D)(1)(a), (b), (c), or (d) of this section, regardless of whether the act of complicity was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district.

(2) The notice given pursuant to division (D)(1) of this section shall include the name of the child who was adjudicated to be a delinquent child, the child's age at the time the child committed the act that was the basis of the adjudication, and identification of the violation of the law or ordinance that was the basis of the adjudication.

(3) Within fourteen days after committing a delinquent child to the custody of the department of youth services, the court shall give notice to the school attended by the child of the child's commitment by sending to that school a copy of the court's journal entry ordering the commitment. As soon as possible after receipt of the notice described in this division, the school shall provide the department with the child's school transcript. However, the department shall not refuse to accept a child committed to it, and a child committed to it shall not be held in a county or district detention facility, because of a school's failure to provide the school transcript that it is required to provide under this division.

(4) Within fourteen days after discharging or releasing a child from an institution under its control, the department of youth services shall provide the court and the superintendent of the school district in which the child is entitled to attend school under section 3313.64 or 3313.65 of the Revised

Code with an the following:

(a) An updated copy of the child's school transcript ~~and a~~;

(b) A report outlining the child's behavior in school while in the custody of the department;

(c) The child's current individualized education program, as defined in section 3323.01 of the Revised Code, if such a program has been developed for the child;

(d) A summary of the institutional record of the ~~child~~ child's behavior.
The

The department also shall provide the court with a copy of any portion of the child's institutional record that the court specifically requests, within five working days of the request.

(E) At any hearing at which a child is adjudicated a delinquent child or as soon as possible after the hearing, the court shall notify all victims of the delinquent act who may be entitled to a recovery under any of the following sections of the right of the victims to recover, pursuant to section 3109.09 of the Revised Code, compensatory damages from the child's parents; of the right of the victims to recover, pursuant to section 3109.10 of the Revised Code, compensatory damages from the child's parents for willful and malicious assaults committed by the child; and of the right of the victims to recover an award of reparations pursuant to sections 2743.51 to 2743.72 of the Revised Code.

Sec. 3301.0711. (A) The department of education shall:

(1) Annually furnish to, grade, and score all tests required by section 3301.0710 of the Revised Code to be administered by city, local, exempted village, and joint vocational school districts, except that each district shall score any test administered pursuant to division (B)(10) of this section. In furnishing the practice versions of Ohio graduation tests prescribed by division (F) of section 3301.0710 of the Revised Code, the department shall make the tests available on its web site for reproduction by districts. In awarding contracts for grading tests, the department shall give preference to Ohio-based entities employing Ohio residents.

(2) Adopt rules for the ethical use of tests and prescribing the manner in which the tests prescribed by section 3301.0710 of the Revised Code shall be administered to students.

(B) Except as provided in divisions (C) and (J) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section:

(1) Administer the reading test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code twice annually to all students in the

third grade who have not attained the score designated for that test under division (A)(2)(c) of section 3301.0710 of the Revised Code and once each summer to students receiving summer remediation services under section 3313.608 of the Revised Code.

(2) Administer the mathematics test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code at least once annually to all students in the third grade.

(3) Administer the tests prescribed under division (A)(1)(b) of section 3301.0710 of the Revised Code at least once annually to all students in the fourth grade.

(4) Administer the tests prescribed under division (A)(1)(c) of section 3301.0710 of the Revised Code at least once annually to all students in the fifth grade.

(5) Administer the tests prescribed under division (A)(1)(d) of section 3301.0710 of the Revised Code at least once annually to all students in the sixth grade.

(6) Administer the tests prescribed under division (A)(1)(e) of section 3301.0710 of the Revised Code at least once annually to all students in the seventh grade.

(7) Administer the tests prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code at least once annually to all students in the eighth grade.

(8) Except as provided in division (B)(9) of this section, administer any test prescribed under division (B) of section 3301.0710 of the Revised Code as follows:

(a) At least once annually to all tenth grade students and at least twice annually to all students in eleventh or twelfth grade who have not yet attained the score on that test designated under that division;

(b) To any person who has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code but has not received a high school diploma and who requests to take such test, at any time such test is administered in the district.

(9) In lieu of the board of education of any city, local, or exempted village school district in which the student is also enrolled, the board of a joint vocational school district shall administer any test prescribed under division (B) of section 3301.0710 of the Revised Code at least twice annually to any student enrolled in the joint vocational school district who has not yet attained the score on that test designated under that division. A board of a joint vocational school district may also administer such a test to

any student described in division (B)(8)(b) of this section.

(10) If the district has been declared to be under an academic watch or in a state of academic emergency pursuant to section 3302.03 of the Revised Code or has a three-year average graduation rate of not more than seventy-five per cent, administer each test prescribed by division (F) of section 3301.0710 of the Revised Code in September to all ninth grade students, beginning in the school year that starts July 1, 2005.

(C)(1)(a) Any student receiving special education services under Chapter 3323. of the Revised Code may be excused from taking any particular test required to be administered under this section if the individualized education program developed for the student pursuant to section 3323.08 of the Revised Code excuses the student from taking that test and instead specifies an alternate assessment method approved by the department of education as conforming to requirements of federal law for receipt of federal funds for disadvantaged pupils. To the extent possible, the individualized education program shall not excuse the student from taking a test unless no reasonable accommodation can be made to enable the student to take the test.

(b) Any alternate assessment approved by the department for a student under this division shall produce measurable results comparable to those produced by the tests which the alternate assessments are replacing in order to allow for the student's assessment results to be included in the data compiled for a school district or building under section 3302.03 of the Revised Code.

(c) Any student enrolled in a chartered nonpublic school who has been identified, based on an evaluation conducted in accordance with section 3323.03 of the Revised Code or section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 794, as amended, as a child with a disability shall be excused from taking any particular test required to be administered under this section if a plan developed for the student pursuant to rules adopted by the state board excuses the student from taking that test. In the case of any student so excused from taking a test, the chartered nonpublic school shall not prohibit the student from taking the test.

(2) A district board may, for medical reasons or other good cause, excuse a student from taking a test administered under this section on the date scheduled, but any such test shall be administered to such excused student not later than nine days following the scheduled date. The board shall annually report the number of students who have not taken one or more of the tests required by this section to the state board of education not later than the thirtieth day of June.

(3) As used in this division, "limited English proficient student" has the same meaning as in 20 U.S.C. 7801.

No school district board shall excuse any limited English proficient student from taking any particular test required to be administered under this section, ~~but a~~ except that any limited English proficient student who has been enrolled in United States schools for less than one full school year shall not be required to take any such reading or writing test. However, no board shall prohibit a limited English proficient student who is not required to take a test under this division from taking the test. A board may permit any limited English proficient student to take ~~the~~ any test required to be administered under this section with appropriate accommodations, as determined by the department. For each limited English proficient student, each school district shall annually assess that student's progress in learning English, in accordance with procedures approved by the department.

The governing authority of a chartered nonpublic school may excuse a limited English proficient student from taking any test administered under this section. However, no governing authority shall prohibit a limited English proficient student from taking the test.

(D)(1) In the school year next succeeding the school year in which the tests prescribed by division (A)(1) or (B) of section 3301.0710 of the Revised Code or former division (A)(1), (A)(2), or (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, are administered to any student, the board of education of any school district in which the student is enrolled in that year shall provide to the student intervention services commensurate with the student's test performance, including any intensive intervention required under section 3313.608 of the Revised Code, in any skill in which the student failed to demonstrate at least a score at the proficient level on the test.

(2) Following any administration of the tests prescribed by division (F) of section 3301.0710 of the Revised Code to ninth grade students, each school district that has a three-year average graduation rate of not more than seventy-five per cent shall determine for each high school in the district whether the school shall be required to provide intervention services to any students who took the tests. In determining which high schools shall provide intervention services based on the resources available, the district shall consider each school's graduation rate and scores on the practice tests. The district also shall consider the scores received by ninth grade students on the reading and mathematics tests prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code in the eighth grade in determining which high schools shall provide intervention services.

Each high school selected to provide intervention services under this division shall provide intervention services to any student whose test results indicate that the student is failing to make satisfactory progress toward being able to attain scores at the proficient level on the Ohio graduation tests. Intervention services shall be provided in any skill in which a student demonstrates unsatisfactory progress and shall be commensurate with the student's test performance. Schools shall provide the intervention services prior to the end of the school year, during the summer following the ninth grade, in the next succeeding school year, or at any combination of those times.

(E) Except as provided in section 3313.608 of the Revised Code and division (M) of this section, no school district board of education shall utilize any student's failure to attain a specified score on any test administered under this section as a factor in any decision to deny the student promotion to a higher grade level. However, a district board may choose not to promote to the next grade level any student who does not take any test administered under this section or make up such test as provided by division (C)(2) of this section and who is not exempt from the requirement to take the test under division (C)(3) of this section.

(F) No person shall be charged a fee for taking any test administered under this section.

(G) Not later than sixty days after any administration of any test prescribed by division (A)(1) or (B) of section 3301.0710 of the Revised Code, the department shall send to each school district board a list of the individual test scores of all persons taking the test. For any tests administered under this section by a joint vocational school district, the department shall also send to each city, local, or exempted village school district a list of the individual test scores of any students of such city, local, or exempted village school district who are attending school in the joint vocational school district.

(H) Individual test scores on any tests administered under this section shall be released by a district board only in accordance with section 3319.321 of the Revised Code and the rules adopted under division (A) of this section. No district board or its employees shall utilize individual or aggregate test results in any manner that conflicts with rules for the ethical use of tests adopted pursuant to division (A) of this section.

(I) Except as provided in division (G) of this section, the department shall not release any individual test scores on any test administered under this section and shall adopt rules to ensure the protection of student confidentiality at all times.

(J) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any cooperative education school district except as provided under rules adopted pursuant to this division.

(1) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may enter into an agreement with the board of education of the cooperative education school district for administering any test prescribed under this section to students of the city, exempted village, or local school district who are attending school in the cooperative education school district.

(2) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to section 3311.521 of the Revised Code shall enter into an agreement with the cooperative district that provides for the administration of any test prescribed under this section to both of the following:

(a) Students who are attending school in the cooperative district and who, if the cooperative district were not established, would be entitled to attend school in the city, local, or exempted village school district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) Persons described in division (B)(8)(b) of this section.

Any testing of students pursuant to such an agreement shall be in lieu of any testing of such students or persons pursuant to this section.

(K)(1) Any chartered nonpublic school may participate in the testing program by administering any of the tests prescribed by section 3301.0710 or 3301.0712 of the Revised Code if the chief administrator of the school specifies which tests the school wishes to administer. Such specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which tests are administered and shall include a pledge that the nonpublic school will administer the specified tests in the same manner as public schools are required to do under this section and rules adopted by the department.

(2) The department of education shall furnish the tests prescribed by section 3301.0710 or 3301.0712 of the Revised Code to any chartered nonpublic school electing to participate under this division.

(L)(1) The superintendent of the state school for the blind and the superintendent of the state school for the deaf shall administer the tests described by section 3301.0710 of the Revised Code. Each superintendent

shall administer the tests in the same manner as district boards are required to do under this section and rules adopted by the department of education and in conformity with division (C)(1)(a) of this section.

(2) The department of education shall furnish the tests described by section 3301.0710 of the Revised Code to each superintendent.

(M) Notwithstanding division (E) of this section, a school district may use a student's failure to attain a score in at least the basic range on the mathematics test described by division (A)(1)(a) of section 3301.0710 of the Revised Code or on any of the tests described by division (A)(1)(b), (c), (d), (e), or (f) of section 3301.0710 of the Revised Code as a factor in retaining that student in the current grade level.

(N)(1) The tests required by section 3301.0710 of the Revised Code shall become public records pursuant to section 149.43 of the Revised Code on the first day of July following the school year that the test was administered, except that the reading test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code shall become a public record on the sixteenth day of July following the school year that the test was administered.

(2) The department may field test proposed test questions with samples of students to determine the validity, reliability, or appropriateness of test questions for possible inclusion in a future year's test. The department also may use anchor questions on tests to ensure that different versions of the same test are of comparable difficulty.

Field test questions and anchor questions shall not be considered in computing test scores for individual students. Field test questions and anchor questions may be included as part of the administration of any test required by section 3301.0710 of the Revised Code.

(3) Any field test question or anchor question administered under division (N)(2) of this section shall not be a public record. Such field test questions and anchor questions shall be redacted from any tests which are released as a public record pursuant to division (N)(1) of this section.

(O) As used in this section, "three-year average" and "graduation rate" have the same meanings as in section 3302.01 of the Revised Code.

