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Yuko**

A B I L L

To amend section 3314.03 and to enact sections 1
117.53, 3301.22, 3313.666, and 3313.667 of the 2
Revised Code with respect to school policies 3
prohibiting harassment, intimidation, or bullying. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3314.03 be amended and sections 5
117.53, 3301.22, 3313.666, and 3313.667 of the Revised Code be 6
enacted to read as follows: 7

Sec. 117.53. When conducting an audit under section 117.11 of 8
the Revised Code of a city, local, exempted village, or joint 9
vocational school district, or a community school established 10
under Chapter 3314. of the Revised Code, the auditor of state 11
shall identify whether the school district or community school has 12
adopted an anti-harassment policy in accordance with section 13
3313.666 of the Revised Code. This determination shall be recorded 14
in the audit report. 15

<u>Sec. 3301.22. The state board of education shall develop a model policy to prohibit harassment, intimidation, or bullying in order to assist school districts in developing their own policies under section 3313.666 of the Revised Code. The board shall issue the model policy within six months after the effective date of this section.</u>	16
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 <u>Sec. 3313.666. (A) As used in this section, "harassment, intimidation, or bullying" means any intentional written, verbal, or physical act that a student has exhibited toward another particular student more than once and the behavior both:</u>	22
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(1) <u>Causes mental or physical harm to the other student;</u>	26
(2) <u>Is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student.</u>	27
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(B) <u>The board of education of each city, local, exempted village, and joint vocational school district shall establish a policy prohibiting harassment, intimidation, or bullying. The policy shall be developed in consultation with parents, school employees, school volunteers, students, and community members. The policy shall include the following:</u>	30
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(1) <u>A statement prohibiting harassment, intimidation, or bullying of any student on school property or at school-sponsored events;</u>	36
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(2) <u>A definition of harassment, intimidation, or bullying that shall include the definition in division (A) of this section;</u>	39
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(3) <u>A procedure for reporting prohibited incidents;</u>	41
(4) <u>A requirement that school personnel report prohibited incidents of which they are aware to the school principal or other administrator designated by the principal;</u>	42
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<u>(5) A requirement that parents or guardians of any student involved in a prohibited incident be notified and, to the extent permitted by section 3319.321 of the Revised Code and the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232q, as amended, have access to any written reports pertaining to the prohibited incident;</u>	45 46 47 48 49 50
<u>(6) A procedure for documenting any prohibited incident that is reported;</u>	51 52
<u>(7) A procedure for responding to and investigating any reported incident;</u>	53 54
<u>(8) A strategy for protecting a victim from additional harassment, intimidation, or bullying, and from retaliation following a report;</u>	55 56 57
<u>(9) A disciplinary procedure for any student guilty of harassment, intimidation, or bullying, which shall not infringe on any student's rights under the first amendment to the Constitution of the United States;</u>	58 59 60 61
<u>(10) A requirement that the district administration notify the president of the district board in writing of all reported incidents.</u>	62 63 64
<u>(C) Each board's policy shall appear in any student handbooks, and in any of the publications that set forth the comprehensive rules, procedures, and standards of conduct for schools and students in the district. Information regarding the policy shall be incorporated into employee training materials.</u>	65 66 67 68 69
<u>(D) A school district employee, student, or volunteer shall be individually immune from liability in a civil action for damages arising from reporting an incident in accordance with a policy adopted pursuant to this section if that person reports an incident of harassment, intimidation, or bullying promptly in good</u>	70 71 72 73 74