Sec. 3302.01. As used in this chapter:

(A) "Dropout" means a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the state board of education or an education program outside the state. "Dropout" does not include a student who has departed the country.

(B) "Graduation rate" means the ratio of students receiving a diploma to

the number of students who entered ninth grade four years earlier. Students who transfer into the district are added to the calculation. Students who transfer out of the district for reasons other than dropout are subtracted from the calculation. If a student who was a dropout in any previous year returns to the same school district, that student shall be entered into the calculation as if the student had entered ninth grade four years before the graduation year of the graduating class that the student joins.

(C) "Attendance rate" means the ratio of the number of students actually in attendance over the course of a school year to the number of students who were required to be in attendance that school year, as calculated pursuant to rules of the superintendent of public instruction.

(D) "Three-year average" means the average of the most recent consecutive three school years of data.

(E) "Performance index score" means the average of the totals derived from calculations for each subject area of reading, writing, mathematics, science, and social studies of the weighted proportion of untested students and students scoring at each level of skill described in division (A)(2) of section 3301.0710 of the Revised Code on the tests prescribed by divisions (A) and (B) of that section. The department of education shall assign weights such that students who do not take a test receive a weight of zero and students who take a test receive progressively larger weights dependent upon the level of skill attained on the test. The department shall also determine the performance index score a school district or building needs to achieve for the purpose of the performance ratings assigned pursuant to section 3302.03 of the Revised Code.

Students shall be included in the "performance index score" in accordance with division (D)(2) of section 3302.03 of the Revised Code.

(F) "Subgroup" means a subset of the entire student population of the state, a school district, or a school building and includes each of the following:

- (1) Major racial and ethnic groups;
- (2) Students with disabilities;
- (3) Economically disadvantaged students;
- (4) Limited English proficient students.

(G) "Other academic indicators" means measures of student academic performance other than scores on tests administered under section 3301.0710 of the Revised Code, which shall be the attendance rate for elementary and middle schools and the graduation rate for high schools.

(H) "Annual measurable objective" means the yearly percentage of students, which shall be established by the state board, who must score at or

above the proficient level on tests established under section 3301.0710 of the Revised Code in reading and mathematics administered to their grade level for a school district or a school building to be deemed to have made sufficient progress for that school year toward the goal of having all students scoring at or above the proficient level on such tests by June 30, 2014. For the school year that begins July 1, 2003, the state board shall establish an "annual measurable objective" in accordance with the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6311. In the school year following the first administration of each test established under section 3301.0710 of the Revised Code, the state board shall use the results from such tests to make any necessary adjustments in the applicable annual measurable objective.

(I) "Adequate yearly progress," as required by the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6311, means a measure of annual academic performance. "Adequate yearly progress" is made by a school district or a school building when, ~~in accordance with division (D)(2) of section 3302.03 of the Revised Code,~~ the district or building satisfies either divisions (I)(1) and (2) of this section or divisions (I)(1) and (3) of this section in the applicable school year:

(1) At least ninety-five per cent of the total student population and of each subgroup enrolled in the district or building at the time of the test administration takes each test in reading and mathematics prescribed by section 3301.0710 of the Revised Code that is administered to their grade level, except that this requirement shall not apply to any subgroup in the district or building that contains less than forty students. Those students taking a test with accommodations or an alternate assessment pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code shall be counted as taking that test for the purposes of this division. Any limited English proficient student who has been enrolled in United States schools for less than one full school year and does not take a reading test administered to the student's grade level shall be counted as taking that test for the purposes of this division if, in the same school year, the student has been assessed to determine the student's progress in learning English in accordance with division (C)(3) of section 3301.0711 of the Revised Code.

(2) The total student population and each subgroup in the district or building, as defined in division (D)(2) of section 3302.03 of the Revised Code, meets or exceeds the annual measurable objective for that school year in reading and mathematics based upon data from the current school year or a three-year average of data and the district or building meets or exceeds the minimum threshold or makes progress on the other academic indicators for

that school year. In calculating whether a district or building satisfies this division, the department shall include any subgroup in the district or building that contains thirty or more students, except that the department shall not include the subgroup described in division (F)(2) of this section unless such subgroup contains forty-five or more students. The determination of students in the subgroup described in division (F)(2) of this section who are not required to score at or above the proficient level on tests established under section 3301.0710 of the Revised Code for the purpose of determining whether a district or building satisfies this division shall comply with federal statutes, rules, and regulations.

(3) If the performance of the total student population or any subgroup in the district or building results in the failure of the district or building to satisfy division (I)(2) of this section, the district or building shall fulfill both of the following requirements with respect to the total student population or any pertinent subgroup:

(a) The percentage of students scoring below the proficient level on the applicable tests in the total student population or subgroup decreases by at least ten per cent from the percentage of such students in the total student population or subgroup in the preceding school year or from the average percentage of such students in the total student population or subgroup in the two preceding school years.

(b) The total student population or subgroup meets or exceeds the minimum threshold on the other academic indicators for that school year or makes progress toward meeting the minimum threshold on one of the other academic indicators for that school year.

(J) "Supplemental educational services" means additional academic assistance, such as tutoring, remediation, or other educational enrichment activities, that is conducted outside of the regular school day by a provider approved by the department in accordance with the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6316.

(K) "Value-added progress dimension" means a measure of academic gain for a student or group of students over a specific period of time that is calculated by applying a statistical methodology to individual student achievement data derived from the achievement tests prescribed by section 3301.0710 of the Revised Code.

Sec. 3302.03. (A) Annually the department of education shall report for each school district and each school building in a district all of the following:

(1) The extent to which the school district or building meets each of the applicable performance indicators created by the state board of education

under section 3302.02 of the Revised Code and the number of applicable performance indicators that have been achieved;

(2) The performance index score of the school district or building;

(3) Whether the school district or building has made adequate yearly progress;

(4) Whether the school district or building is excellent, effective, needs continuous improvement, is under an academic watch, or is in a state of academic emergency.

(B)(1) A school district or building shall be declared excellent if it fulfills one of the following requirements:

(a) It makes adequate yearly progress and either meets at least ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.

(b) It has failed to make adequate yearly progress for not more than two consecutive years and either meets at least ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.

(2) A school district or building shall be declared effective if it fulfills one of the following requirements:

(a) It makes adequate yearly progress and either meets at least seventy-five per cent but less than ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.

(b) It does not make adequate yearly progress and either meets at least seventy-five per cent of the applicable state performance indicators or has a performance index score established by the department, except that if it does not make adequate yearly progress for three consecutive years, it shall be declared in need of continuous improvement.

(3) A school district or building shall be declared to be in need of continuous improvement if it fulfills one of the following requirements:

(a) It makes adequate yearly progress, meets less than seventy-five per cent of the applicable state performance indicators, and has a performance index score established by the department.

(b) It does not make adequate yearly progress and either meets at least fifty per cent but less than seventy-five per cent of the applicable state performance indicators or has a performance index score established by the department.

(4) A school district or building shall be declared to be under an academic watch if it does not make adequate yearly progress and either meets at least thirty-one per cent but less than fifty per cent of the applicable

state performance indicators or has a performance index score established by the department.

(5) A school district or building shall be declared to be in a state of academic emergency if it does not make adequate yearly progress, does not meet at least thirty-one per cent of the applicable state performance indicators, and has a performance index score established by the department.

(C)(1) The department shall issue annual report cards for each school district, each building within each district, and for the state as a whole reflecting performance on the indicators created by the state board under section 3302.02 of the Revised Code, the performance index score, and adequate yearly progress.

(2) The department shall include on the report card for each district information pertaining to any change from the previous year made by the school district or school buildings within the district on any performance indicator.

(3) When reporting data on student performance, the department shall disaggregate that data according to the following categories:

- (a) Performance of students by age group;
- (b) Performance of students by race and ethnic group;
- (c) Performance of students by gender;
- (d) Performance of students grouped by those who have been enrolled in a district or school for three or more years;
- (e) Performance of students grouped by those who have been enrolled in a district or school for more than one year and less than three years;
- (f) Performance of students grouped by those who have been enrolled in a district or school for one year or less;
- (g) Performance of students grouped by those who are economically disadvantaged;
- (h) Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the Revised Code;
- (i) Performance of students grouped by those who are classified as limited English proficient;
- (j) Performance of students grouped by those who have disabilities;
- (k) Performance of students grouped by those who are classified as migrants;
- (l) Performance of students grouped by those who are identified as gifted pursuant to Chapter 3324. of the Revised Code.

The department may disaggregate data on student performance according to other categories that the department determines are appropriate.

To the extent possible, the department shall disaggregate data on student performance according to any combinations of two or more of the categories listed in divisions (C)(3)(a) to (l) of this section that it deems relevant.

In reporting data pursuant to division (C)(3) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report student performance data for any group identified in division (C)(3) of this section that contains less than ten students.

(4) The department may include with the report cards any additional education and fiscal performance data it deems valuable.

(5) The department shall include on each report card a list of additional information collected by the department that is available regarding the district or building for which the report card is issued. When available, such additional information shall include student mobility data disaggregated by race and socioeconomic status, college enrollment data, and the reports prepared under section 3302.031 of the Revised Code.

The department shall maintain a site on the world wide web. The report card shall include the address of the site and shall specify that such additional information is available to the public at that site. The department shall also provide a copy of each item on the list to the superintendent of each school district. The district superintendent shall provide a copy of any item on the list to anyone who requests it.

(6) For any district that sponsors a conversion community school under Chapter 3314. of the Revised Code, the department shall combine data regarding the academic performance of students enrolled in the community school with comparable data from the schools of the district for the purpose of calculating the performance of the district as a whole on the report card issued for the district.

(7) The department shall include on each report card the percentage of teachers in the district or building who are highly qualified, as defined by the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 7801, and a comparison of that percentage with the percentages of such teachers in similar districts and buildings.

(8) The department shall include on the report card the number of master teachers employed by each district and each building once the data is available from the education management information system established under section 3301.0714 of the Revised Code.

(D)(1) In calculating reading, writing, mathematics, social studies, or science proficiency or achievement test passage rates used to determine

school district or building performance under this section, the department shall include all students taking a test with accommodation or to whom an alternate assessment is administered pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code.

(2) In calculating performance index scores, rates of achievement on the performance indicators established by the state board under section 3302.02 of the Revised Code, and adequate yearly progress for school districts and buildings under this section, the department shall do ~~both~~ all of the following:

(a) Include for each district or building only those students who are included in the ADM certified for the first full school week of October and are continuously enrolled in the district or building through the time of the spring administration of any test prescribed by section 3301.0710 of the Revised Code that is administered to the student's grade level;

(b) Include cumulative totals from both the fall and spring administrations of the third grade reading achievement test;

(c) Except as required by division (D)(1) of section 3302.01 of the Revised Code, exclude for each district or building any limited English proficient student who has been enrolled in United States schools for less than one full school year.

Sec. 3313.53. (A) As used in this section:

(1) "Licensed individual" means an individual who holds a valid educator license, certificate, or permit issued by the state board of education under section 3319.22, 3319.26, 3319.27, ~~or~~ 3319.302, or 3319.304 of the Revised Code.

(2) "Nonlicensed individual" means an individual who does not hold a valid educator license, certificate, or permit issued by the state board of education under section 3319.22, 3319.26, 3319.27, ~~or~~ 3319.302, or 3319.304 of the Revised Code.

(B) The board of education of any city, exempted village, or local school district may establish and maintain in connection with the public school systems:

(1) Manual training, industrial arts, domestic science, and commercial departments;

(2) Agricultural, industrial, vocational, and trades schools.

Such board may pay from the public school funds, as other school expenses are paid, the expenses of establishing and maintaining such departments and schools and of directing, supervising, and coaching the pupil-activity programs in music, language, arts, speech, government, athletics, and any others directly related to the curriculum.

(C) The board of education of any city, exempted village, or local school district may employ a nonlicensed individual to direct, supervise, or coach a pupil-activity program as long as that individual holds a valid pupil-activity program permit issued by the state board of education under division (A) of section 3319.303 of the Revised Code.

(D) A nonlicensed individual who holds a valid pupil-activity program permit may be employed under division (C) of this section only after the school district's board of education adopts a resolution stating that it has offered such position to those employees of the district who are licensed individuals and no such employee qualified to fill the position has accepted it, and has then advertised the position as available to any licensed individual who is qualified to fill it and who is not employed by the board, and no such person has applied for and accepted the position. A nonlicensed individual so employed is a nonteaching employee and is not an educational assistant as defined in section 3319.088 of the Revised Code. As used in this division and division (C) of this section, pupil-activity program does not include any class or course required or offered for credit toward a pupil's promotion to the next grade or for graduation, or any activity conducted as a part of or required for such a class or course. A nonlicensed individual employed under this section may perform only the duties of the director, supervisor, or coach of the pupil-activity program for which the nonlicensed individual is employed.

The board shall fix the compensation of the nonlicensed individual so employed, which shall be the same amount as the position was offered to the district's licensed employees, and execute a written contract with the nonlicensed individual for a term not to exceed one year. The contract shall specify the compensation, duration, and other terms of employment, and the compensation shall not be reduced unless such reduction is a part of a uniform plan affecting the entire district.

If the state board suspends, revokes, or limits the pupil-activity program permit of a nonlicensed individual, the school district board may terminate or suspend the employment contract of that individual. Otherwise, no contract issued under this section shall be terminated or suspended except pursuant to the procedure established by division (C) of section 3319.081 of the Revised Code.

Sec. 3313.533. (A) The board of education of a city, exempted village, or local school district may adopt a resolution to establish and maintain an alternative school in accordance with this section. The resolution shall specify, but not necessarily be limited to, all of the following:

- (1) The purpose of the school, which purpose shall be to serve students

who are on suspension, who are having truancy problems, who are experiencing academic failure, who have a history of class disruption, ~~or~~ who are exhibiting other academic or behavioral problems specified in the resolution, or who have been discharged or released from the custody of the department of youth services under section 5139.51 of the Revised Code;

(2) The grades served by the school, which may include any of grades kindergarten through twelve;

(3) A requirement that the school be operated in accordance with this section. The board of education adopting the resolution under division (A) of this section shall be the governing board of the alternative school. The board shall develop and implement a plan for the school in accordance with the resolution establishing the school and in accordance with this section. Each plan shall include, but not necessarily be limited to, all of the following:

(a) Specification of the reasons for which students will be accepted for assignment to the school and any criteria for admission that are to be used by the board to approve or disapprove the assignment of students to the school;

(b) Specification of the criteria and procedures that will be used for returning students who have been assigned to the school back to the regular education program of the district;

(c) An evaluation plan for assessing the effectiveness of the school and its educational program and reporting the results of the evaluation to the public.

(B) Notwithstanding any provision of Title XXXIII of the Revised Code to the contrary, the alternative school plan may include any of the following:

(1) A requirement that on each school day students must attend school or participate in other programs specified in the plan or by the chief administrative officer of the school for a period equal to the minimum school day set by the state board of education under section 3313.48 of the Revised Code plus any additional time required in the plan or by the chief administrative officer;

(2) Restrictions on student participation in extracurricular or interscholastic activities;

(3) A requirement that students wear uniforms prescribed by the district board of education.

(C) In accordance with the alternative school plan, the district board of education may employ teachers and nonteaching employees necessary to carry out its duties and fulfill its responsibilities or may contract with a nonprofit or for profit entity to operate the alternative school, including the

provision of personnel, supplies, equipment, or facilities.

(D) An alternative school may be established in all or part of a school building.

(E) If a district board of education elects under this section, or is required by section 3313.534 of the Revised Code, to establish an alternative school, the district board may join with the board of education of one or more other districts to form a joint alternative school by forming a cooperative education school district under section 3311.52 or 3311.521 of the Revised Code, or a joint educational program under section 3313.842 of the Revised Code. The authority to employ personnel or to contract with a nonprofit or for profit entity under division (C) of this section applies to any alternative school program established under this division.

(F) Any individual employed as a teacher at an alternative school operated by a nonprofit or for profit entity under this section shall be licensed and shall be subject to background checks, as described in section 3319.39 of the Revised Code, in the same manner as an individual employed by a school district.

(G) Division (G) of this section applies only to any alternative school that is operated by a nonprofit or for profit entity under contract with the school district.

(1) In addition to the specifications authorized under division (B) of this section, any plan adopted under that division for an alternative school to which division (G) of this section also applies shall include the following:

(a) A description of the educational program provided at the alternative school, which shall include:

(i) Provisions for the school to be configured in clusters or small learning communities;

(ii) Provisions for the incorporation of education technology into the curriculum;

(iii) Provisions for accelerated learning programs in reading and mathematics.

(b) A method to determine the reading and mathematics level of each student assigned to the alternative school and a method to continuously monitor each student's progress in those areas. The methods employed under this division shall be aligned with the curriculum adopted by the school district board of education under section 3313.60 of the Revised Code.

(c) A plan for social services to be provided at the alternative school, such as, but not limited to, counseling services, psychological support services, and enrichment programs;

(d) A plan for a student's transition from the alternative school back to a

school operated by the school district;

(e) A requirement that the alternative school maintain financial records in a manner that is compatible with the form prescribed for school districts by the auditor of state to enable the district to comply with any rules adopted by the auditor of state.

(2) Notwithstanding division (A)(2) of this section, any alternative school to which division (G) of this section applies shall include only grades six through twelve.

(3) Notwithstanding anything in division (A)(3)(a) of this section to the contrary, the characteristics of students who may be assigned to an alternative school to which division (G) of this section applies shall include only disruptive and low-performing students.

(H) When any district board of education determines to contract with a nonprofit or for profit entity to operate an alternative school under this section, the board shall use the procedure set forth in this division.

(1) The board shall publish notice of a request for proposals in a newspaper of general circulation in the district once each week for a period of at least two consecutive weeks prior to the date specified by the board for receiving proposals. Notices of requests for proposals shall contain a general description of the subject of the proposed contract and the location where the request for proposals may be obtained. The request for proposals shall include all of the following information:

(a) Instructions and information to respondents concerning the submission of proposals, including the name and address of the office where proposals are to be submitted;

(b) Instructions regarding communications, including at least the names, titles, and telephone numbers of persons to whom questions concerning a proposal may be directed;

(c) A description of the performance criteria that will be used to evaluate whether a respondent to which a contract is awarded is meeting the district's educational standards or the method by which such performance criteria will be determined;

(d) Factors and criteria to be considered in evaluating proposals, the relative importance of each factor or criterion, and a description of the evaluation procedures to be followed;

(e) Any terms or conditions of the proposed contract, including any requirement for a bond and the amount of such bond;

(f) Documents that may be incorporated by reference into the request for proposals, provided that the request for proposals specifies where such documents may be obtained and that such documents are readily available to

all interested parties.

(2) After the date specified for receiving proposals, the board shall evaluate the submitted proposals and may hold discussions with any respondent to ensure a complete understanding of the proposal and the qualifications of such respondent to execute the proposed contract. Such qualifications shall include, but are not limited to, all of the following:

(a) Demonstrated competence in performance of the required services as indicated by effective implementation of educational programs in reading and mathematics and at least three years of experience successfully serving a student population similar to the student population assigned to the alternative school;

(b) Demonstrated performance in the areas of cost containment, the provision of educational services of a high quality, and any other areas determined by the board;

(c) Whether the respondent has the resources to undertake the operation of the alternative school and to provide qualified personnel to staff the school;

(d) Financial responsibility.

(3) The board shall select for further review at least three proposals from respondents the board considers qualified to operate the alternative school in the best interests of the students and the district. If fewer than three proposals are submitted, the board shall select each proposal submitted. The board may cancel a request for proposals or reject all proposals at any time prior to the execution of a contract.

The board may hold discussions with any of the three selected respondents to clarify or revise the provisions of a proposal or the proposed contract to ensure complete understanding between the board and the respondent of the terms under which a contract will be entered. Respondents shall be accorded fair and equal treatment with respect to any opportunity for discussion regarding clarifications or revisions. The board may terminate or discontinue any further discussion with a respondent upon written notice.

(4) Upon further review of the three proposals selected by the board, the board shall award a contract to the respondent the board considers to have the most merit, taking into consideration the scope, complexity, and nature of the services to be performed by the respondent under the contract.

(5) Except as provided in division (H)(6) of this section, the request for proposals, submitted proposals, and related documents shall become public records under section 149.43 of the Revised Code after the award of the contract.

(6) Any respondent may request in writing that the board not disclose

confidential or proprietary information or trade secrets contained in the proposal submitted by the respondent to the board. Any such request shall be accompanied by an offer of indemnification from the respondent to the board. The board shall determine whether to agree to the request and shall inform the respondent in writing of its decision. If the board agrees to nondisclosure of specified information in a proposal, such information shall not become a public record under section 149.43 of the Revised Code. If the respondent withdraws its proposal at any time prior to the execution of a contract, the proposal shall not be a public record under section 149.43 of the Revised Code.

(I) Upon a recommendation from the department and in accordance with section 3301.16 of the Revised Code, the state board of education may revoke the charter of any alternative school operated by a school district that violates this section.

Sec. 3313.61. (A) A diploma shall be granted by the board of education of any city, exempted village, or local school district that operates a high school to any person to whom all of the following apply:

(1) The person has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code;

(2) Subject to section 3313.614 of the Revised Code, the person either:

(a) Has attained at least the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests required by that division unless the person was excused from taking any such test pursuant to section 3313.532 of the Revised Code or unless division (H) or (L) of this section applies to the person;

(b) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(3) The person is not eligible to receive an honors diploma granted pursuant to division (B) of this section.

Except as provided in divisions (C), (E), (J), and (L) of this section, no diploma shall be granted under this division to anyone except as provided under this division.

(B) In lieu of a diploma granted under division (A) of this section, an honors diploma shall be granted, in accordance with rules of the state board of education, by any such district board to anyone who successfully completes the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code, who has attained subject to section 3313.614 of the Revised Code at least the applicable scores designated under division

(B) of section 3301.0710 of the Revised Code on all the tests required by that division, or has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code, and who has met additional criteria established by the state board for the granting of such a diploma. Except as provided in divisions (C), (E), and (J) of this section, no honors diploma shall be granted to anyone failing to comply with this division and no more than one honors diploma shall be granted to any student under this division.

The state board shall adopt rules prescribing the granting of honors diplomas under this division. These rules may prescribe the granting of honors diplomas that recognize a student's achievement as a whole or that recognize a student's achievement in one or more specific subjects or both. In any case, the rules shall designate two or more criteria for the granting of each type of honors diploma the board establishes under this division and the number of such criteria that must be met for the granting of that type of diploma. The number of such criteria for any type of honors diploma shall be at least one less than the total number of criteria designated for that type and no one or more particular criteria shall be required of all persons who are to be granted that type of diploma.

(C) Any such district board administering any of the tests required by section 3301.0710 or 3301.0712 of the Revised Code to any person requesting to take such test pursuant to division (B)(8)(b) of section 3301.0711 of the Revised Code shall award a diploma to such person if the person attains at least the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests administered and if the person has previously attained the applicable scores on all the other tests required by division (B) of that section or has been exempted or excused from attaining the applicable score on any such test pursuant to division (H) or (L) of this section or from taking any such test pursuant to section 3313.532 of the Revised Code.

(D) Each diploma awarded under this section shall be signed by the president and treasurer of the issuing board, the superintendent of schools, and the principal of the high school. Each diploma shall bear the date of its issue, be in such form as the district board prescribes, and be paid for out of the district's general fund.

(E) A person who is a resident of Ohio and is eligible under state board of education minimum standards to receive a high school diploma based in whole or in part on credits earned while an inmate of a correctional institution operated by the state or any political subdivision thereof, shall be granted such diploma by the correctional institution operating the programs in which such credits were earned, and by the board of education of the

school district in which the inmate resided immediately prior to the inmate's placement in the institution. The diploma granted by the correctional institution shall be signed by the director of the institution, and by the person serving as principal of the institution's high school and shall bear the date of issue.

(F) Persons who are not residents of Ohio but who are inmates of correctional institutions operated by the state or any political subdivision thereof, and who are eligible under state board of education minimum standards to receive a high school diploma based in whole or in part on credits earned while an inmate of the correctional institution, shall be granted a diploma by the correctional institution offering the program in which the credits were earned. The diploma granted by the correctional institution shall be signed by the director of the institution and by the person serving as principal of the institution's high school and shall bear the date of issue.

(G) The state board of education shall provide by rule for the administration of the tests required by section 3301.0710 of the Revised Code to inmates of correctional institutions.

(H) Any person to whom all of the following apply shall be exempted from attaining the applicable score on the test in social studies designated under division (B) of section 3301.0710 of the Revised Code or the test in citizenship designated under former division (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001:

- (1) The person is not a citizen of the United States;
- (2) The person is not a permanent resident of the United States;
- (3) The person indicates no intention to reside in the United States after the completion of high school.