<u>faith and in compliance with the procedures as specified in the policy.</u>	75
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<u>(E) Except as provided in division (D) of this section, nothing in this section prohibits a victim from seeking redress under any other provision of the Revised Code or common law that may apply.</u>	77
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<u>(F) This section does not create a new cause of action or a substantive legal right for any person.</u>	81
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 Sec. 3313.667. <u>(A) Any school district may form bullying prevention task forces, programs, and other initiatives involving volunteers, parents, law enforcement, and community members.</u>	83
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<u>(B) To the extent that state or federal funds are appropriated for these purposes, each school district shall:</u>	86
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<u>(1) Provide training, workshops, or courses on the district's harassment, intimidation, or bullying policy adopted pursuant to section 3313.666 of the Revised Code to school employees and volunteers who have direct contact with students. Time spent by school employees in the training, workshops, or courses shall apply towards any state- or district-mandated continuing education requirements.</u>	88
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<u>(2) Develop a process for educating students about the policy.</u>	95
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<u>(C) This section does not create a new cause of action or a substantive legal right for any person.</u>	97
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 Sec. 3314.03. <u>A copy of every contract entered into under this section shall be filed with the superintendent of public instruction.</u>	99
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<u>(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the</u>	102
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following:	104
(1) That the school shall be established as either of the following:	105
(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;	107
(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003;	109
(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;	111
(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement tests;	115
(4) Performance standards by which the success of the school will be evaluated by the sponsor. If the sponsor will evaluate the school in accordance with division (D) of section 3314.36 of the Revised Code, the contract shall specify the number of school years that the school will be evaluated under that division.	118
(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;	123
(6)(a) Dismissal procedures;	125
(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student.	126
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	132
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(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state, and the audits shall be conducted in accordance with section 117.10 of the Revised Code.	134 135 136 137 138 139
(9) The facilities to be used and their locations;	140
(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;	141 142 143 144 145 146
(11) That the school will comply with the following requirements:	147 148
(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year;	149 150 151
(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school;	152 153 154
(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution;	155 156 157 158
(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643, 3313.648, 3313.66, 3313.661, 3313.662, <u>3313.666, 3313.667,</u> 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716,	159 160 161 162 163

3313.80, 3313.96, 3319.073, 3319.321, 3319.39, 3321.01, 3321.13,	164
3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17,	165
4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365.,	166
3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it	167
were a school district and will comply with section 3301.0714 of	168
the Revised Code in the manner specified in section 3314.17 of the	169
Revised Code;	170
(e) The school shall comply with Chapter 102. of the Revised	171
Code except that nothing in that chapter shall prohibit a member	172
of the school's governing board from also being an employee of the	173
school and nothing in that chapter or section 2921.42 of the	174
Revised Code shall prohibit a member of the school's governing	175
board from having an interest in a contract into which the	176
governing board enters that is not a contract with a for-profit	177
firm for the operation or management of a school under the	178
auspices of the governing authority;	179
(f) The school will comply with sections 3313.61, 3313.611,	180
and 3313.614 of the Revised Code, except that the requirement in	181
sections 3313.61 and 3313.611 of the Revised Code that a person	182
must successfully complete the curriculum in any high school prior	183
to receiving a high school diploma may be met by completing the	184
curriculum adopted by the governing authority of the community	185
school rather than the curriculum specified in Title XXXIII of the	186
Revised Code or any rules of the state board of education;	187
(g) The school governing authority will submit within four	188
months after the end of each school year a report of its	189
activities and progress in meeting the goals and standards of	190
divisions (A)(3) and (4) of this section and its financial status	191
to the sponsor, the parents of all students enrolled in the	192
school, and the legislative office of education oversight. The	193
school will collect and provide any data that the legislative	194
office of education oversight requests in furtherance of any study	195

or research that the general assembly requires the office to conduct, including the studies required under Section 50.39 of Am. Sub. H.B. 215 of the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B. 215 of the 122nd general assembly, as amended.	196 197 198 199
(12) Arrangements for providing health and other benefits to employees;	200 201
(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.	202 203 204 205
(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;	206 207
(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year. The plan shall specify for each year the base formula amount that will be used for purposes of funding calculations under section 3314.08 of the Revised Code. This base formula amount for any year shall not exceed the formula amount defined under section 3317.02 of the Revised Code. The plan may also specify for any year a percentage figure to be used for reducing the per pupil amount of the subsidy calculated pursuant to section 3317.029 of the Revised Code the school is to receive that year under section 3314.08 of the Revised Code.	208 209 210 211 212 213 214 215 216 217 218 219
(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;	220 221 222
(17) Whether the school is to be created by converting all or part of an existing public school or is to be a new start-up school, and if it is a converted public school, specification of any duties or responsibilities of an employer that the board of	223 224 225 226