(I) Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section and section 3311.611 of the Revised Code do not apply to the board of education of any joint vocational school district or any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

(J) Upon receipt of a notice under division (D) of section 3325.08 of the Revised Code that a student has received a diploma under that section, the board of education receiving the notice may grant a high school diploma under this section to the student, except that such board shall grant the student a diploma if the student meets the graduation requirements that the student would otherwise have had to meet to receive a diploma from the district. The diploma granted under this section shall be of the same type the

notice indicates the student received under section 3325.08 of the Revised Code.

(K) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

~~No~~ Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not attained the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests required by that division shall be awarded a diploma under this section.

(L) Any student described by division (A)(1) of this section may be awarded a diploma without attaining the applicable scores designated on the tests prescribed under division (B) of section 3301.0710 of the Revised Code provided an individualized education program specifically exempts the student from attaining such scores. This division does not negate the requirement for such a student to take all such tests or alternate assessments required by division (C)(1) of section 3301.0711 of the Revised Code for the purpose of assessing student progress as required by federal law.

Sec. 3313.611. (A) The state board of education shall adopt, by rule, standards for awarding high school credit equivalent to credit for completion of high school academic and vocational education courses to applicants for diplomas under this section. The standards may permit high school credit to be granted to an applicant for any of the following:

- (1) Work experiences or experiences as a volunteer;
- (2) Completion of academic, vocational, or self-improvement courses offered to persons over the age of twenty-one by a chartered public or nonpublic school;
- (3) Completion of academic, vocational, or self-improvement courses offered by an organization, individual, or educational institution other than a chartered public or nonpublic school;
- (4) Other life experiences considered by the board to provide knowledge and learning experiences comparable to that gained in a classroom setting.

(B) The board of education of any city, exempted village, or local school district that operates a high school shall grant a diploma of adult education to any applicant if all of the following apply:

- (1) The applicant is a resident of the district;
- (2) The applicant is over the age of twenty-one and has not been issued a diploma as provided in section 3313.61 of the Revised Code;
- (3) Subject to section 3313.614 of the Revised Code, the applicant either:

(a) Has attained the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all of the tests required by that division or was excused or exempted from any such test pursuant to section 3313.532 or was exempted from attaining the applicable score on any such test pursuant to division (H) or (L) of section 3313.61 of the Revised Code;

(b) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(4) The district board determines, in accordance with the standards adopted under division (A) of this section, that the applicant has attained sufficient high school credits, including equivalent credits awarded under such standards, to qualify as having successfully completed the curriculum required by the district for graduation.

(C) If a district board determines that an applicant is not eligible for a diploma under division (B) of this section, it shall inform the applicant of the reason the applicant is ineligible and shall provide a list of any courses required for the diploma for which the applicant has not received credit. An applicant may reapply for a diploma under this section at any time.

(D) If a district board awards an adult education diploma under this section, the president and treasurer of the board and the superintendent of schools shall sign it. Each diploma shall bear the date of its issuance, be in such form as the district board prescribes, and be paid for from the district's general fund, except that the state board may by rule prescribe standard language to be included on each diploma.

(E) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

~~No~~ Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not attained the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests required by that division shall be awarded a diploma under this section.

Sec. 3313.612. (A) No nonpublic school chartered by the state board of education shall grant any high school diploma to any person unless the person has attained, subject to section 3313.614 of the Revised Code at least the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests required by that division, or has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(B) This section does not apply to either of the following:

(1) Any person with regard to any test from which the person was

excused pursuant to division (C)(1)(c) of section 3301.0711 of the Revised Code;

(2) Any person with regard to the social studies test or the citizenship test under former division (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, if all of the following apply:

- (a) The person is not a citizen of the United States;
- (b) The person is not a permanent resident of the United States;
- (c) The person indicates no intention to reside in the United States after completion of high school.

(C) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

~~No~~ Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not attained the applicable scores designated under division (B) of section 3301.0710 of the Revised Code on all the tests required by that division shall be awarded a diploma under this section.

Sec. 3313.662. (A) The superintendent of public instruction, pursuant to this section and the adjudication procedures of section 3301.121 of the Revised Code, may issue an adjudication order that permanently excludes a pupil from attending any of the public schools of this state if the pupil is convicted of, or adjudicated a delinquent child for, committing, when the pupil was sixteen years of age or older, an act that would be a criminal offense if committed by an adult and if the act is any of the following:

- (1) A violation of section 2923.122 of the Revised Code;
- (2) A violation of section 2923.12 of the Revised Code, of a substantially similar municipal ordinance, or of section 2925.03 of the Revised Code that was committed on property owned or controlled by, or at an activity held under the auspices of, a board of education of a city, local, exempted village, or joint vocational school district;
- (3) A violation of section 2925.11 of the Revised Code, other than a violation of that section that would be a minor drug possession offense, that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of a city, local, exempted village, or joint vocational school district;
- (4) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2907.02, or 2907.05 or of former section 2907.12 of the Revised Code that was committed on property owned or controlled by, or at an activity held under the auspices of, a board of education of a city, local, exempted village, or joint vocational school district, if the victim at the time

of the commission of the act was an employee of that board of education;

(5) Complicity in any violation described in division (A)(1), (2), (3), or (4) of this section that was alleged to have been committed in the manner described in division (A)(1), (2), (3), or (4) of this section, regardless of whether the act of complicity was committed on property owned or controlled by, or at an activity held under the auspices of, a board of education of a city, local, exempted village, or joint vocational school district.

(B) A pupil may be suspended or expelled in accordance with section 3313.66 of the Revised Code prior to being permanently excluded from public school attendance under this section and section 3301.121 of the Revised Code.

(C)(1) If the superintendent of a city, local, exempted village, or joint vocational school district in which a pupil attends school obtains or receives proof that the pupil has been convicted of committing when the pupil was sixteen years of age or older a violation listed in division (A) of this section or adjudicated a delinquent child for the commission when the pupil was sixteen years of age or older of a violation listed in division (A) of this section, the superintendent may issue to the board of education of the school district a request that the pupil be permanently excluded from public school attendance, if both of the following apply:

(a) After obtaining or receiving proof of the conviction or adjudication, the superintendent or the superintendent's designee determines that the pupil's continued attendance in school may endanger the health and safety of other pupils or school employees and gives the pupil and the pupil's parent, guardian, or custodian written notice that the superintendent intends to recommend to the board of education that the board adopt a resolution requesting the superintendent of public instruction to permanently exclude the pupil from public school attendance.

(b) The superintendent or the superintendent's designee forwards to the board of education the superintendent's written recommendation that includes the determinations the superintendent or designee made pursuant to division (C)(1)(a) of this section and a copy of the proof the superintendent received showing that the pupil has been convicted of or adjudicated a delinquent child for a violation listed in division (A) of this section that was committed when the pupil was sixteen years of age or older.

(2) Within fourteen days after receipt of a recommendation from the superintendent pursuant to division (C)(1)(b) of this section that a pupil be permanently excluded from public school attendance, the board of education of a city, local, exempted village, or joint vocational school district, after

review and consideration of all of the following available information, may adopt a resolution requesting the superintendent of public instruction to permanently exclude the pupil who is the subject of the recommendation from public school attendance:

(a) The academic record of the pupil and a record of any extracurricular activities in which the pupil previously was involved;

(b) The disciplinary record of the pupil and any available records of the pupil's prior behavioral problems other than the behavioral problems contained in the disciplinary record;

(c) The social history of the pupil;

(d) The pupil's response to the imposition of prior discipline and sanctions imposed for behavioral problems;

(e) Evidence regarding the seriousness of and any aggravating factors related to the offense that is the basis of the resolution seeking permanent exclusion;

(f) Any mitigating circumstances surrounding the offense that gave rise to the request for permanent exclusion;

(g) Evidence regarding the probable danger posed to the health and safety of other pupils or of school employees by the continued presence of the pupil in a public school setting;

(h) Evidence regarding the probable disruption of the teaching of any school district's graded course of study by the continued presence of the pupil in a public school setting;

(i) Evidence regarding the availability of alternative sanctions of a less serious nature than permanent exclusion that would enable the pupil to remain in a public school setting without posing a significant danger to the health and safety of other pupils or of school employees and without posing a threat of the disruption of the teaching of any district's graded course of study.

(3) If the board does not adopt a resolution requesting the superintendent of public instruction to permanently exclude the pupil, it immediately shall send written notice of that fact to the superintendent who sought the resolution, to the pupil who was the subject of the proposed resolution, and to that pupil's parent, guardian, or custodian.

(D)(1) Upon adoption of a resolution under division (C) of this section, the board of education immediately shall forward to the superintendent of public instruction the written resolution, proof of the conviction or adjudication that is the basis of the resolution, a copy of the pupil's entire school record, and any other relevant information and shall forward a copy of the resolution to the pupil who is the subject of the recommendation and

to that pupil's parent, guardian, or custodian.

(2) The board of education that adopted and forwarded the resolution requesting the permanent exclusion of the pupil to the superintendent of public instruction promptly shall designate a representative of the school district to present the case for permanent exclusion to the superintendent or the referee appointed by the superintendent. The representative of the school district may be an attorney admitted to the practice of law in this state. At the adjudication hearing held pursuant to section 3301.121 of the Revised Code, the representative of the school district shall present evidence in support of the requested permanent exclusion.

(3) Upon receipt of a board of education's resolution requesting the permanent exclusion of a pupil from public school attendance, the superintendent of public instruction, in accordance with the adjudication procedures of section 3301.121 of the Revised Code, promptly shall issue an adjudication order that either permanently excludes the pupil from attending any of the public schools of this state or that rejects the resolution of the board of education.

(E) Notwithstanding any provision of section 3313.64 of the Revised Code or an order of any court of this state that otherwise requires the admission of the pupil to a school, no school official in a city, local, exempted village, or joint vocational school district knowingly shall admit to any school in the school district a pupil who has been permanently excluded from public school attendance by the superintendent of public instruction.

(F)(1)(a) Upon determining that the school attendance of a pupil who has been permanently excluded from public school attendance no longer will endanger the health and safety of other students or school employees, the superintendent of any city, local, exempted village, or joint vocational school district in which the pupil desires to attend school may issue to the board of education of the school district a recommendation, including the reasons for the recommendation, that the permanent exclusion of a pupil be revoked and the pupil be allowed to return to the public schools of the state.

If any violation which in whole or in part gave rise to the permanent exclusion of any pupil involved the pupil's bringing a firearm to a school operated by the board of education of a school district or ~~on to~~ onto any other property owned or operated by such a board, no superintendent shall recommend under this division an effective date for the revocation of the pupil's permanent exclusion that is less than one year after the date on which the last such firearm incident occurred. However, on a case-by-case basis, a superintendent may recommend an earlier effective date for such a

revocation for any of the reasons for which ~~he~~ the superintendent may reduce the one-year expulsion requirement in division (B)(2) of section 3313.66 of the Revised Code.

(b) Upon receipt of the recommendation of the superintendent that a permanent exclusion of a pupil be revoked, the board of education of a city, local, exempted village, or joint vocational school district may adopt a resolution by a majority vote of its members requesting the superintendent of public instruction to revoke the permanent exclusion of the pupil. Upon adoption of the resolution, the board of education shall forward a copy of the resolution, the reasons for the resolution, and any other relevant information to the superintendent of public instruction.

(c) Upon receipt of a resolution of a board of education requesting the revocation of a permanent exclusion of a pupil, the superintendent of public instruction, in accordance with the adjudication procedures of Chapter 119. of the Revised Code, shall issue an adjudication order that revokes the permanent exclusion of the pupil from public school attendance or that rejects the resolution of the board of education.

(2)(a) A pupil who has been permanently excluded pursuant to this section and section 3301.121 of the Revised Code may request the superintendent of any city, local, exempted village, or joint vocational school district in which the pupil desires to attend school to admit the pupil on a probationary basis for a period not to exceed ninety school days. Upon receiving the request, the superintendent may enter into discussions with the pupil and with the pupil's parent, guardian, or custodian or a person designated by the pupil's parent, guardian, or custodian to develop a probationary admission plan designed to assist the pupil's probationary admission to the school. The plan may include a treatment program, a behavioral modification program, or any other program reasonably designed to meet the educational needs of the child and the disciplinary requirements of the school.

If any violation which in whole or in part gave rise to the permanent exclusion of the pupil involved the pupil's bringing a firearm to a school operated by the board of education of any school district or ~~on to~~ onto any other property owned or operated by such a board, no plan developed under this division for the pupil shall include an effective date for the probationary admission of the pupil that is less than one year after the date on which the last such firearm incident occurred except that on a case-by-case basis, a plan may include an earlier effective date for such an admission for any of the reasons for which the superintendent of the district may reduce the one-year expulsion requirement in division (B)(2) of section 3313.66 of the

Revised Code.

(b) If the superintendent of a school district, a pupil, and the pupil's parent, guardian, or custodian or a person designated by the pupil's parent, guardian, or custodian agree upon a probationary admission plan prepared pursuant to division (F)(2)(a) of this section, the superintendent of the school district shall issue to the board of education of the school district a recommendation that the pupil be allowed to attend school within the school district under probationary admission, the reasons for the recommendation, and a copy of the agreed upon probationary admission plan. Within fourteen days after the board of education receives the recommendation, reasons, and plan, the board may adopt the recommendation by a majority vote of its members. If the board adopts the recommendation, the pupil may attend school under probationary admission within that school district for a period not to exceed ninety days or any additional probationary period permitted under divisions (F)(2)(d) and (e) of this section in accordance with the probationary admission plan prepared pursuant to division (F)(2)(a) of this section.

(c) If a pupil who is permitted to attend school under probationary admission pursuant to division (F)(2)(b) of this section fails to comply with the probationary admission plan prepared pursuant to division (F)(2)(a) of this section, the superintendent of the school district immediately may remove the pupil from the school and issue to the board of education of the school district a recommendation that the probationary admission be revoked. Within five days after the board of education receives the recommendation, the board may adopt the recommendation to revoke the pupil's probationary admission by a majority vote of its members. If a majority of the board does not adopt the recommendation to revoke the pupil's probationary admission, the pupil shall continue to attend school in compliance with the pupil's probationary admission plan.

(d) If a pupil who is permitted to attend school under probationary admission pursuant to division (F)(2)(b) of this section complies with the probationary admission plan prepared pursuant to division (F)(2)(a) of this section, the pupil or the pupil's parent, guardian, or custodian, at any time before the expiration of the ninety-day probationary admission period, may request the superintendent of the school district to extend the terms and period of the pupil's probationary admission for a period not to exceed ninety days or to issue a recommendation pursuant to division (F)(1) of this section that the pupil's permanent exclusion be revoked and the pupil be allowed to return to the public schools of this state.

(e) If a pupil is granted an extension of the pupil's probationary

admission pursuant to division (F)(2)(d) of this section, the pupil or the pupil's parent, guardian, or custodian, in the manner described in that division, may request, and the superintendent and board, in the manner described in that division, may recommend and grant, subsequent probationary admission periods not to exceed ninety days each. If a pupil who is permitted to attend school under an extension of a probationary admission plan complies with the probationary admission plan prepared pursuant to the extension, the pupil or the pupil's parent, guardian, or custodian may request a revocation of the pupil's permanent exclusion in the manner described in division (F)(2)(d) of this section.

(f) Any extension of a probationary admission requested by a pupil or a pupil's parent, guardian, or custodian pursuant to divisions (F)(2)(d) or (e) of this section shall be subject to the adoption and approval of a probationary admission plan in the manner described in divisions (F)(2)(a) and (b) of this section and may be terminated as provided in division (F)(2)(c) of this section.

(g) If the pupil has complied with any probationary admission plan and the superintendent issues a recommendation that seeks revocation of the pupil's permanent exclusion pursuant to division (F)(1) of this section, the pupil's compliance with any probationary admission plan may be considered along with other relevant factors in any determination or adjudication conducted pursuant to division (F)(1) of this section.

(G)(1) Except as provided in division (G)(2) of this section, any information regarding the permanent exclusion of a pupil shall be included in the pupil's official records and shall be included in any records sent to any school district that requests the pupil's records.

(2) When a pupil who has been permanently excluded from public school attendance reaches the age of twenty-two or when the permanent exclusion of a pupil has been revoked, all school districts that maintain records regarding the pupil's permanent exclusion shall remove all references to the exclusion from the pupil's file and shall destroy them.

A pupil who has reached the age of twenty-two or whose permanent exclusion has been revoked may send a written notice to the superintendent of any school district maintaining records of the pupil's permanent exclusion requesting the superintendent to ensure that the records are removed from the pupil's file and destroyed. Upon receipt of the request and a determination that the pupil is twenty-two years of age or older or that the pupil's permanent exclusion has been revoked, the superintendent shall ensure that the records are removed from the pupil's file and destroyed.

(H)(1) This section does not apply to any of the following:

(a) An institution that is a residential facility, that receives and cares for children, that is maintained by the department of youth services, and that operates a school chartered by the state board of education under section 3301.16 of the Revised Code;

(b) Any on-premises school operated by an out-of-home care entity, other than a school district, that is chartered by the state board of education under section 3301.16 of the Revised Code;

(c) Any school operated in connection with an out-of-home care entity or a nonresidential youth treatment program that enters into a contract or agreement with a school district for the provision of educational services in a setting other than a setting that is a building or structure owned or controlled by the board of education of the school district during normal school hours.

(2) This section does not prohibit any person who has been permanently excluded pursuant to this section and section 3301.121 of the Revised Code from seeking a certificate of high school equivalence. A person who has been permanently excluded may be permitted to participate in a course of study in preparation for the tests of general educational development, except that the person shall not participate during normal school hours in that course of study in any building or structure owned or controlled by the board of education of a school district.

(3) This section does not relieve any school district from any requirement under section 2151.357 or 3313.64 of the Revised Code to pay for the cost of educating any child who has been permanently excluded pursuant to this section and section 3301.121 of the Revised Code.

(I) As used in this section:

(1) "Permanently exclude" means to forever prohibit an individual from attending any public school in this state that is operated by a city, local, exempted village, or joint vocational school district.

(2) "Permanent exclusion" means the prohibition of a pupil forever from attending any public school in this state that is operated by a city, local, exempted village, or joint vocational school district.

(3) "Out-of-home care" has the same meaning as in section 2151.011 of the Revised Code.

(4) "Certificate of high school equivalence" has the same meaning as in section 4109.06 of the Revised Code.

(5) "Nonresidential youth treatment program" means a program designed to provide services to persons under the age of eighteen in a setting that does not regularly provide long-term overnight care, including settlement houses, diversion and prevention programs, run-away centers,

and alternative education programs.

(6) "Firearm" has the same meaning as provided pursuant to the "Gun-Free Schools Act of 1994," 108 Stat. 270, 20 U.S.C. 8001(a)(2).

(7) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

Sec. 3313.672. (A)(1) At the time of initial entry to a public or nonpublic school, a pupil shall present to the person in charge of admission any records given the pupil by the public or nonpublic elementary or secondary school the pupil most recently attended; a certified copy of an order or decree, or modification of such an order or decree allocating parental rights and responsibilities for the care of a child and designating a residential parent and legal custodian of the child, as provided in division (B) of this section, if that type of order or decree has been issued; a copy of a power of attorney or caretaker authorization affidavit, if either has been executed with respect to the child pursuant to sections 3109.51 to 3109.80 of the Revised Code; and a certification of birth issued pursuant to Chapter 3705. of the Revised Code, a comparable certificate or certification issued pursuant to the statutes of another state, territory, possession, or nation, or a document in lieu of a certificate or certification as described in divisions (A)(1)(a) to (e) of this section. Any of the following shall be accepted in lieu of a certificate or certification of birth by the person in charge of admission:

(a) A passport or attested transcript of a passport filed with a registrar of passports at a point of entry of the United States showing the date and place of birth of the child;

(b) An attested transcript of the certificate of birth;

(c) An attested transcript of the certificate of baptism or other religious record showing the date and place of birth of the child;

(d) An attested transcript of a hospital record showing the date and place of birth of the child;

(e) A birth affidavit.

(2) ~~Within~~ If a pupil requesting admission to a school of the school district in which the pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code has been discharged or released from the custody of the department of youth services under section 5139.51 of the Revised Code just prior to requesting admission to the school, no school official shall admit that pupil until the records described in divisions (D)(4)(a) to (d) of section 2152.18 of the Revised Code have been received by the superintendent of the school district.

(3) Except as otherwise provided in division (A)(2) of this section, within twenty-four hours of the entry into the school of a pupil described in

division (A)(1) of this section, a school official shall request the pupil's official records from the public or nonpublic elementary or secondary school the pupil most recently attended. If the public or nonpublic school the pupil claims to have most recently attended indicates that it has no record of the pupil's attendance or the records are not received within fourteen days of the date of request, or if the pupil does not present a certification of birth described in division (A)(1) of this section, a comparable certificate or certification from another state, territory, possession, or nation, or another document specified in divisions (A)(1)(a) to (d) of this section, the principal or chief administrative officer of the school shall notify the law enforcement agency having jurisdiction in the area where the pupil resides of this fact and of the possibility that the pupil may be a missing child, as defined in section 2901.30 of the Revised Code.

(B)(1) Whenever an order or decree allocating parental rights and responsibilities for the care of a child and designating a residential parent and legal custodian of the child, including a temporary order, is issued resulting from an action of divorce, alimony, annulment, or dissolution of marriage, and the order or decree pertains to a child who is a pupil in a public or nonpublic school, the residential parent of the child shall notify the school of those allocations and designations by providing the person in charge of admission at the pupil's school with a certified copy of the order or decree that made the allocation and designation. Whenever there is a modification of any order or decree allocating parental rights and responsibilities for the care of a child and designating a residential parent and legal custodian of the child that has been submitted to a school, the residential parent shall provide the person in charge of admission at the pupil's school with a certified copy of the order or decree that makes the modification.

(2) Whenever a power of attorney is executed under sections 3109.51 to 3109.62 of the Revised Code that pertains to a child who is a pupil in a public or nonpublic school, the attorney in fact shall notify the school of the power of attorney by providing the person in charge of admission with a copy of the power of attorney. Whenever a caretaker authorization affidavit is executed under sections 3109.64 to 3109.73 of the Revised Code that pertains to a child who is in a public or nonpublic school, the grandparent who executed the affidavit shall notify the school of the affidavit by providing the person in charge of admission with a copy of the affidavit.

(C) If, at the time of a pupil's initial entry to a public or nonpublic school, the pupil is under the care of a shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code, the pupil or the

pupil's parent shall notify the school of that fact. Upon being so informed, the school shall inform the elementary or secondary school from which it requests the pupil's records of that fact.

Sec. 3313.85. If the board of education of any city ~~or~~, exempted village, or local school district or the governing board of any educational service center fails to perform the duties imposed upon it or fails to fill a vacancy in such board within a period of thirty days after such vacancy occurs, the probate court of the county in which such district or service center is located, upon being advised and satisfied of such failure, shall act as such board and perform all duties imposed upon such board.

~~If the board of any local school district fails to perform the duties imposed upon it or fails to fill a vacancy in such board within a period of thirty days after such vacancy occurs, the board of the educational service center in which such district is located, upon being advised and satisfied of such failure, shall act as such board and perform all duties imposed upon such board.~~

Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and (C) of this section, any student enrolled in kindergarten more than half time shall be reported as one-half student under this section.

(A) The superintendent of each city and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify to the state board of education on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, which shall consist of the average daily membership during such week of the sum of the following:

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:

- (a) Students enrolled in adult education classes;
- (b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;
- (c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;
- (d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) On an FTE basis, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but

receiving educational services in grades kindergarten through twelve from one or more of the following entities:

(a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code;

(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;

(e) An educational service center or cooperative education district;

(f) Another school district under a cooperative education agreement, compact, or contract.

(3) Twenty per cent of the number of students enrolled in a joint vocational school district or under a vocational education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a vocational education compact;

(4) The number of handicapped children, other than handicapped preschool children, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed with a county MR/DD board, minus the number of such children placed with a county MR/DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero.

(B) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the following student counts:

(1) The total average daily membership in regular day classes included in the report under division (A)(1) or (2) of this section for kindergarten, and each of grades one through twelve in schools under the superintendent's supervision;

(2) The number of all handicapped preschool children enrolled as of the first day of December in classes in the district that are eligible for approval under division (B) of section 3317.05 of the Revised Code and the number

of those classes, which shall be reported not later than the fifteenth day of December, in accordance with rules adopted under that section;

(3) The number of children entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are participating in a pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section, are enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code, are enrolled in an adjacent or other school district under section 3313.98 of the Revised Code, are enrolled in a community school established under Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school, or are participating in a program operated by a county MR/DD board or a state institution;

(4) The number of pupils enrolled in joint vocational schools;

(5) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;

(6) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;

(7) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;

(8) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;

(9) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;

(10) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code;

(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one vocational education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center;

(12) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category two vocational education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district, other than a joint vocational school district, or by an educational service center;

(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;

(14)(a) The number of children, other than handicapped preschool children, the district placed with a county MR/DD board in fiscal year 1998;

(b) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;

(c) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;

(d) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;

(e) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;

(f) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;

(g) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code.