education that operated the school before conversion is delegating	227
to the governing board of the community school with respect to all	228
or any specified group of employees provided the delegation is not	229
prohibited by a collective bargaining agreement applicable to such	230
employees;	231
(18) Provisions establishing procedures for resolving	232
disputes or differences of opinion between the sponsor and the	233
governing authority of the community school;	234
(19) A provision requiring the governing authority to adopt a	235
policy regarding the admission of students who reside outside the	236
district in which the school is located. That policy shall comply	237
with the admissions procedures specified in sections 3314.06 and	238
3314.061 of the Revised Code and, at the sole discretion of the	239
authority, shall do one of the following:	240
(a) Prohibit the enrollment of students who reside outside	241
the district in which the school is located;	242
(b) Permit the enrollment of students who reside in districts	243
adjacent to the district in which the school is located;	244
(c) Permit the enrollment of students who reside in any other	245
district in the state.	246
(20) A provision recognizing the authority of the department	247
of education to take over the sponsorship of the school in	248
accordance with the provisions of division (C) of section 3314.015	249
of the Revised Code;	250
(21) A provision recognizing the sponsor's authority to	251
assume the operation of a school under the conditions specified in	252
division (B) of section 3314.073 of the Revised Code;	253
(22) A provision recognizing both of the following:	254
(a) The authority of public health and safety officials to	255
inspect the facilities of the school and to order the facilities	256

closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;	257 258
(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action;	259 260 261 262 263 264 265
(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code;	266 267 268 269 270 271
(24) The school will comply with section 3302.04 of the Revised Code, including division (E) of that section to the extent possible, except that any action required to be taken by a school district pursuant to that section shall be taken by the sponsor of the school. However, the sponsor shall not be required to take any action described in division (F) of that section.	272 273 274 275 276 277
(25) Beginning in the 2006-2007 school year, the school will open for operation not later than the thirtieth day of September each school year, unless the mission of the school as specified under division (A)(2) of this section is solely to serve dropouts. In its initial year of operation, if the school fails to open by the thirtieth day of September, or within one year after the adoption of the contract pursuant to division (D) of section 3314.02 of the Revised Code if the mission of the school is solely to serve dropouts, the contract shall be void.	278 279 280 281 282 283 284 285 286
(B) The community school shall also submit to the sponsor a	287

comprehensive plan for the school. The plan shall specify the following:	288 289
(1) The process by which the governing authority of the school will be selected in the future;	290 291
(2) The management and administration of the school;	292
(3) If the community school is a currently existing public school, alternative arrangements for current public school students who choose not to attend the school and teachers who choose not to teach in the school after conversion;	293 294 295 296
(4) The instructional program and educational philosophy of the school;	297 298
(5) Internal financial controls.	299
(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for oversight and monitoring of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.	300 301 302 303 304 305 306 307 308
(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:	309 310 311 312 313
(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;	314 315
(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at	316 317

least an annual basis;	318
(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;	319 320 321 322
(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;	323 324 325
(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;	326 327 328 329 330 331 332
(6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.	333 334 335
(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division remains subject to the provisions of sections 3314.07, 3314.072, and 3314.073 of the Revised Code.	336 337 338 339 340 341 342 343 344 345
(F) If a community school fails to open for operation within one year after the contract entered into under this section is adopted pursuant to division (D) of section 3314.02 of the Revised	346 347 348

Code or permanently closes prior to the expiration of the	349
contract, the contract shall be void and the school shall not	350
enter into a contract with any other sponsor. A school shall not	351
be considered permanently closed because the operations of the	352
school have been suspended pursuant to section 3314.072 of the	353
Revised Code. Any contract that becomes void under this division	354
shall not count toward any statewide limit on the number of such	355
contracts prescribed by section 3314.013 of the Revised Code.	356
Section 2. That existing section 3314.03 of the Revised Code	357
is hereby repealed.	358
Section 3. Section 117.53 of the Revised Code, as enacted by	359
this act, shall take effect one year after the effective date of	360
this act.	361