(C)(1) Except as otherwise provided in this section for kindergarten students, the average daily membership in divisions (B)(1) to (12) of this section shall be based upon the number of full-time equivalent students. The state board of education shall adopt rules defining full-time equivalent students and for determining the average daily membership therefrom for the purposes of divisions (A), (B), and (D) of this section.

(2) A student enrolled in a community school established under Chapter 3314. of the Revised Code shall be counted in the formula ADM and, if applicable, the category one, two, three, four, five, or six special education ADM of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code for the same proportion of the school year that the student is counted in the enrollment of the community school for purposes of section 3314.08 of the Revised Code.

(3) No child shall be counted as more than a total of one child in the sum of the average daily memberships of a school district under division (A), divisions (B)(1) to (12), or division (D) of this section, except as follows:

(a) A child with a handicap described in section 3317.013 of the Revised Code may be counted both in formula ADM and in category one, two, three, four, five, or six special education ADM and, if applicable, in category one or two vocational education ADM. As provided in division (C) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in formula ADM.

(b) A child enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code may be counted both in formula ADM and category one or two vocational education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM. Such a child shall be counted in category one or two vocational education ADM in the same proportion as the percentage of time that the child spends in the vocational education programs or classes.

(4) Based on the information reported under this section, the department of education shall determine the total student count, as defined in section 3301.011 of the Revised Code, for each school district.

(D)(1) The superintendent of each joint vocational school district shall certify to the superintendent of public instruction on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, which, except as otherwise provided in this division, shall consist of the average daily membership during such week, on an FTE basis, of the number of students receiving any educational services from the

district, including students enrolled in a community school established under Chapter 3314. of the Revised Code who are attending the joint vocational district under an agreement between the district board of education and the governing authority of the community school and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district.

The following categories of students shall not be included in the determination made under division (D)(1) of this section:

- (a) Students enrolled in adult education classes;
- (b) Adjacent or other district joint vocational students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;
- (c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in a city, local, or exempted village school district whose territory is not part of the territory of the joint vocational district;
- (d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students:

- (a) Students enrolled in each grade included in the joint vocational district schools;
- (b) Handicapped children receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;
- (c) Handicapped children receiving special education services for the category two handicaps described in division (B) of section 3317.013 of the Revised Code;
- (d) Handicapped children receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;
- (e) Handicapped children receiving special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;
- (f) Handicapped children receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;

(g) Handicapped children receiving special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code;

(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code;

(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code.

The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following:

(1) Any pupil who has graduated from the twelfth grade of a public high school;

(2) Any pupil who is not a resident of the state;

(3) Any pupil who was enrolled in the schools of the district during the previous school year when tests were administered under section 3301.0711 of the Revised Code but did not take one or more of the tests required by that section and was not excused pursuant to division (C)(1) or (3) of that section;

(4) Any pupil who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for reenrollment in the public school system of their residence not later than four years after termination of war or their honorable discharge.

If, however, any veteran described by division (E)(4) of this section elects to enroll in special courses organized for veterans for whom tuition is

paid under the provisions of federal laws, or otherwise, that veteran shall not be included in average daily membership.

Notwithstanding division (E)(3) of this section, the membership of any school may include a pupil who did not take a test required by section 3301.0711 of the Revised Code if the superintendent of public instruction grants a waiver from the requirement to take the test to the specific pupil. The superintendent may grant such a waiver only for good cause in accordance with rules adopted by the state board of education.

Except as provided in divisions (B)(2) and (F) of this section, the average daily membership figure of any local, city, exempted village, or joint vocational school district shall be determined by dividing the figure representing the sum of the number of pupils enrolled during each day the school of attendance is actually open for instruction during the first full school week in October by the total number of days the school was actually open for instruction during that week. For purposes of state funding, "enrolled" persons are only those pupils who are attending school, those who have attended school during the current school year and are absent for authorized reasons, and those handicapped children currently receiving home instruction.

The average daily membership figure of any cooperative education school district shall be determined in accordance with rules adopted by the state board of education.

(F)(1) If the formula ADM for the first full school week in February is at least three per cent greater than that certified for the first full school week in the preceding October, the superintendent of schools of any city, exempted village, or joint vocational school district or educational service center shall certify such increase to the superintendent of public instruction. Such certification shall be submitted no later than the fifteenth day of February. For the balance of the fiscal year, beginning with the February payments, the superintendent of public instruction shall use the increased formula ADM in calculating or recalculating the amounts to be allocated in accordance with section 3317.022 or 3317.16 of the Revised Code. In no event shall the superintendent use an increased membership certified to the superintendent after the fifteenth day of February.

(2) If on the first school day of April the total number of classes or units for handicapped preschool children that are eligible for approval under division (B) of section 3317.05 of the Revised Code exceeds the number of units that have been approved for the year under that division, the superintendent of schools of any city, exempted village, or cooperative education school district or educational service center shall make the

certifications required by this section for that day. If the department determines additional units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of such units, the department shall approve additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in section 3317.052 or 3317.19 and section 3317.053 of the Revised Code.

(3) If a student attending a community school under Chapter 3314. of the Revised Code is not included in the formula ADM certified for the first full school week of October for the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the department of education shall adjust the formula ADM of that school district to include the community school student in accordance with division (C)(2) of this section, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the community school during the first full school week in October.

(G)(1)(a) The superintendent of an institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education the average daily membership of all handicapped children in classes or programs approved annually by the department of education, in the manner prescribed by the superintendent of public instruction.

(b) The superintendent of an institution with vocational education units approved under division (A) of section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.

(2) The superintendent of each county MR/DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved pursuant to section 3317.05 of the Revised Code shall do both of the following:

(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes;

(b) Certify to the state board, in the manner prescribed by the board, the number of all handicapped preschool children enrolled as of the first day of December in classes eligible for approval under division (B) of section

3317.05 of the Revised Code, and the number of those classes.

(3)(a) If on the first school day of April the number of classes or units maintained for handicapped preschool children by the county MR/DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the number of units approved for the year under that division, the superintendent shall make the certification required by this section for that day.

(b) If the department determines that additional classes or units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of the classes and units described in division (G)(3)(a) of this section, the department shall approve and fund additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in sections 3317.052 and 3317.053 of the Revised Code.

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides instruction for a nonresident pupil whose attendance is unauthorized attendance as defined in section 3327.06 of the Revised Code, that pupil's membership shall not be included in that district's membership figure used in the calculation of that district's formula ADM or included in the determination of any unit approved for the district under section 3317.05 of the Revised Code. The reporting official shall report separately the average daily membership of all pupils whose attendance in the district is unauthorized attendance, and the membership of each such pupil shall be credited to the school district in which the pupil is entitled to attend school under division (B) of section 3313.64 or section 3313.65 of the Revised Code as determined by the department of education.

(I)(1) A city, local, exempted village, or joint vocational school district admitting a scholarship student of a pilot project district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily membership.

(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily membership:

(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code;

(b) All children who were enrolled in the district in the preceding year

who are utilizing a scholarship to attend any such alternative school.

(J) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the applicable average daily memberships for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

Sec. 3319.29. Each application for any license or certificate pursuant to sections 3319.22 to 3319.27 of the Revised Code or for any permit pursuant to section 3319.301 ~~or, 3319.302, 3319.303, or 3319.304~~ of the Revised Code, or renewal or duplicate of such a license, certificate, or permit, shall be accompanied by the payment of a fee in the amount established under division (A) of section 3319.51 of the Revised Code. Any fees received under this section shall be paid into the state treasury to the credit of the state board of education licensure fund established under division (B) of section 3319.51 of the Revised Code.

Any person applying for or holding a license, certificate, or permit pursuant to this section and sections 3319.22 to 3319.27 or section 3319.301 ~~or, 3319.302, 3319.303, or 3319.304~~ of the Revised Code is subject to sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code and sections 3319.31 and 3319.311 of the Revised Code.

Sec. 3319.291. (A) When any person initially applies for any certificate, license, or permit described in division (B) of section 3301.071, in section 3301.074, 3319.088, ~~or 3319.29, 3319.302, or 3319.304,~~ or in division (A) of section 3319.303 of the Revised Code, the state board of education shall require the person to submit with the application two complete sets of fingerprints and written permission that authorizes the superintendent of public instruction to forward the fingerprints to the bureau of criminal identification and investigation pursuant to division (F) of section 109.57 of the Revised Code and that authorizes that bureau to forward the fingerprints to the federal bureau of investigation for purposes of obtaining any criminal records that the federal bureau maintains on the person.

(B) The state board of education or the superintendent of public instruction ~~may~~ shall request the superintendent of the bureau of criminal identification and investigation to ~~do either or both of the following:~~

~~(1) Investigate~~ investigate and determine whether the bureau has any information, gathered pursuant to division (A) of section 109.57 of the Revised Code, pertaining to any person submitting fingerprints and written

permission under this section;

~~(2) Obtain. If the person does not present proof that the person has been a resident of this state for the five-year period immediately prior to the date upon which the investigation described in this division is requested, or does not provide evidence that within that five-year period the superintendent of the bureau of criminal identification and investigation has requested information about the person from the federal bureau of investigation, the state board or the superintendent of public instruction shall request the superintendent of the bureau of criminal identification and investigation to obtain any criminal records that the federal bureau of investigation has on the person. If the person presents proof that the person has been a resident of this state for that five-year period, the state board or the superintendent of public instruction may request the superintendent of the bureau of criminal identification and investigation to obtain any criminal records that the federal bureau of investigation has on the person.~~

Sec. 3319.303. (A) The state board of education shall adopt rules establishing standards and requirements for obtaining a pupil-activity program permit for any individual who does not hold a valid educator license, certificate, or permit issued by the state board under section 3319.22, 3319.26, 3319.27, ~~or~~ 3319.302, ~~or~~ 3319.304 of the Revised Code. The permit issued under this section shall be valid for coaching, supervising, or directing a pupil-activity program under section 3313.53 of the Revised Code. Subject to the provisions of section 3319.31 of the Revised Code, a permit issued under this section shall be valid for three years and shall be renewable.

(B) The state board shall adopt rules applicable to individuals who hold valid educator licenses, certificates, or permits issued by the state board under section 3319.22, 3319.26, 3319.27, ~~or~~ 3319.302, ~~or~~ 3319.304 of the Revised Code setting forth standards to assure any such individual's competence to direct, supervise, or coach a pupil-activity program. The rules adopted under this division shall not be more stringent than the standards set forth in rules applicable to individuals who do not hold such licenses, certificates, or permits adopted under division (A) of this section.

~~Sec. 7 3319.304. No one-year conditional teaching permit in the area of intervention specialist shall be issued under this section later than three years after the effective date of this act.~~

Unless the provisions of division (B) or (C) of section 3319.31 of the Revised Code apply to an applicant, the ~~State Board~~ state board of ~~Education~~ education shall issue a one-year conditional teaching permit in the area of intervention specialist, as defined by rule of the state board, to

any applicant who meets the following conditions:

(A) Holds a bachelor's degree;

(B) Has successfully completed a basic skills test as prescribed by the ~~State Board~~ state board;

(C) Has completed either as part of the applicant's degree program or separate from it the equivalent of at least fifteen semester hours of coursework in the principles and practices of teaching exceptional children, including such topics as child and adolescent development, diagnosis and assessment of children with disabilities, curriculum design and instruction, applied behavioral analysis, and how to best teach students from culturally diverse backgrounds with different learning styles;

(D) The applicant has entered into a written agreement with the ~~Department~~ department of ~~Education~~ education and the school district, community school, or nonprofit or for profit entity operating an alternative school under section 3313.533 of the Revised Code that will employ the applicant under which the district, school, or entity will provide for the applicant a structured mentoring program in the teaching of exceptional children that is aligned with the performance expectations prescribed by ~~State Board~~ state board rule for entry-year teachers.

(E) The applicant agrees to complete while employed under the one-year teaching permit the equivalent of an additional three semester hours of coursework in the content and methods of teaching reading. The coursework may be completed through classes offered by regional professional development providers, such as special education regional resource centers, regional professional development centers, educational service centers, local educational agencies, professional organizations, and institutions of higher education, if the coursework is taken for credit in collaboration with a college or university that has a teacher education program approved by the ~~State Board~~ state board.

(F) The applicant agrees to seek at the conclusion of the year in which the individual is employed under the one-year teaching permit issued under this section an alternative educator license issued under section 3319.26 of the Revised Code in the area of intervention specialist. The applicant shall not be reemployed by the school district, community school, or nonprofit or for profit entity operating an alternative school under section 3313.533 of the Revised Code or be employed by another such district, school, or entity unless that alternative educator license is issued to the applicant prior to the beginning of the next school year.

(G) The applicant pays the fee established under section 3319.51 of the Revised Code ~~applicable to one-year conditional teaching permits issued~~

~~under section 3319.302 of the Revised Code. Such fee shall be deposited in the State Board of Education Licensure Fund in accordance with division (B) of section 3319.51 of the Revised Code.~~

Sec. 3319.31. (A) As used in this section and sections 3123.41 to 3123.50 and 3319.311 of the Revised Code, "license" means a certificate, license, or permit described in division (B) of section 3301.071, in section 3301.074, 3319.088, 3319.29, ~~or 3319.302~~, or 3319.304, or in division (A) of section 3319.303 of the Revised Code.

(B) For any of the following reasons, the state board of education, in accordance with Chapter 119. and section 3319.311 of the Revised Code, may refuse to issue a license to an applicant, may limit a license it issues to an applicant, or may suspend, revoke, or limit a license that has been issued to any person:

(1) Engaging in an immoral act, incompetence, negligence, or conduct that is unbecoming to the applicant's or person's position;

(2) A plea of guilty to, a finding of guilt by a jury or court of, or a conviction of any of the following:

(a) A felony;

(b) A violation of section 2907.04 or 2907.06 or division (A) or (B) of section 2907.07 of the Revised Code;

(c) An offense of violence;

(d) A theft offense, as defined in section 2913.01 of the Revised Code;

(e) A drug abuse offense, as defined in section 2925.01 of the Revised Code, that is not a minor misdemeanor;

(f) A violation of an ordinance of a municipal corporation that is substantively comparable to an offense listed in divisions (B)(2)(a) to (e) of this section.

(C) The state board may take action under division (B) of this section on the basis of substantially comparable conduct occurring in a jurisdiction outside this state or occurring before a person applies for or receives any license.

(D) The state board may adopt rules in accordance with Chapter 119. of the Revised Code to carry out this section and section 3319.311 of the Revised Code.

Sec. 3319.51. (A) The state board of education shall annually establish the amount of the fees required to be paid under division (B) of section 3301.071, under sections 3301.074, 3319.088, 3319.29, ~~and 3319.302~~, and 3319.304, and under division (A) of section 3319.303 of the Revised Code. The amount of these fees shall be such that they, along with any appropriation made to the fund established under division (B) of this

section, will be sufficient to cover the annual estimated cost of administering the sections of law listed under division (B) of this section.

(B) There is hereby established in the state treasury the state board of education licensure fund, which shall be used by the state board of education solely to pay the cost of administering sections 3301.071, 3301.074, 3319.088, 3319.22, 3319.29, 3319.291, 3319.301, 3319.302, 3319.303, 3319.304, and 3319.31 of the Revised Code. The fund shall consist of the amounts paid into the fund pursuant to division (B) of section 3301.071, sections 3301.074, 3319.088, 3319.29, ~~and~~ 3319.302, and 3319.304, and division (A) of section 3319.303 of the Revised Code and any appropriations to the fund by the general assembly.

Sec. 3319.55. (A) A grant program is hereby established to recognize and reward public school teachers who hold valid teaching certificates or licenses issued by the national board for professional teaching standards. The superintendent of public instruction shall administer this program in accordance with this section and rules which the state board of education shall adopt in accordance with Chapter 119. of the Revised Code.

In each fiscal year that the general assembly appropriates funds for purposes of this section, the superintendent of public instruction shall award a grant to each person who, by the first day of ~~August~~ April of that year and in accordance with the rules adopted under this section, submits to the superintendent evidence indicating all of the following:

- (1) The person holds a valid certificate or license issued by the national board for professional teaching standards;
- (2) The person ~~was~~ has been employed full-time as a teacher by the board of education of a school district in this state during the current school year ~~that immediately preceded the fiscal year~~;
- (3) The date the person was accepted into the national board certification or licensure program.

An individual may receive a grant under this section in each fiscal year the person is eligible for a grant and submits evidence of that eligibility in accordance with this section.

(B) The amount of the grant awarded to each eligible person under division (A) of this section in any fiscal year shall equal the following:

- (1) Two thousand five hundred dollars for any teacher accepted as a candidate for certification or licensure by the national board on or before May 31, 2003, and issued a certificate or license by the national board on or before December 31, 2004;
- (2) One thousand dollars for any other teacher issued a certificate or license by the national board.

However, if the funds appropriated for purposes of this section in any fiscal year are not sufficient to award the full grant amount to each person who is eligible in that fiscal year, the superintendent shall prorate the amount of the grant awarded in that fiscal year to each eligible person.

Sec. 3381.04. In lieu of the procedure set forth in section 3381.03 of the Revised Code, any county ~~containing a city~~ with a population of five hundred thousand or more may at any time prior to the creation of a regional arts and cultural district pursuant to section 3381.03 of the Revised Code, create a regional arts and cultural district by adoption of a resolution or ordinance by the board of county commissioners of such county. Such resolution shall state:

- (A) The purposes for the creation of the district;
- (B) That the territory of the district shall be coextensive with the territory of such county;
- (C) The official name by which the district shall be known;
- (D) The location of the principal office of the district or the manner in which the location shall be selected.

The district provided for in such resolution or ordinance shall be created upon the adoption of such resolution or ordinance by the board of county commissioners of such county. Upon the adoption of such resolution or ordinance, such county and the municipal corporations and townships contained therein shall not thereafter be a part of any other regional arts and cultural district.

The board of trustees of any regional arts and cultural district formed in accordance with this section shall be comprised of the same persons who comprise such county's board of county commissioners.

Sec. 5139.05. (A) The juvenile court may commit any child to the department of youth services as authorized in Chapter 2152. of the Revised Code, provided that any child so committed shall be at least ten years of age at the time of the child's delinquent act, and, if the child is ten or eleven years of age, the delinquent act is a violation of section 2909.03 of the Revised Code or would be aggravated murder, murder, or a first or second degree felony offense of violence if committed by an adult. Any order to commit a child to an institution under the control and management of the department shall have the effect of ordering that the child be committed to the department and assigned to an institution as follows:

- (1) For an indefinite term consisting of the prescribed minimum period specified by the court under division (A)(1) of section 2152.16 of the Revised Code and a maximum period not to exceed the child's attainment of twenty-one years of age, if the child was committed pursuant to section

2152.16 of the Revised Code;

(2) Until the child's attainment of twenty-one years of age, if the child was committed for aggravated murder or murder pursuant to section 2152.16 of the Revised Code;

(3) For a period of commitment that shall be in addition to, and shall be served consecutively with and prior to, a period of commitment described in division (A)(1) or (2) of this section, if the child was committed pursuant to section 2152.17 of the Revised Code;

(4) If the child is ten or eleven years of age, to an institution, a residential care facility, a residential facility, or a facility licensed by the department of job and family services that the department of youth services considers best designated for the training and rehabilitation of the child and protection of the public. The child shall be housed separately from children who are twelve years of age or older until the child is released or discharged or until the child attains twelve years of age, whichever occurs first. Upon the child's attainment of twelve years of age, if the child has not been released or discharged, the department is not required to house the child separately.

(B)(1) Except as otherwise provided in section 5139.54 of the Revised Code, the release authority of the department of youth services, in accordance with section 5139.51 of the Revised Code and at any time after the end of the minimum period specified under division (A)(1) of section 2152.16 of the Revised Code, may grant the release from custody of any child committed to the department.

The order committing a child to the department of youth services shall state that the child has been adjudicated a delinquent child and state the minimum period. The jurisdiction of the court terminates at the end of the minimum period except as follows:

(a) In relation to judicial release procedures, supervision, and violations;

(b) With respect to functions of the court related to the revocation of supervised release that are specified in sections 5139.51 and 5139.52 of the Revised Code;

(c) In relation to its duties relating to serious youthful offender dispositional sentences under sections 2152.13 and 2152.14 of the Revised Code.

(2) When a child has been committed to the department under section 2152.16 of the Revised Code, the department shall retain legal custody of the child until one of the following:

(a) The department discharges the child to the exclusive management, control, and custody of the child's parent or the guardian of the child's

person or, if the child is eighteen years of age or older, discharges the child.

(b) The committing court, upon its own motion, upon petition of the parent, guardian of the person, or next friend of a child, or upon petition of the department, terminates the department's legal custody of the child.

(c) The committing court grants the child a judicial release to court supervision under section 2152.22 of the Revised Code.

(d) The department's legal custody of the child is terminated automatically by the child attaining twenty-one years of age.

(e) If the child is subject to a serious youthful offender dispositional sentence, the adult portion of that dispositional sentence is imposed under section 2152.14 of the Revised Code.

(C) When a child is committed to the department of youth services, the department may assign the child to a hospital for mental, physical, and other examination, inquiry, or treatment for the period of time that is necessary. The department may remove any child in its custody to a hospital for observation, and a complete report of every observation at the hospital shall be made in writing and shall include a record of observation, treatment, and medical history and a recommendation for future treatment, custody, and maintenance. The department shall thereupon order the placement and treatment that it determines to be most conducive to the purposes of Chapters 2151. and 5139. of the Revised Code. The committing court and all public authorities shall make available to the department all pertinent data in their possession with respect to the case.

(D) Records maintained by the department of youth services pertaining to the children in its custody shall be accessible only to department employees, except by consent of the department ~~or~~, upon the order of the judge of a court of record, or as provided in divisions (D)(1) and (2) of this section. These records shall not be considered "public records," as defined in section 149.43 of the Revised Code.

(1) Except as otherwise provided by a law of this state or the United States, the department of youth services may release records that are maintained by the department of youth services and that pertain to children in its custody to the department of rehabilitation and correction regarding persons who are under the jurisdiction of the department of rehabilitation and correction and who have previously been committed to the department of youth services. The department of rehabilitation and correction may use those records for the limited purpose of carrying out the duties of the department of rehabilitation and correction. Records released by the department of youth services to the department of rehabilitation and correction shall remain confidential and shall not be considered public

records as defined in section 149.43 of the Revised Code.

(2) The department of youth services shall provide to the superintendent of the school district in which a child discharged or released from the custody of the department is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code the records described in divisions (D)(4)(a) to (d) of section 2152.18 of the Revised Code. Subject to the provisions of section 3319.321 of the Revised Code and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, as amended, the records released to the superintendent shall remain confidential and shall not be considered public records as defined in section 149.43 of the Revised Code.

(E)(1) When a child is committed to the department of youth services, the department, orally or in writing, shall notify the parent, guardian, or custodian of a child that the parent, guardian, or custodian may request at any time from the superintendent of the institution in which the child is located any of the information described in divisions (E)(1)(a), (b), (c), and (d) of this section. The parent, guardian, or custodian may provide the department with the name, address, and telephone number of the parent, guardian, or custodian, and, until the department is notified of a change of name, address, or telephone number, the department shall use the name, address, and telephone number provided by the parent, guardian, or custodian to provide notices or answer inquiries concerning the following information:

(a) When the department of youth services makes a permanent assignment of the child to a facility, the department, orally or in writing and on or before the third business day after the day the permanent assignment is made, shall notify the parent, guardian, or custodian of the child of the name of the facility to which the child has been permanently assigned.

If a parent, guardian, or custodian of a child who is committed to the department of youth services requests, orally or in writing, the department to provide the parent, guardian, or custodian with the name of the facility in which the child is currently located, the department, orally or in writing and on or before the next business day after the day on which the request is made, shall provide the name of that facility to the parent, guardian, or custodian.

(b) If a parent, guardian, or custodian of a child who is committed to the department of youth services, orally or in writing, asks the superintendent of the institution in which the child is located whether the child is being disciplined by the personnel of the institution, what disciplinary measure the personnel of the institution are using for the child, or why the child is being disciplined, the superintendent or the superintendent's designee, on or before

the next business day after the day on which the request is made, shall provide the parent, guardian, or custodian with written or oral responses to the questions.

(c) If a parent, guardian, or custodian of a child who is committed to the department of youth services, orally or in writing, asks the superintendent of the institution in which the child is held whether the child is receiving any medication from personnel of the institution, what type of medication the child is receiving, or what condition of the child the medication is intended to treat, the superintendent or the superintendent's designee, on or before the next business day after the day on which the request is made, shall provide the parent, guardian, or custodian with oral or written responses to the questions.

(d) When a major incident occurs with respect to a child who is committed to the department of youth services, the department, as soon as reasonably possible after the major incident occurs, shall notify the parent, guardian, or custodian of the child that a major incident has occurred with respect to the child and of all the details of that incident that the department has ascertained.

(2) The failure of the department of youth services to provide any notification required by or answer any requests made pursuant to division (E) of this section does not create a cause of action against the state.

(F) The department of youth services, as a means of punishment while the child is in its custody, shall not prohibit a child who is committed to the department from seeing that child's parent, guardian, or custodian during standard visitation periods allowed by the department of youth services unless the superintendent of the institution in which the child is held determines that permitting that child to visit with the child's parent, guardian, or custodian would create a safety risk to that child, that child's parents, guardian, or custodian, the personnel of the institution, or other children held in that institution.

(G) As used in this section:

(1) "Permanent assignment" means the assignment or transfer for an extended period of time of a child who is committed to the department of youth services to a facility in which the child will receive training or participate in activities that are directed toward the child's successful rehabilitation. "Permanent assignment" does not include the transfer of a child to a facility for judicial release hearings pursuant to section 2152.22 of the Revised Code or for any other temporary assignment or transfer to a facility.

(2) "Major incident" means the escape or attempted escape of a child

who has been committed to the department of youth services from the facility to which the child is assigned; the return to the custody of the department of a child who has escaped or otherwise fled the custody and control of the department without authorization; the allegation of any sexual activity with a child committed to the department; physical injury to a child committed to the department as a result of alleged abuse by department staff; an accident resulting in injury to a child committed to the department that requires medical care or treatment outside the institution in which the child is located; the discovery of a controlled substance upon the person or in the property of a child committed to the department; a suicide attempt by a child committed to the department; a suicide attempt by a child committed to the department that results in injury to the child requiring emergency medical services outside the institution in which the child is located; the death of a child committed to the department; an injury to a visitor at an institution under the control of the department that is caused by a child committed to the department; and the commission or suspected commission of an act by a child committed to the department that would be an offense if committed by an adult.

(3) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

(4) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(5) "Residential care facility" and "residential facility" have the same meanings as in section 2151.011 of the Revised Code.

SECTION 2. That existing sections 9.314, 109.57, 2151.011, 2151.421, 2151.86, 2152.18, 3301.0711, 3302.01, 3302.03, 3313.53, 3313.533, 3313.61, 3313.611, 3313.612, 3313.662, 3313.672, 3313.85, 3317.03, 3319.29, 3319.291, 3319.303, 3319.31, 3319.51, 3319.55, 3381.04, and 5139.05 of the Revised Code and existing Section 7 of Sub. H.B. 196 of the 124th General Assembly are hereby repealed.

SECTION 3. That Sections 41.37 and 98.01 of Am. Sub. H.B. 95 of the 125th General Assembly be amended to read as follows:

Sec. 41.37. TRANSITIONAL AID

The Department of Education shall distribute earmarked funds within appropriation item 200-501, Base Cost Funding, for transitional aid in each fiscal year to each city, local, and exempted village school district that experiences a decrease in its SF-3 funding plus charge-off supplement for

the current fiscal year in excess of five per cent of its SF-3 funding plus charge-off supplement for the previous fiscal year. The Department shall distribute to each such district an amount to reduce the decrease to five per cent of the district's SF-3 funding plus charge-off supplement for the previous fiscal year. For this purpose, "SF-3 funding plus charge-off supplement" equals the sum of the following:

(A) Base cost funding under division (A) of section 3317.022 of the Revised Code;

(B) Special education and related services additional weighted funding under division (C)(1) of section 3317.022 of the Revised Code;

(C) Speech services funding under division (C)(4) of section 3317.022 of the Revised Code;

(D) Vocational education additional weighted funding under division (E) of section 3317.022 of the Revised Code;

(E) GRADS funding under division (R) of section 3317.024 of the Revised Code;

(F) Adjustments for classroom teachers and educational service personnel under divisions (B), (C), and (D) of section 3317.023 of the Revised Code;

(G) Disadvantaged Pupil Impact Aid under section 3317.029 of the Revised Code;

(H) Gifted education units under division (F) of section 3317.05 of the Revised Code;

(I) Equity aid under section 3317.0213 of the Revised Code;

(J) Transportation under division (D) of section 3317.022 of the Revised Code;

(K) The state aid guarantee under section 3317.0212 of the Revised Code;

(L) The excess cost supplement under division (F) of section 3317.022 of the Revised Code;

(M) Parity aid under section 3317.0217 of the Revised Code;

(N) The reappraisal guarantee under division (C) of section 3317.04 of the Revised Code;

(O) The charge-off supplement under section 3317.0216 of the Revised Code.

The SF-3 funding plus charge-off supplement for fiscal year 2003 for each district is the sum of those amounts less the general revenue fund spending reductions ordered by the Governor under Executive Order 2003-03T, March 5, 2003.

The SF-3 funding plus charge-off supplement for fiscal year 2004 for

each district is the sum of the amounts specified in divisions (A) to (O) of this section plus any transitional aid payment under this section in fiscal year 2004.

Sec. 98.01. TECHNICAL AND INSTRUCTIONAL PROFESSIONAL DEVELOPMENT

The foregoing appropriation item 228-406, Technical and Instructional Professional Development, shall be used by the Ohio SchoolNet Commission to make grants or provide services to qualifying schools, including the State School for the Blind and the Ohio School for the Deaf, and the Ohio Department of Youth Services for the provision of hardware, software, telecommunications services, and staff development to support educational uses of technology in the classroom.

The Ohio SchoolNet Commission shall consider the professional development needs associated with the OhioReads Program when making funding allocations and program decisions.

Of the foregoing appropriation item 228-406, Technical and Instructional Professional Development, \$1,260,000 in each fiscal year shall be allocated equally among the 12 Ohio Educational Television Stations and, used with the advice of the Ohio SchoolNet Commission, for the production of interactive instructional programming series and teleconferences to support the SchoolNet Commission. The programming shall be targeted to the needs of the poorest two hundred school districts as determined by the district's adjusted valuation per pupil as defined in section 3317.0213 of the Revised Code.

Of the foregoing appropriation item 228-406, Technical and Instructional Professional Development, \$818,322 in each fiscal year shall be used by the INFOhio Network, with the advice of the Ohio SchoolNet Commission, to support the provision of electronic resources to all public schools with preference given to elementary schools. Consideration shall be given by the Commission to coordinating the allocation of these moneys with the efforts of OhioLINK and the Ohio Public Information Network.

Of the foregoing appropriation item 228-406, Technical and Instructional Professional Development, \$300,000 in each fiscal year shall be used by the JASON project, with the advice of the Ohio SchoolNet Commission, to provide statewide access and a 75 per cent subsidy for statewide licensing of JASON content for 90,000 middle school students statewide, and professional development for teachers participating in the program.

The remaining appropriation allocated in appropriation item 228-406, Technical and Instructional Professional Development, shall be used by the

Ohio SchoolNet Commission for professional development for teachers and administrators for the use of educational technology. The commission may make grants to provide technical assistance and professional development on the use of educational technology to school districts.

Eligible recipients of grants include regional training centers, county offices of education, data collection sites, instructional technology centers, institutions of higher education, public television stations, special education resource centers, area media centers, or other nonprofit educational organizations. Services provided through these grants may include use of private entities subcontracting through the grant recipient.

Grants shall be made to entities on a contractual basis with the Ohio SchoolNet Commission. Contracts shall include provisions that demonstrate how services will benefit technology use in the schools, and in particular will support Ohio SchoolNet efforts to support technology in the schools. Contracts shall specify the scope of assistance being offered and the potential number of professionals who will be served. Contracting entities may be awarded more than one grant at a time.

Grants shall be awarded in a manner consistent with the goals of Ohio SchoolNet. Special emphasis in the award of grants shall be placed on collaborative efforts among service providers.

Application for grants from this appropriation in appropriation item 228-406, Technical and Instructional Professional Development, shall be consistent with a school district's technology plan that shall meet the minimum specifications for school district technology plans as prescribed by the Ohio SchoolNet Commission. Funds allocated through these grants may be combined with funds received through other state or federal grants for technology so long as the school district's technology plan specifies the use of these funds.

EDUCATION TECHNOLOGY

The foregoing appropriation item 228-539, Education Technology, shall be used to provide funding to suppliers of information services to school districts for the provision of hardware, software, and staff development in support of educational uses of technology in the classroom as prescribed by the State Plan for Technology pursuant to section 3301.07 of the Revised Code, and to support assistive technology for children and youth with disabilities.

Of the foregoing appropriation item 228-539, Education Technology, up to \$1,946,000 in each fiscal year shall be used by the Ohio SchoolNet Commission to link all public K-12 classrooms to each other and the Internet, and to provide access to voice, video, and data educational

resources for students and teachers through the OneNet Ohio Program.

Up to \$4,403,778 in each fiscal year shall be used by the Ohio SchoolNet Commission to contract with instructional television, and \$639,537 in each fiscal year shall be used by the commission to contract with education media centers to provide Ohio schools with instructional resources and services.

Resources may include, but not be limited to, the following: pre-recorded video materials (including videotape, laser discs, and CD-ROM discs); computer software for student use or student access to electronic communication, databases, spreadsheet, and word processing capability; live student courses or courses delivered electronically; automated media systems; and instructional and professional development materials for teachers. The commission shall cooperate with education technology agencies in the acquisition, development, and delivery of such educational resources to ensure high-quality and educational soundness at the lowest possible cost. Delivery of such resources may utilize a variety of technologies, with preference given to a high-speed integrated information network that can transport video, voice, data, and graphics simultaneously.

Services shall include presentations and technical assistance that will help students and teachers integrate educational materials that support curriculum objectives, match specific learning styles, and are appropriate for individual interests and ability levels.

Such instructional resources and services shall be made available for purchase by chartered nonpublic schools or by public school districts for the benefit of pupils attending chartered nonpublic schools.

TELECOMMUNITY

The foregoing appropriation item 228-630, Ohio SchoolNet Telecommunity Fund, shall be distributed by the Ohio SchoolNet Commission on a grant basis to eligible school districts to establish "distance learning" through interactive video technologies in the school district. Per agreements with eight Ohio local telephone companies: ALLTEL Ohio, CENTURY Telephone of Ohio, Chillicothe Telephone Company, Cincinnati Bell Telephone Company, Orwell Telephone Company, Sprint North Central Telephone, VERIZON, and Western Reserve Telephone Company, school districts are eligible for funds if they are within one of the listed telephone company service areas. Funds to administer the program shall be expended by the commission up to the amount specified in agreements with the listed telephone companies.

Within 30 days after ~~the effective date of this section~~ June 26, 2003, the Director of Budget and Management shall transfer to Fund 4W9 in the State

Special Revenue Fund Group any investment earnings from moneys paid to the Ohio SchoolNet Commission by any telephone company as part of any settlement agreement between the listed companies and the Public Utilities Commission in fiscal years 1996 and beyond.

DISTANCE LEARNING

Appropriation item 228-634, Distance Learning, shall be distributed by the Ohio SchoolNet Commission on a grant basis to eligible school districts to establish "distance learning" in the school district. Per the agreement with Ameritech, school districts are eligible for funds if they are within an Ameritech service area. Funds to administer the program shall be expended by the commission up to the amount specified in the agreement with Ameritech.

Within thirty days after ~~the effective date of this section~~ June 26, 2003, the Director of Budget and Management shall transfer to fund 4X1 in the State Special Revenue Fund Group any investment earnings from moneys paid to the office or to the SchoolNet Commission by any telephone company as part of a settlement agreement between the company and the Public Utilities Commission in fiscal year 1995.

GATES FOUNDATION GRANTS

The foregoing appropriation item 228-605, Gates Foundation Grants, shall be used by the Ohio SchoolNet Commission to provide professional development to school district principals, superintendents, and other administrative staff for the use of education technology. The appropriation is made possible through a grant from the Bill and Melinda Gates foundation.

SECTION 4. That existing Sections 41.37 and 98.01 of Am. Sub. H.B. 95 of the 125th General Assembly are hereby repealed.

SECTION 5. The Department of Education shall use the money appropriated for a safe school help line in fiscal year 2005 from appropriation item 200-578, Safe and Supportive Schools, to contract for this service at a rate of \$1.80 per participating student. In the event that the appropriated funds are not sufficient to maintain this per student rate for all participating students, the per student rate shall be reduced accordingly. The contractor shall accept the resulting rate as payment in full and shall not bill any participating entity for this service.

SECTION 6. Sections 41.37 and 98.01 of Am. Sub. H.B. 95 of the 125th

General Assembly, as amended in this act, and Section 5 of this act, and the items of law of which those sections as amended or enacted in this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, Sections 41.37 and 98.01 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended in this act, and Section 5 of this act, and the items of law of which those sections as amended or enacted in this act are composed, go into immediate effect when this act becomes law.

SECTION 7. Section 2152.18 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 247 and Sub. H.B. 393 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____